Congress of the United States
Washington, DC 20515

November 5, 2015

Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Lynch:

We write to request an independent investigation into whether race, ethnicity or national origin played a part in recent cases in which Asian Americans have been wrongfully arrested and indicted for alleged espionage only to have those charges later dropped. Specifically, we request that you address why there appears to be an ongoing pattern and practice of people of color being singled out by federal law enforcement and prosecutors. Twenty-two Members of Congress sent you a letter on May 21, 2015, requesting such an investigation in light of the case of National Oceanic and Atmospheric Administration employee Sherry Chen. Since then, yet another federal case occurred of an Asian American, Dr. Xiaoxing Xi, who was wrongfully arrested and indicted for espionage.

In a response to the 22 Members of Congress sent on July 27, 2015, the Department of Justice stated that "no policy exists for using race or any other civil rights classifications to 'target federal employees for arrest, surveillance, security clearance denials or other adverse actions.'" However, the May 21 letter requested an investigation to determine whether *any* federal agency has *a pattern or practice* of using these civil rights classifications. The DOJ response letter was silent as to whether there is a pattern or practice of federal law enforcement and prosecutors singling out minorities for arrest and indictment.

Subsequent to the DOJ response, there has been a troubling new case that is similar to that of Ms. Chen. The DOJ arrested and indicted Dr. Xiaoxing Xi, the chairman of Temple University's physics department, for allegedly sharing schematics for a sensitive American-made pocket heater used in superconductor research with China. FBI agents with guns drawn stormed Dr. Xi's house, and his wife and daughter watched him escorted out in handcuffs. Despite statements from leading scientists, it took the DOJ four months to concede that the schematics

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had nothing to do with the pocket heater. All charges were eventually dropped against Dr. Xi – but not before significant emotional and reputational damage was done.[1]

Unfortunately, Dr. Xi and Ms. Chen are not alone. As the *Philadelphia Inquirer* noted on September 18, 2015, "In the last 10 months, federal prosecutors have withdrawn high-profile cases against four Chinese American scientists around the nation who had been accused of spying for China or Chinese companies."[2] A letter from a coalition of national Asian Pacific American groups also identified several cases of Asian Americans being singled out falsely for arrest and indictment.[3] We believe these recent events underscore the need for a full investigation.

We are concerned that espionage threats from foreign nations are creating a climate in which both investigators and prosecutors are rushing into indictments against Americans who happen to be minorities, calling into question civil rights protections. Otherwise innocent actions by Americans do not become suspicious simply because the person taking those actions has an ethnic surname.

As the *New York Times* Editorial Board wrote, "F.B.I. agents and federal prosecutors appear to have acted with reckless haste," and "[threats from China] cannot justify prosecutions driven by supposition rather than solid evidence. The charges filed against Mr. Xi and Ms. Chen traumatized them and their families and needlessly damaged their professional reputations. Nether got an explanation or an apology from the government. They deserve both."[4]

The May 21 letter to you also requested a specific investigation into the case of Sherry Chen. The DOJ response to that letter stated: "We have received assurances from the [United States Attorney's Office for the Southern District of Ohio] and the Federal Bureau of Investigation that Ms. Chen's race played no role in the handling of her case." The purpose of the request was not for DOJ to simply ask the FBI agents and prosecutors if they believed they acted inappropriately—rather, it was for the DOJ to conduct an *independent* investigation into whether race or ethnicity played a role based on interviews, documents and other evidence.

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[1] Apuzzo, Matt. "U.S. Drops Charges That Professor Shared Technology With China." *New York Times*. 11 Sept. 2015. <http://www.nytimes.com/2015/09/12/us/politics/us-drops-charges-that-professor-shared-technology-with-china.html>

[2] McCabe, Caitlin and Jeremy Roebuck. "Days after spy charges were dropped, Temple professor talks at D.C. forum." *Philadelphia Inquirer*. 2015 Sept. 18. <http://articles.philly.com/2015-09-18/news/66646778_1_espionage-federal-prosecutors-cases>

[3] Coalition Letter to Attorney General Loretta Lynch. 4 Sept. 2015. < http://committee100.org/wp-content/uploads/2015/09/Joint-Letter-09.04.15-FINAL.pdf>

[4] Editorial Board. "The Rush to Find China's Moles." *New York Times*. 15 Sept. 2015. <http://www.nytimes.com/2015/09/15/opinion/the-rush-to-find-chinas-moles.html>

We, therefore, reiterate the request for a full investigation by the DOJ into the cases of Ms. Chen, Dr. Xi, and other similar cases regarding whether race or ethnicity played a role. We also request that the DOJ conduct a full investigation regarding why it appears there is a pattern and practice of minorities being singled out for arrest and indictment by federal officials.

We look forward to working with you to address these concerns and reassure the American public that our government is adequately protecting the civil rights of all Americans.

Sincerely,

TED W. LIEU
Member of Congress

JUDY CHU
Member of Congress

KEITH ELLISON
Member of Congress

XAVIER BECERRA
Member of Congress

JOSEPH CROWLEY
Member of Congress

LINDA T. SÁNCHEZ
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RAÚL M. GRIJALVA
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MARK DESAULNIER
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DONALD NORCROSS
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MARK TAKAI
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ALAN LOWENTHAL
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GRACE MENG
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DORIS MATSUI
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ZOE LOFGREN
Member of Congress

KATHERINE CLARK
Member of Congress

AL GREEN
Member of Congress

ANNA G. ESHOO
Member of Congress

RUBEN GALLEGO
Member of Congress

CHRIS VAN HOLLEN
Member of Congress

TONY CÁRDENAS
Member of Congress

CC:
James Brien Comey, Jr., Director, Federal Bureau of Investigation
Michael E. Horowitz, Inspector General, Department of Justice