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"Deficient, Enfeebled, and Ineffective: The
Consequences of the Biden Administration's Far-Left Priorities on U.S. Foreign Policy"

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Chairman Mills, Ranking Member Moskowitz, and Members of the Subcommittee on Oversight and Intelligence: Thank you for the invitation to testify today on this critical topic.

I come with unique, multifaceted expertise on this subject. First, I have personal experience. I served my country as a Foreign Service Officer ("FSO") at the Department of State ("Department" or "State") for six years. While there, I personally suffered the effects of retaliation for whistleblowing and continued mistreatment from the Department even after I had proved my case through the Department's deeply flawed grievance system. Second, as Senior Counsel at America First Legal Foundation ("AFL"), I offer testimony about the ordeal of two clients of AFL, both of whom are current Department of State employees who were forced to endure the Department's disastrous and discriminatory Diversity, Equity, Inclusion, and Accessibility ("DEIA") policies under Secretary Blinken. And third, I offer AFL's government oversight and investigatory expertise through which we have uncovered never-before-seen internal documents from State that illustrate the insidious nature of the Department's DEIA initiatives that have infected the Department's culture.

First, though, I would like to take a moment to acknowledge the positive. The problems I will discuss today happened under the tenure of prior Secretaries of State. The situation at the Department of State has already markedly improved since Secretary Rubio took over. I have every confidence that the problems I outline today in my testimony can and will be effectively addressed under his leadership.

I. Career employees at the Department of State actively worked to subvert President Trump's agenda during his first term and to punish anyone who blew the whistle about these efforts.

My personal experience during President Trump's first term demonstrates that the Department of State had an entrenched culture focused on opposing President Trump and punishing anyone who exposed such efforts. This culture must be rooted out for the Department to fulfill its mission of promoting U.S. interests overseas.

I began my career as an FSO in March 2015. I served my first tour in Namibia, in Africa. Following that, I served my mandatory consular tour in Brazil from 2017 to 2019. President Trump had assumed

office just seven months before I started this tour, and he had already taken a number of steps to fix immigration policy. For example, he issued Executive Orders mandating that the Department do a better job of vetting visa applicants.[1] He also rescinded[2] an Obama-era Executive Order that required "that 80 percent of nonimmigrant visa applicants are interviewed within 3 weeks of" submitting their visa application.[3]

President Trump's cancellation of the three-week requirement was an important step toward improving the vetting of visa applicants because the three-week requirement essentially prohibited backlogs for visa appointments. This created intense pressure for consular officers and managers to interview visa applicants as quickly as possible rather than taking the necessary time to effectively vet such applicants for security concerns and to ensure they did not intend to illegally overstay their visas.

However, the Minister-Counselor for Consular Affairs at U.S. Mission Brazil, Doug Koneff, ignored President Trump's rescission. Instead, he imposed an even more aggressive two-week standard, which not only violated the President's Order but compromised the national security of our country. Mr. Koneff suffered no consequence for this insubordination and still serves in the Senior Foreign Service, which is equivalent to being a general or admiral in the military. He currently serves as Chargé d'Affaires at U.S. Embassy Lisbon, which essentially means he is the acting U.S. Ambassador to Portugal.

Additionally, to implement the President's directives, State Department headquarters had issued specific directives ordering consular managers to decrease the number of visa interviews scheduled per hour to give officers more time to vet visa applicants more thoroughly. Many Americans assume that when a U.S. consular officer conducts a visa interview, the applicant would have an extended, sit-down interview. But such interviews do not take hours, a half hour, or even fifteen minutes. Rather, the expectation was that interviews should take one minute, or maybe two. A consular officer who consistently took five minutes per visa interview would get in trouble with his manager.

My direct supervisors at my post at the U.S. Consulate in Porto Alegre, Brazil, directly disobeyed these new directives from the State Department about slowing down the interview process. If our managers had implemented the directives we received from D.C., average visa interview times would have lengthened from one or two minutes to three or four minutes. In other words, still incredibly short, but at least not as shockingly so.

I refused to give in to the pressure to conduct perfunctory interviews that failed to vet applicants appropriately. Accordingly, my visa interview times were slower than my colleagues', and my managers constantly criticized my so-called lack of "productivity." However, I could not help but notice that I also seemed to have fewer problems with applicants who ended up overstaying their visas or breaking other immigration laws. And my level of output was still substantial, even while I took more time to be thorough. During my two-year tour, I conducted just under 25,000 visa adjudications.

Toward the end of my tour in Brazil, the Consular Affairs Bureau sent a Consular Management Assistance Team ("CMAT") to the Consulate to inspect consular operations. As part of that visit, I had a one-on-one interview with a CMAT member, during which I disclosed the wrongdoing that had been going on at our post.

When the CMAT issued its report after returning to the United States, one of its key findings was that consular officers felt pressured to interview visa applicants at higher-than-allowed rates and that this pressure was hurting morale. The CMAT instructed managers to decrease the number of scheduled interviews so that they fell within the required hourly rates. Our managers had to submit a cable back to Department headquarters once all the CMAT's identified issues had been addressed. The consular section chief, David Franz, did not take long to send an official cable back to DC, "confirming" that everything had been

[1] Exec. Order No. 13,780, 82 Fed. Reg. 13,209 (Mar. 6, 2017); Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits, Ensuring Enforcement of All Laws for Entry Into the United States, and Increasing Transparency Among Departments and Agencies of the Federal Government and for the American People, 82 Fed. Reg. 16,279 (Mar. 6, 2017).
[2] Exec. Order No. 13,802, 82 Fed. Reg. 28,747 (June 21, 2017).
[3] Exec. Order No. 13,597, 77 Fed. Reg. 3,373 (Jan. 19, 2012).

fixed. Except, nothing had changed. Astoundingly, he and his deputy chief, Kelly Kopcial, *still* continued to ignore the rules and kept on scheduling interviews at the same breakneck speeds. The only difference was that now they were angry with me for getting them in trouble about it. Even though my interview with the CMAT was supposed to be confidential, I was the only one who had previously raised this issue with the managers. It was, therefore, not hard for them to figure out that I was the person who had blown the whistle and shared the truth.

Even worse, my annual performance evaluation—an Employee Evaluation Report ("EER")—was due only three months after the CMAT visit. Per Department custom, Consular Section Chief Franz sent me a draft of the statement he had written for my EER. It was full of provable falsehoods. We had several sit-down talks in his office, during which I politely requested that he remove the errors. But Franz was inflexible. He changed virtually nothing.

During those discussions, I told him that I believed we should make more effort to avoid visa overstays because this was a White House priority. Franz was dismissive of this, saying that visa overstays were not a problem and that contrary statistics from the White House did not matter because the White House had no credibility. I told him that I thought that as employees of the Executive Branch, we were duty-bound to implement the President's agenda and carry out his orders. If the White House said that visa overstays were a problem, we should treat them as such. He proceeded to lecture me about how I was wrong and that the Department of State's role was not to carry out the President's will but to push back on the President and tell him when he was wrong. His opinion was in direct opposition to the requirements of the Constitution. As State Department employees, we were employees of the Executive Branch, and the President was the elected head of that branch. As FSOs, both Franz and I had taken oaths to protect and defend the Constitution of the United States. Our constitutional duty was to support the President and carry out his lawful orders, not to subvert them.

FSOs are hired for a five-year temporary term, during which they must be awarded job tenure to remain career employees until retirement. If an FSO does not receive tenure, federal law requires that he leave the Department after five years of employment. Tenure decisions are based almost entirely on the content of employees' EERs. FSOs are guaranteed two chances to be evaluated for tenure and are nearly always granted a discretionary third attempt. Franz's statements about me in my EER were so negative that the Department not only denied tenure to me on my second attempt but also refused to grant a third try to me. When I consulted with the FSO union after I was informed of this decision, the grievance staff at the union was shocked to hear I had been denied a third try at tenure, as they had never seen that happen before.

Following my tenure denial, I immediately filed a grievance and was placed on a temporary assignment in Washington, D.C., while my grievance was pending. While preparing my grievance, I analyzed the visa overstay numbers from our post in Brazil. I confirmed that my more thorough and careful interview style resulted in a rate of bad visa issuances that was about half of the rate of my colleagues. Furthermore, I achieved this 50% lower rate even though I received no support from management in my attempts to vet applicants thoroughly. To the contrary, my superiors were constantly pressuring me to go faster and always questioning my attempts to go above and beyond to root out fraud and abuse. If managers had encouraged staff to be as thorough as President Trump had ordered us to be, we could likely have reduced the overstay rate to a quarter of what it was.

While in Brazil, I did a one-week temporary assignment at the U.S. Consulate in São Paulo. All the problems I had seen at my post in Porto Alegre were even worse in São Paulo. I knew from my other interactions with other State Department personnel in Brazil that things were similar at all the other posts in Brazil. After I was transferred to Washington, every FSO I talked to described similar practices happening at consular sections at posts around the world.

Given the anecdotal evidence I heard about how consular managers worldwide had been ignoring President Trump's orders, it is likely that the worldwide number of overstays was also two to four times

higher than it should have been. According to DHS's overstay reports, the number of visa overstays worldwide was about 1.8 million during President Trump's first term.[4] Thus, the malfeasance of State Department consular managers during that time likely caused 900,000 to 1.4 million extra overstays that were easily avoidable. Most foreigners who overstay their visas do so with the intent of illegally immigrating and remaining in the United States long-term. To put that in perspective, ten U.S. states have populations of 1.4 million or less. In other words, consular managers working to subvert President Trump's policies managed to add an entire state population's worth of illegal aliens in just four years.

I also tried to raise the alarm within the Department so senior leadership could learn how consular managers were actively working against the President, to our nation's detriment. There are two ways Department employees can properly blow the whistle on wrongdoing. I used both of them. Neither of them worked.

The first way is to file a complaint with the Department of State's Office of the Inspector General (OIG). Almost as soon as I arrived in Washington, I filed a complaint with the OIG. Within days, the OIG responded, refusing to investigate my complaint, stating, "[w]e have reviewed your complaint and determined that the appropriate office to address your concerns is the Bureau of Consular Affairs, Executive Office. Your information has been forwarded to that office. The OIG will take no further action on your complaint." In other words, rather than investigate my complaint, OIG sent it back to the same people I had complained about so that they could investigate themselves.

Nothing ever came of my OIG complaint. About a year later, during a social gathering, I met another FSO who worked directly under the Assistant Secretary in the Consular Affairs Executive Office. She had been in charge of processing the office's important communications at the time my complaint would have been registered. I shared with her that OIG had told me it had forwarded my complaint back to the Consular Affairs Bureau. She told me that my complaint had never made it across her desk. Either OIG never actually forwarded my complaint, or whoever first received it promptly deleted it before any action could be taken.

The second way to whistleblow is to submit a complaint to the Office of Special Counsel ("OSC"), which investigates allegations of wrongdoing within the federal government and also investigates allegations of retaliation against whistleblowers. Five days after the State OIG had summarily rejected my complaint, on August 6, 2019, I submitted two complaints to the OSC: a whistleblower retaliation complaint and a disclosure of wrongdoing about the consular malfeasance in Brazil.

An OSC attorney soon contacted me to get further information about my disclosure of wrongdoing. In the following weeks, we spent several hours in phone conversations during which I explained the malfeasance going on in Brazil. I also emailed her a number of documents, statistical reports, and legal citations to back up my claims. On September 20, 2019, the attorney called me back to tell me that the OSC was not going to take action on my disclosures of wrongdoing. The main reason was that my consular managers had been transferred out of Brazil around the same time as me. Thus, the OSC reasoned, there was no more ongoing wrongdoing because the perpetrators were not there anymore. I reminded the attorney that I had contact with friends who were still posted to Brazil, and they told me that nothing had changed under the new managers. I also told her I had heard second-hand reports from FSOs that the same things were happening in other parts of the world. That did not matter, the attorney told me, because the OSC could not act on secondhand information.

Given the controversies then swirling around Washington, her statements about secondhand information not being actionable were bitterly ironic to me. At the same time I had been sharing my "secondhand" information with her, the big so-called Washington "scandal" being breathlessly reported all over the news were allegations by Alexander Vindman about a telephone conversation between President Trump and President Volodymyr Zelenskyy of Ukraine. However, Vindman had not been on that call. His allegations about it were entirely secondhand. And yet, the OIG for the Intelligence Community decided to investigate those allegations anyway. Vindman's allegations formed the sole basis for the first impeachment

[4] *Fiscal Year 2017 Entry/Exit Overstay Report* at 12, DHS, https://perma.cc/3XLK-EEL3; *Fiscal Year 2018 Entry/Exit Overstay Report* at 13, DHS, https://perma.cc/3XLK-EEL3; *Fiscal Year 2019 Entry/Exit Overstay Report* at 13, DHS, https://perma.cc/C6W2-7LLQ; *Fiscal Year 2020 Entry/Exit Overstay Report* at 14, DHS, https://perma.cc/GME4-RNDC.

of President Trump. Apparently, there was no problem with secondhand allegations if they furthered the political agenda of the bureaucracy.

Eventually, my complaint to the OSC about whistleblower retaliation was assigned to an attorney. She contacted me to get more information. We spoke a few times by telephone, and I again shared all my documents and evidence. She told me she would start investigating my case and would get back to me. Seven months later, when my State Department grievance was finally nearing resolution, I discovered that she had never even started investigating my case. In other words, I was forced to settle my grievance without OSC ever having done anything to help or to hold the Department accountable for its whistleblower retaliation.

Finally, in March 2020, the Department's HR office, the Office of Global Talent Management ("GTM"), begrudgingly offered to settle my grievance, but only to the minimum extent necessary to resolve the issue. GTM made it obvious it had no interest in restoring my career to where it would have been had there been no retaliation for whistleblowing. Even worse, GTM demanded that, as a term of the settlement, I dismiss my complaint with the OSC against the Department for whistleblower retaliation.

After "winning" my grievance, I spent the next year being forced to play a protracted game of bureaucratic ping-pong. GTM seemed intent on making the process as painful and drawn out as possible. Finally, more than nine months after we had settled the grievance, I was told on February 26, 2021, that I had been recommended for tenure. By then, it was clear I had no real future in the Department. The way GTM had "resolved" my grievance had permanently hobbled my Department of State career in ways I would never recover from. I was demoralized and disillusioned, but thankfully, I had options outside the Department. I left federal service and returned to practicing law.

There are three lessons to be learned from my personal experience: First, mid-level managers in the Department believe they can disobey the lawful orders of the President with impunity, and they often get away with it. Second, the institutional mechanisms designed to stop wrongdoing and protect whistleblowers do not work, especially when the career bureaucrats supposed to enforce those protections have ideological disagreements with the substance of the complaint. Third, the Department has an entrenched culture of defiance and insubordination that must be rooted out.

II. The Department's Biden-era obsession with DEIA created a climate of ideological authoritarianism that discriminated against employees and damaged the Department's ability to carry out its mission.

The latest example of the Department's cultural maladies is its recent obsession with DEIA. Starting in 2022, the Department started assigning DEIA scores to employees that were included in their respective EERs and used for tenure and promotion decisions. Ostensibly, these scores were supposed to evaluate whether an employee demonstrated ideological commitment to DEIA principles. Imposing an ideological litmus test like this is odious and antithetical to First Amendment guarantees of freedom of speech, religion, and conscience. Even worse, however, is that anecdotal evidence suggests the Department used these DEIA scores not just as a way of enforcing ideological conformity but as a pretextual way of discriminating against white males. This is nothing new. While my own grievance was pending, I was introduced to an FSO who had compiled years of tenure information and discovered there was a bias against men in tenure decisions.

This discrimination remains. Multiple Department of State employees who have suffered from these policies have asked AFL to help. One such person was reprimanded by his supervisor and penalized in his DEIA score because he declined to volunteer his free time to help at a so-called pride festival for LGBT persons that was taking place outside of work hours. But the DEIA hysteria in the Department did not stop there. When he applied for onward assignments at 15 different posts, all but two of them required him to describe his efforts to promote DEIA within the Department. And every post that required DEIA justifications from him rejected his application–only the two posts that did not seek this information accepted his application. In fact, in 2024, the Bureau of South and Central Asian Affairs required all Foreign Service Officers to provide a written diversity statement before they would even be considered for an interview.

Thankfully, the new Administration has reversed course on the DEIA Precept and has directed its removal from the Foreign Service tenure and Promotion Criteria.

However, the bureaucracy continues to discriminate against employees in other ways. For example, a Diplomatic Security Agent has been, and currently is still, the target of a nearly five-year-long witch hunt because he posted traditional Christian symbols and prayers to personal social media. The reaction of Department officials to these innocuous online posts has been nothing short of appalling, including allegations against him that he is a white nationalist, a "right-wing Christian" extremist, and even ridiculous and baseless claims that he was associated with violent extremism because of his personal religious expressions. The Department's Office of Special Investigations even sought the intervention of the FBI and DOJ to impose terrorism-related charges on this individual. Fortunately, the FBI and DOJ saw the clear lack of justification for such an inquiry.

Nevertheless, the Department has continued the needlessly drawn-out five-year investigation, during which time the agent has been ineligible for promotion. This agent's performance has been exceptional, and he has been selected for promotion three times during this period, but the Department has refused to grant him promotion because of the still-pending investigation. The Department eventually recognized that this agent could not be punished for his religious faith, but rather than end the investigation, the Department has instead persisted, shifting its focus to spurious allegations of minor infractions that, even if true, would not normally warrant any discipline. This sort of pretextual attack driven by ideological extremists within the Department must stop. Those involved in this weaponization of government must be held accountable.

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III. Under President Biden and Secretary Blinken, the Department used DEIA as a pretext to aggressively promote leftwing ideology around the world.

These specific cases are emblematic of a more widespread problem in the Department's culture that festered during the Biden years. Through Freedom of Information Act requests, AFL has discovered a number of cables that detail the extreme ideological bias inherent in Department programs that were implemented at diplomatic posts around the world. These programs illustrate how U.S. diplomats have been attempting to indoctrinate citizens of other countries into supporting divisive left-wing causes. These cables were circulated at the "senior staff" level with a note that Secretary Blinken thought they were "some of the best cables" produced around that time, thereby demonstrating the inappropriate prioritization given to these ideological initiatives.[5] It is likely most, if not all, foreign missions produced similar cables detailing their DEIA work, beyond the three specifically selected by Secretary Blinken for circulation. AFL is following up to obtain other similar cables and will make any such cables available to the Committee.

First, a cable from Consulate General Mumbai, located in western India, explained how the Consulate had sought to "mainstream DEIA principles in hiring, training and other management practices," and "reinforced DEIA by displaying the Pride colors, flying the Pride Flag over the Consulate, and showing the Pride Flag on an externally-facing video display at our consular entrance, all during Pride Month; and hoisting the Black Lives Matter flag over the consulate for Juneteenth."[6] The Consulate also "discuss[ed] ... current social themes such as Black Lives Matter, media that reflect and promotes DEIA values, and DEIA themes and events" and held a "nine month Beyond the Binary LGBTQI+ series, which featured eminent queer representatives of the Dalit, Muslim, and disabled communities sharing their experiences and exploring how social constructs such as caste, religion, and disability can complicate other identity issues."[7] That series, Beyond the Binary, "discuss[ed] issues ranging from the Hijra (third gender) community to same sex

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[5] E-mail from Hady A. Amr, Special Rep. for Palestine Affs., U.S. Dep't of State to George Noll, Off. of Palestine Affs., U.S. Dep't of State, *et al.* (Dec. 14, 2021, 15:15 GMT) (available at https://perma.cc/C6CD-JVH5 at 1).

[6] Cable from U.S. Consulate Mumbai to Dep't of State (Dec. 9, 2021) (21 MUMBAI 532) (available at https://perma.cc/C6CD-JVH5 at 6-7).

[7] *Id.* at 6, 8.

relationships, the legal landscape for the LGBTQI+ community and a look at supportive relationships for the families of queer persons."[8]

As a future DEIA priority, the Consulate affirmed its intent to "adjust[] bathroom signs to be more inclusive."[9] As a matter of policy, it stated that "we require that all events hosted by or involving the Consulate are gender-balanced, all external meetings and guest lists are gender-balanced, we do not participate in externally-organized panel discussions that lack gender balance, and all official trips highlight women's rights and empowerment in some form."[10]

The subordination of American interests to these fringe concerns is gravely concerning. An American consulate should be focused on promoting American foreign policy interests and supporting Americans abroad, not on auditing guest lists for left-wing gender discrimination compliance and devoting *all* official travel to a single, specific, progressive concern.

Second, a cable from Consulate Munich, located in southern Germany, detailed how its Public Affairs Section hosted an event on November 23, 2021, with Lecia Brooks, the Chief of Staff of the polarizing and controversial Southern Poverty Law Center ("SPLC").[11] The federal government's online database at USASpending.gov (FAIN SGE21022GR0017),[12] shows that the SPLC was paid $7,700 for Brooks' attendance. The cable argued that "Brooks's Germany tour provided an opportunity to convene existing contacts with new groups like advocates from the black, indigenous and people of color (BIPOC) community."[13] In other words, the Department used taxpayer money to finance speeches by fringe leftwing activists. Even worse, the cable illustrates how the Department was working to evangelize contentious and disputed leftwing racialist narratives from the United States and to spread them around the world. Beyond that, it has been doing so in a careless way.

For example, the cable repeatedly talks about the representation of BIPOC groups in Germany. However, the use of this U.S.-centric term, which includes "indigenous people," makes little sense in Germany. According to the American Heritage Dictionary, the term "indigenous" means "[b]eing a member of the original inhabitants of a particular place."[14] The only persons who could plausibly qualify as "indigenous" in the context of German society would be white ethnic Germans. However, the cable never discussed any actual outreach to groups representing such persons. Apparently, no one involved in the drafting and clearance of that cable, or the efforts it described, ever stopped to think that U.S.-centric terminology might not map very well onto other parts of the world. This thoughtless invocation of leftwing buzzwords is emblematic of the single-minded focus of the Department under President Biden and Secretary Blinken, not on tackling real issues of pressing concern, but instead on spreading leftwing notions about race around the world with missionary zeal.

Third, the American Embassy in Santo Domingo, the capital of the Dominican Republic, transmitted a lengthy cable detailing efforts to further the DEIA agenda. In particular, it proudly explained how it had conducted "a comprehensive review of our programs and policies to integrate a focus on ... DEIA ... into every aspect of our work."[15] The cable also explained the Embassy's plans to "[i]mplement[] diversity training for federal assistance award panelists and grantees, creating a DEIA checklist for grantees, and including milestones on federal assistance awards that foster DEIA."[16] In other words, the Embassy planned to condition U.S. financial assistance and grants paid to local organizations on grantees' incorporation of DEIA principles into their own organizations.

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[8] *Id.* at 9.
[9] *Id.*
[10] *Id.* at 6.
[11] Cable from U.S. Consulate Munich to Dep't of State (Dec. 2, 2021) (21 MUNICH 208) (available at https://perma.cc/C6CD-JVH5 at 11).
[12] *FAIN: SGE21022GR0017*, USAspending, https://perma.cc/5VYU-VGPG.
[13] 21 MUNICH 208, *supra* note 11.
[14] *Indigenous*, American Heritage Dictionary, (5th ed.).
[15] Cable from U.S. Embassy Santo Domingo to Dep't of State (Nov. 29, 2021) (21 SANTO DOMINGO 1226) (available at https://perma.cc/C6CD-JVH5 at 2).
[16] *Id.* at 4.

Our country's diplomats are supposed to promote U.S. interests abroad. Yet, the DEIA programs the Department pushed around the globe during the Biden Administration did no such thing. Spreading unwanted, divisive leftist ideology to foreigners does nothing to improve Americans' lives back home. All it does is increase resentment against our country, thus undermining America's moral standing on the world stage and making it harder to achieve legitimate foreign policy goals that actually would improve Americans' lives.

IV. Reform

Fortunately, President Trump's Executive Order removing DEIA from the federal government, and Secretary Rubio's implementation of it, are already having a positive effect. However, there is much more that can be done.

For example, it is a good first step that the Department has removed the DEIA Precept from EERs going forward. However, the Department should also ensure that all those individuals denied promotions from 2022 to 2025 are retroactively reevaluated for promotion without the DEIA Precept and that all employees found worthy of promotion receive retroactive backpay and the promotions to which they were entitled.

Additionally, more generally, because there appears to be a persistent pattern of anti-White, anti-male, and anti-Christian bias in Department tenure and promotion decisions, the Department should require that Employee Evaluation Reports exclude any language that might allow a reader to infer an employee's race, sex, religion, or other protected characteristics.

Additionally, to better protect whistleblowers, the following new reforms should be implemented:

- The State Department's grievance process should separate the functions of investigating grievances from that of defending the Department against grievances before the Foreign Service Grievance Board. Right now, the same office handles both, which leads to an adversarial approach even during the investigatory phase, which is not conducive to actually addressing the disclosures of whistleblowers.

- Agencies should not be allowed to use the grievance process to require that grievants withdraw retaliation complaints from the Office of Special Counsel. Rather, the OSC should be required to investigate such complaints and impose consequences for violations, even if an agency settles a grievance. This will ensure that someone outside the agency holds it accountable and prevents it from abusing the power imbalance inherent in the grievance process to punish whistleblowers.

- The Inspector Generals' semi-annual reports to Congress[17] and the OSC's annual report to Congress[18] should be required to describe every complaint received, the disposition of the complaint, the results of any investigation, and a detailed justification if no investigation was undertaken. This will make it harder for IGs and the OSC to ignore or subvert complaints with which they ideologically disagree.

- Whenever an IG declines a complaint and refers it back to the agency for resolution, there should be a legal requirement that the agency respond to the complaint within 60 days. IG offices should be required to track that response and describe in their semi-annual reports how each complaint was, or was not, addressed by the agency.

- Given the enormous power imbalance between whistleblowers and federal agencies, Congress should establish and fund an independent office to provide free legal representation to whistleblowers who suffer retaliation. Persons charged with federal crimes can get free representation from Federal Public Defender offices. Whistleblowers are at least as deserving of such representation.

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[17] *See* 5 U.S.C. § 405(b).
[18] *See* 5 U.S.C. § 1218.