

June 1, 2021

The Honorable Gina Raimondo  
Secretary  
U.S. Department of Commerce  
1401 Constitution Ave N.W.  
Washington, DC 20230

Dear Secretary Raimondo,

On behalf of the APA Justice Task Force,<sup>1</sup> we write to express our deep concerns and offer our perspective and assistance to your office regarding the recent Washington Post report<sup>2</sup> detailing misconduct of the Investigations and Threat Management Service (ITMS) at the Department of Commerce (DOC), which was confirmed by a statement<sup>3</sup> issued by Senator Roger Wicker, ranking member of the Senate Committee on Commerce, Science, and Transportation (Committee).

Among the key preliminary findings of the ongoing Committee investigation is that ITMS may have “disproportionately targeted and investigated ... individuals of Asian descent.” The Washington Post identified Sherry Chen,<sup>4</sup> an award-winning hydrologist at the National Weather Service, as a specific example. We also believe that she is the referenced scientist. It appears that Dr. Chunzai Wang,<sup>5</sup> a world-renowned former research scientist at the National Oceanic and Atmospheric Administration, is also among the impacted DOC Asian American employees.

We understand that these incidents happened before you became Secretary of Commerce. We appreciate your taking prompt actions to conduct a thorough review and committing to a comprehensive solution to the issues raised.<sup>6</sup>

However, we also note that DOC’s Office of Inspector General (DOC-OIG) has not provided a complete response to the Committee’s request.<sup>7</sup> This is particularly disturbing because Dr. Jeremy Wu, co-organizer of APA Justice and also Trustee of the Sherry Chen Legal Defense Fund, filed a complaint including a whistleblower letter with DOC-OIG on August 15, 2018.<sup>8</sup> The attached whistleblower letter matches closely the descriptions given by the Washington Post and the Committee investigation. A case identification code DOC-IG-18-0999 was assigned, but there is no indication that the complaint has been processed in the past three years.

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<sup>1</sup> APA Justice Task Force is a group of volunteers formed in 2015 to build a sustainable ecosystem to address racial profiling issues and to facilitate, inform, and advocate on selected issues related to justice and fairness for the Asian American community. It was created after a series of Chinese American scientists in the federal government, academia, and private industry were wrongfully accused of passing secrets to China. <https://bit.ly/3hNE2ME>.

<sup>2</sup> Washington Post. Commerce Department security unit evolved into counterintelligence-like operation, Washington Post examination found. <https://wapo.st/2QM747X>.

<sup>3</sup> U.S. Senate Committee on Commerce, Science, and Transportation: Wicker Releases Fact Sheet Revealing Misconduct at the Commerce Department. <https://bit.ly/3ugvPa1>.

<sup>4</sup> APA Justice. Sherry Chen. [http://bit.ly/APAJ\\_Sherry\\_Chen](http://bit.ly/APAJ_Sherry_Chen).

<sup>5</sup> APA Justice. Chunzai Wang. <https://bit.ly/3ukWfHF>.

<sup>6</sup> Letter from Deputy General Counsel Jeremy Licht to Senator Roger Wicker. <https://bit.ly/3fNibps>.

<sup>7</sup> Letter from Senator Roger Wicker to DOC Inspector General Peggy Gustafson. <https://bit.ly/3wxljjeV>.

<sup>8</sup> Sherry Chen Legal Defense Fund. Inspector General Investigations. <https://bit.ly/3unhxEl>.

Although the criminal charges against Sherry Chan was dropped, DOC terminated her employment in March 2016, based principally on the same spurious allegations leading to her wrongful arrest and prosecution.

As a federal employee, Sherry challenged the termination by filing an appeal with the U.S. Merit Systems Protection Board (MSPB) in March 2017. More than a year later, in April 2018, the MSPB Chief Administrative Judge issued a ruling in Sherry's favor. In her blistering, 130-page decision,<sup>9</sup> the judge excoriated DOC for the deeply flawed investigations preceding both Sherry's arrest and her termination, including the fact that the agency buried exculpatory evidence. She further blasted the DOC decision-makers who "seemed more concerned about being right than doing the right thing" and who gave such illogical testimony that the judge "would not have been surprised if they rejected that  $2 + 2 = 4$ ." Ultimately, the judge agreed that, due to the failures of officials at multiple levels of the agency, Sherry was a "victim of a gross injustice." To date, DOC has not fully complied with the MSPB ruling.

The lack of DOC-OIG action with the submitted whistleblower letter, the Committee's preliminary findings, and the MSPB decision indicate to us that the scope of the misconduct extends beyond ITMS.

In summary, we respectfully request that you add the facts and evidence submitted in this letter as part of your ongoing review. We stand ready to provide additional information and assistance as you deem appropriate.

Sincerely,

/s/ Steven Pei

/s/ Vincent Wang

/s/ Jeremy Wu

Co-organizers, APA Justice Task Force, <https://www.apajustice.org/>



cc:

Senator Maria Cantwell, Chair, Senate Commerce, Science, and Transportation Committee  
Senator Roger Wicker, Ranking Member, Senate Commerce, Science, and Transportation Committee  
Senator Tammy Duckworth, Member, Senate Commerce, Science, and Transportation Committee  
Rep. Judy Chu, Chair, Congressional Asian Pacific American Caucus  
Rep. Jamie Raskin, Chair, House Subcommittee on Civil Rights and Civil Liberties  
Erika Moritsugu, Deputy Assistant to the President and AAPI Senior Liaison, White House  
Jeremy Licht, Deputy General Counsel for Strategic Initiatives, Department of Commerce

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<sup>9</sup> Merit Systems Protection Board. Initial Decision by Chief Administrative Judge Michele Szary Schroeder. Docket Number CH-0752-17-0028-I-1. <http://bit.ly/2B0WWgk>.