

In This Issue #155

Special Edition: Justice for Sherry Chen with Historic Settlement

On November 10, 2022, the legal team for **Sherry Chen**, an award-winning Chinese American Scientist in the U.S. Department of Commerce, announced that the U.S. Government agreed to pay Sherry Chen almost \$2 million in damages as settlement for the injustice Sherry endured in the past ten years.

The settlement is one of the largest paid to an individual plaintiff in Commerce Department history. Ms. Chen will receive \$550,000 from the Commerce Department and an annuity from the U.S. government valued at \$1.25 million over 10 years. The Commerce Department will host a private meeting between Ms. Chen and a senior National Oceanic and Atmospheric Administration official, where she plans to discuss wrongdoing at multiple levels of the agency and the importance of antidiscrimination reforms. The Commerce Department will also provide Ms. Chen with a letter acknowledging her extensive accomplishments during her years of service as a government hydrologist.

"Today's settlement is not only a victory for me; it is also a victory for our community and for the rule of law. It makes clear that profiling and discrimination are unacceptable, and that rogue investigative units like ITMS have no place in a democratic society. The government cannot escape the consequences for these wrongs. It will be held to account." Sherry said in a letter to supporters, "Of course, no amount of money can ever fully repair the injustices I've experienced. But today's settlement is a critically important step toward achieving justice for myself and for so many Chinese Americans who have been subjected to unjustified government scrutiny."

Letter from Sherry Chen to Supporters 陈霞芬的公开信



My dear friends:

Today is a day for celebration. I'm writing to announce a historic settlement in my two lawsuits seeking accountability for the government's illegal and discriminatory investigation of me, its wrongful prosecution, and its termination of my employment with the National Weather Service.

The settlement is one of the largest paid to an individual plaintiff in Commerce Department history. As compensation, the Commerce Department is paying me \$550,000, and I'll receive an annuity from the U.S. government valued at \$1.25 million over ten years. In addition, the Commerce Department is hosting a private meeting between me and a senior agency official, and it is providing me with a letter that acknowledges my extensive accomplishments during my tenure as a U.S. government hydrologist.

Today's settlement is not only a victory for me; it is also a victory for our community and for the rule of law. It makes clear that profiling and discrimination are unacceptable, and that rogue investigative units like ITMS have no place in a democratic society. The government cannot escape the consequences for these wrongs. It will be held to account.

Of course, no amount of money can ever fully repair the injustices I've experienced. But today's settlement is a critically important step toward achieving justice for myself and for so many Chinese Americans who have been subjected to unjustified government scrutiny.

Your unwavering support has been essential to this fight every step of the way. Although I'm unfortunately unable to celebrate with each of you in person, please know that I'm thinking of each of you, and I am so grateful for your kindness and generosity over this years-long fight. You've given me the strength to go on. Thank you so much!

今天是一个值得庆祝的日子。在这里，我向大家公布一个有关我的历史性和解协议。此前，我起诉政府针对我的歧视性不公调查，以及之后对我的错误起诉。我还起诉国家气象局错误地终止我的就业合同。

该和解协议是商务部历史上支付给个人的最大一笔赔偿金之一。作为赔偿，商务部将付给我 55 万美元；我将在十年的时间里，从美国政府那里获得总共 125 万美元的年金。此外，商务部正在组织一个我和一名高级官员之间的私人会议；商务部还会向我提供一封表彰信，承认我在担任美国政府水文学家期间所取得的一系列成就。

今天的和解不仅是我个人的胜利，也是我们社会和法治的胜利。这清楚地表明，针对特定族裔的歧视是不可接受的，像商务部 ITMS 这样的不合理调查在民主社会里是没有立足之地的。政府不能逃脱这些错误行为所导致的后果，终将被追究责任。

当然，再多的钱也无法完全弥补我所经历的不公正。但是，今天的和解是为我和众多遭受政府不公正调查的华裔在伸张正义方面所迈出的至关重要的一步。

今天的结果离不开各位对我坚定不移的支持。虽然我不能和你们亲自庆祝这一好消息，但请记住，我一直铭记着你们每一个人的帮助，我非常感谢你们在这场漫长的斗争对我所给予的善意和慷慨支持。您的支持是我坚持走到今天的力量。

非常感谢！

Press Releases and Statements on Sherry Chen's Historic Settlement

1. Congressional Asian Pacific American Caucus (CAPAC)



Washington, D.C. – CAPAC Chair Rep. **Judy Chu** (CA-27) issued the following statement on November 14, 2022:

“It has been over a decade since **Sherry Chen** was accused of espionage, yet another Chinese

American who was targeted because of their race, this time by the Department of Commerce's rogue ITMS unit, which was disbanded last year, in part due to CAPAC's advocacy. Even after the Department of Justice dropped all charges against her, when a federal administrative judge ruled her termination unlawful, Commerce chose to appeal the decision--an action which had been pending since 2018. CAPAC has been at the forefront of discrimination and profiling of Chinese American researchers, including by our own government agencies, and I have been closely following Ms. Chen's case for years. This historic settlement is a welcome symbol to restore justice to Ms. Chen, and I'm pleased that at long last, Ms. Chen's ordeal has reached a fair conclusion."

Read the CAPAC press statement here: <http://bit.ly/3TQizKh>

2. In-Person Announcement During "Racial Profiling and Discrimination against Chinese American Scientists and Engineers"

11-13-2022星島日報(美西版)

海外華人研究學會年會晚宴大吐苦水

陳剛郝小星與陳霞分三科學家痛述受誣告

舊金山上海協會 義演籌款救防罪

隨著抗疫情緒高漲，壓力事件不斷，華裔民由於語言障礙、文化差異，對於社區安全的需求更有他種看法。

舊金山上海協會會長李天坤昨天在新聞發佈會上表示，安防惠未雨綢繆，他們將在社區開展一系列預防犯罪的社區培訓教育計劃。

李天坤說：「對於犯罪是受到歧視、高壓或嚴禁的華裔民和老年人來說，預防犯罪的培訓和教育是當務之急。」

舊金山上海協會第一家在加利福尼亞州註冊成立的「Heritage」青年利組織，將用中文製作安全教育視頻節目，展示如何在公共場合保護自己。

為了籌備經費，上海協會將於12月3日(星期六)下午3時至6時，在481 Van Ness Ave. 8號，CA 94102的Herbst 劇院舉行「樂無止境」音樂會為社區安全籌款。

這是一台以中英藝博歌曲、民歌、現代歌曲、中國舞等為特色的歌舞加劇演出，表演者多為舞團、大家無異的熱情為社區籌款事業做出奉獻。

演出陣容鼎盛，包括：好地團團、賈惠甘時碧秀、魏曉表演《今夜無人眠》、徐凱日(Kate)、Hanshi《朝、我的太陽》、李潔真

上午演講活動的主持人、退休法官鄧麗蓮表示，從華裔科學家陳剛、郝小星、陳霞等的遭遇，在法庭上，他們的訴求不僅僅在於對其案件的重審，更在於能提出的控罪，政府疏理了法律。「我們必須站出來，要求美國政府對其結果其對亞裔的歧視和種族定性。」

郝小星教授出生在中國並接受教育，1989年赴美，2004年成為公民，2013年擔任北密西根大學物理系代理系主任，3月21日早上7點前，全副武裝的FBI持上突襲了我的家，給我戴上手鐐，這一切都是基於我從北密西根大學電子郵件發給我的封電子郵件。政府指控我四項電腦罪並罰一萬五千元。80年的從業和100萬美元罰款，失去密西根大學物理系系主任的職務。

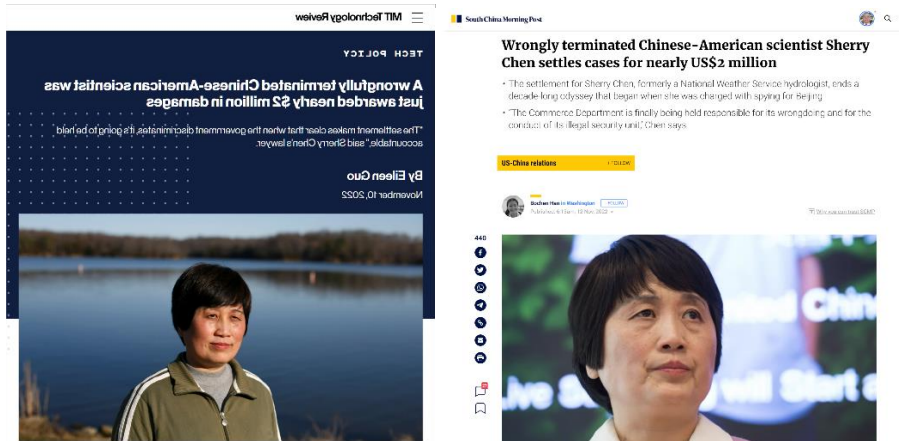
2015年9月，司法部總辦所有指控，郝小星在密西根的聯邦法庭中，指控FBI特工魯爾威證據，他從美國物理學會2020年獲入獲獎，我與其在

圖大圖右一為鄧麗蓮法官主持會議。(主辦方提供)；左二為陳剛教授(小圖左)、左三為郝小星教授(小圖中)、左四為科學家陳霞(小圖右)。(資料圖片/記者黃偉攝)

On November 12, 2022, **Sherry Chen** made an in-person announcement of her historic settlement during the panel presentation on "Racial Profiling and Discrimination against Chinese American Scientists and Engineers" in San Francisco, which was part of the [30th Anniversary Conference of the International Society for the Study of Chinese Overseas](#). The session was moderated by Judge **Lillian Sing** (Retired). Other panelists included Temple University Professor [Xiaoxing Xi](#) and MIT Professor [Gang Chen](#) who described their own experiences of profiling by the Government. **Jeremy Wu**, Founder and Co-organizer of APA Justice, provided [a recap on the formation and role of APA Justice](#) since the Fall of 2015.

Read about *Singtao Daily* 星島日報 report: <http://bit.ly/3WWfdnD> and the *World Journal* 世界日報 report: <http://bit.ly/3tzaHO4>

3. MIT Technology Review and Other Media Reports



On November 12, 2022, *MIT Technology Review* published "A wrongfully terminated Chinese-American scientist was just awarded nearly \$2 million in damages."

According to the report, **Sherry Chen**'s case was an early instance of what would become a much bigger pattern of the US government's increasing suspicion of Chinese and Chinese-American scientists amid growing competition between the US and China. The settlement is a personal and symbolic victory after years of persecution.

Chen's investigation and firing predated the Justice Department's China Initiative, a Trump-era program to counter Chinese economic espionage that, despite its stated goals, disproportionately targeted Chinese-American academic researchers for alleged grant fraud or disclosure issues—and saw a higher number of cases fall apart before trial than the federal average.

Chen's case mobilized a grassroots advocacy network of concerned Chinese-American citizens, who raised awareness about her experience, lobbied members of Congress on her behalf, and raised money for her legal defense. One of these groups would later become [APA Justice](#), one of the most vocal and consistent voices against the China Initiative and racial profiling.

For many observers, the parallels were clear. "With the China Initiative, we have seen several failed and weak prosecutions. Ms. Chen is certainly not alone in that regard," **Ashley Gorski**, a senior staff attorney with the ACLU National Security Project, which helped represent Chen, told *MIT Technology Review*.

Chen's settlement is not quite the apology that Chen's supporters, organized by the advocacy organization APA Justice and signed by over 1,000 individuals and organizations, demanded

in [an open letter](#) sent earlier this year to **Gina Raimondo**, the secretary of commerce. However, the chance to sit down with Commerce Department officials and the promise of a written acknowledgment “were very important to Ms. Chen and were negotiated as part of the settlement,” Gorski told MIT Technology Review.

The symbolism of her settlement may be especially welcome in the aftermath of the [ill-fated China Initiative](#), which *MIT Technology Review* investigated last year and found to be ineffective with respect to its stated goals and to have overwhelmingly targeted individuals of Chinese heritage, who made up 90% of defendants.

The Biden administration officially ended the China Initiative in February, but numerous studies have pointed to its broader chilling effects on scientific collaboration between the US and China, as well as declining interest in the United States as a destination for higher education and research. Not to mention the lingering personal effects for individuals caught up in the web, even if they were ultimately cleared.

That gives added significance to the outcome of Chen’s lawsuits. “It’s an enormous victory for Ms. Chen personally,” said Gorski, “and for the Chinese-American community as well. The settlement makes clear that when the government discriminates, it’s going to be held accountable.”

Related media reports:

- 2022/11/12 *South China Morning Post*: Wrongly terminated Chinese-American scientist Sherry Chen settles cases for nearly US\$2 million. <http://bit.ly/3AgRwwx>
- 2022/11/12 *MIT Technology Review*: A wrongfully terminated Chinese-American scientist was just awarded nearly \$2 million in damages. <http://bit.ly/3g0qumd>
- 2022/11/12 [China.org.cn](#): Wrongly prosecuted Chinese American scientist wins historic settlement with US government. <https://on.china.cn/3Afk5dv>
- 2022/11/11 GNYLife: 重大消息! 美国政府认赔! 科学家陈霞芬与美国政府达成和解. <http://bit.ly/3UVi4uZ>
- 2022/11/11 *China Daily*: Wronged scientist Sherry Chen awarded nearly \$1.8 million in damages. <http://bit.ly/3O35PdP>
- 2022/11/11 *AsAmNews*: Chinese Am scientist wrongly prosecuted wins 1.8M settlement. <http://bit.ly/3g31739>

4. American Civil Liberties Union (ACLU) Press Release

ACLU Menu Donate

IN HISTORIC SETTLEMENT, U.S. GOVERNMENT TO PAY WRONGLY PROSECUTED CHINESE AMERICAN SCIENTIST MORE THAN \$1.5 MILLION IN DAMAGES

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SETTLEMENT DELIVERS LONG-OVERDUE ACCOUNTABILITY FOR DISCRIMINATION AT DEPARTMENT OF COMMERCE

On November 10, 2022, attorneys for **Sherry Chen**, a Chinese American scientist with the National Weather Service, announced a historic settlement in two lawsuits seeking accountability for her wrongful prosecution and termination from her job.

In 2012, the Commerce Department's internal security unit, known as [the Investigations and Threat Management Service \(ITMS\)](#), began unlawfully investigating Ms. Chen as part of a broad pattern of discrimination directed at Chinese Americans, leading to her baseless arrest and prosecution by the FBI and Justice Department. ITMS was [officially disbanded](#) last year, following [a Senate report](#) detailing how the unit had become a "rogue, unaccountable police force" that operated outside the law and "opened frivolous investigations on a variety of employees without evidence suggesting wrongdoing."

The settlement is one of the largest paid to an individual plaintiff in Commerce Department history.

Based on ITMS's improper investigation of Ms. Chen, the Justice Department charged her with making false statements to government investigators and unlawfully downloading data from a restricted government database. The government's unfounded allegations rested on Ms. Chen's use of a shared, office-wide password to access a database relevant to her work. The Justice Department eventually dropped all charges in 2015, but not before Ms. Chen was publicly arrested in front of her colleagues and faced 25 years in prison and \$1 million in fines. The Commerce Department also fired Ms. Chen from the job she had worked at for years. After a federal administrative judge found that her termination was unlawful, and that Ms. Chen had been the victim of a "gross injustice," the department appealed and placed her on indefinite leave. That appeal has been pending since 2018 before the Merit Systems Protection Board (MSPB), an agency that hears claims from federal employees.

The settlement marks the end of the MSPB litigation and a separate federal lawsuit against the U.S. government, filed in 2019 by Ms. Chen's counsel, **Peter Toren** and **Michele Young**. The American Civil Liberties Union and Cooley LLP joined as co-counsel in that suit last year. **Stephen A. Simon**, partner with Tobias, Torchia & Simon, represents Ms. Chen before the Merit Systems Protection Board.

"Ms. Chen's historic settlement is a victory for her and for Chinese American communities," said **Ashley Gorski**, senior staff attorney with the ACLU National Security Project. "It makes clear that profiling and discrimination are unacceptable, and that the government will be held to account."

Additional statements from Ms. Chen's attorneys are below:

"For years, the Commerce Department refused to take responsibility for destroying Ms. Chen's career," said **John Hemann**, partner at Cooley LLP. "Today's settlement is a win for the rule of law and helps to ensure that rogue units like ITMS will not be allowed to take root."

"Today, a great blow was struck against bigotry and for the rights of Asian Americans, as the government was forced to reckon with and be held accountable for the devastating damage to an award-winning scientist's life," said Michele Young, Managing Partner at Michele Young Co.,

LPA and Counsel to Gregory S. Young Co., LPA. “After a ten-year battle, from Congress to the Courts to Commerce, finally, there is justice. Sherry patriotically fought not only for herself, but to secure the rights of all Asian Americans. It was a privilege to be on this dream team that fought day and night for this moment.”

“Ms. Chen’s ordeal has lasted more than ten years,” said Peter Toren, counsel for Ms. Chen. “She bravely persevered in this fight, inspiring countless others who have experienced similar forms of discrimination.”

The American Civil Liberties Union is a nonprofit organization founded in 1920 "to defend and preserve the individual rights and liberties guaranteed to every person in this country by the Constitution and laws of the United States".

Read the complete ACLU press release: <http://bit.ly/3UYpWMa> and the ACLU Twitter thread: <http://bit.ly/3EsDTwB>

5. Community and Scientific Organizations' Responses



The screenshot shows the website for the Asian American Scholar Forum (AASForum.org). The header includes navigation links for Home, News, Webinars, Blog, and Contact. The main content area features a large headline: "U.S. Government to Pay \$1.8 Million in Damages to Wrongly Prosecuted Chinese American Scientist Sherry Chen in Historic Settlement". To the right of the headline is a photograph of Sherry Chen, a woman with short dark hair wearing a pink and white patterned top. Above the photo is the Chinese headline "十年冤屈，十年抗争，陈霞芬终获历史性胜利" and the date "NOVEMBER 10, 2022". Social media sharing icons for Facebook, Twitter, YouTube, and LinkedIn are visible on the left side of the photo.

Asian American Scholar Forum. “This settlement is a tremendous victory not just for **Sherry Chen**, but for Asian American scientists, researchers, and scholars across the country who have been accused or had to live with suspicion for simply doing their jobs,” said Executive Director **Gisela Perez Kusakawa**. “We commend Ms. Chen for her spirit and perseverance during an unimaginably painful decade. We also thank and congratulate her attorneys with the ACLU and all the civil rights and community organizations who have supported her over the years. This victory is a reminder of the crucial role of legal professionals on the ground fighting for justice. No one should have to endure what Ms. Chen endured. That’s why we will continue to fight racial profiling, call for accountability, and emphasize that anyone who is facing discrimination is not alone.”

United Chinese Americans. UCA 会长薛海培, 数年来一直对陈霞芬事件费尽辛苦和努力。在听到陈霞芬和联邦政府达成和解协议后, 他激动地说, “这是我和 UCA 同仁们盼望了七年之久的大喜事! 是美国华人历史上在历经了多次最高法院的胜诉, 二十多年前李文和案件的胜诉之后, 华人维权史上又一可歌可泣的重大胜利。”

俄州亚太联盟。"美籍华人科学家陈霞芬 (Sherry Chen) 就她在过去十年中所遭受的不公正待遇与政府达成了和解。请阅读下面陈霞芬给支持者的信, 了解详情。这是早该得到的正义! 非常感谢大家在过去几年里对她的持续支持!"

Related statements and reports

- 2022/11/14 The American Institute of Physics: The Week of November 14, 2022. <http://bit.ly/3Ex6TmZ>
- 2022/11/12 Committee of 100: Committee of 100 Comments on the U.S. Department of Commerce Settlement with Former Researcher Sherry Chen. <http://bit.ly/3TwSz1X>
- 2022/11/11 Asian American Scholar Forum: U.S. Government to Pay \$1.8 Million in Damages to Wrongly Prosecuted Chinese American Scientist Sherry Chen in Historic Settlement. <http://bit.ly/3GlyJEd>
- 2022/11/10 Ohio Chinese American Association. 好消息: 陈霞芬与美国政府达成和解, 得到补偿. <http://bit.ly/3UY02Z2>
- 2022/11/10 United Chinese Americans: 十年冤屈, 十年抗争, 陈霞芬终获历史性胜利. <http://bit.ly/3UW7Zy1>

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