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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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September 21, 2023

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services

Lawrence A. Tabak, D.D.S., Ph.D.
Acting Director
National Institutes of Health

Dear Secretary Becerra and Acting Director Tabak:

I have obtained information confirming my earlier suspicions that officials at the Department of Health and Human Services (HHS) and the National Institutes of Health (NIH) were aware of safety issues at the Wuhan Institute of Virology (WIV) as early as October 2017.

In August 2021, Senator Rand Paul and I wrote to HHS and NIH requesting the unredacted records of Dr. Ping Chen, a National Institute of Allergy and Infectious Diseases (NIAID) official who visited the WIV in 2017.¹ Our request was based on a review of heavily redacted documents showing that, after returning from the WIV, Dr. Chen communicated with other NIAID officials about the WIV and even drafted a report about her visit.²

Based on Dr. Chen's communications with a colleague, we knew that Dr. Chen's report partially served as the basis for a January 19, 2018 State Department cable that raised safety concerns about the WIV.³ However, because of HHS's redactions and refusal to provide a copy

¹ Letter to Xavier Becerra, Secretary, Department of Health and Human Services, and Francis Collins, Director, National Institutes of Health, from Ron Johnson, Ranking Member, Permanent Subcommittee on Investigations, and Rand Paul, United States Senator, Aug. 19, 2021, <https://www.ronjohnson.senate.gov/services/files/A60D3BD2-9083-4C61-91DA-72D2AEC39155>.

² On August 17, 2021, NIH and HHS produced approximately 200 pages of heavily redacted emails in response to a June 11, 2021 letter signed by Senator Ron Johnson and four other colleagues on the Senate Committee on Homeland Security and Governmental Affairs, pursuant to 5 U.S.C. 2954, requesting information related to the WIV. See Letter from Ron Johnson, Ranking Member, Permanent Subcommittee on Investigations, et al., to Xavier Becerra, Secretary, Department of Health and Human Services, and Francis Collins, Director, National Institutes of Health, June 11, 2021; Letter to Xavier Becerra, Secretary, Department of Health and Human Services, and Francis Collins, Director, National Institutes of Health, from Ron Johnson, Ranking Member, Permanent Subcommittee on Investigations, and Rand Paul, United States Senator, Aug. 19, 2021, <https://www.ronjohnson.senate.gov/services/files/A60D3BD2-9083-4C61-91DA-72D2AEC39155>.

³ April 15-16, 2020: Ping Chen emails Gray Handley, NIAID Associate Director for International Research Affairs, about the January 19, 2018 cable stating, "I was listed as drafter. About half of the content was taken from my [visit] summary" (Freedom of Information Act Production to Judicial Watch, Inc., from, Department of Health and Human Services Emails from Ping Chen to Gray Handley, Apr. 15-16, 2020); Cable from U.S. Embassy in Beijing, China Opens First Bio Safety Level 4 Laboratory, Jan. 19, 2018 at 2 [on file with Subcomm.].

of Dr. Chen's report, we could only speculate as to what information the report contained and how closely it aligned with the January 19, 2018 cable.⁴

After months of obstruction, HHS agreed to lift only some of the redactions in Dr. Chen's communications and allowed my staff to review Dr. Chen's report at HHS's headquarters. My staff's *in camera* review confirmed that starting in October 2017, Dr. Chen did, in fact, raise safety issues about the WIV to federal health officials. Below is an excerpt from Dr. Chen's report from November 2017 calling for the need for more training at the WIV:

*Excerpt from Ping Chen's Nov. 2017 report on the WIV (report enclosed)*⁵

It is clear to me by talking to the technician that **certainly there is a need for training support**. The French lab that helped the construction of the lab does not provide technical training for laboratory operations. From limited information I have UTMB in Galveston, which also hosts one of several p4 labs in the United States and supported by NIAID, has provided training to WIV. I think the institute would welcome any help and technical support by NIAID, has provide training to WIV. I think the institute would welcome any help and technical support that NIAID can provide when there is need.

Based on the slightly-less redacted report and communications, it is clear that Dr. Chen's analysis of the WIV directly influenced the section titled "Unclear Guidelines on Virus Access and a Lack of Trained Talent Impede Research" of the January 2018 State Department cable that stated:

"[d]uring interactions with scientists at the WIV laboratory, they noted that the new **lab has a serious shortage of appropriately trained technicians and investigators needed to safely operate this high-containment laboratory.**"⁶

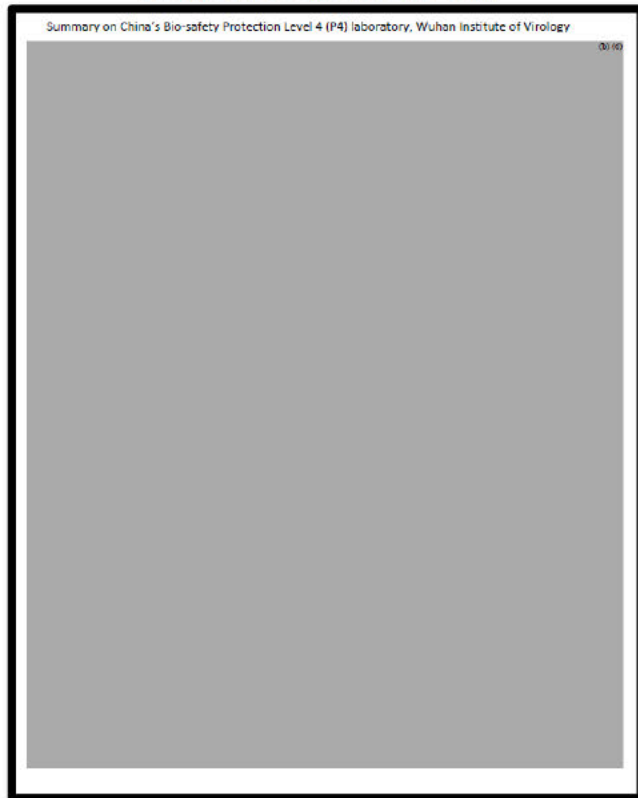
⁴ See Emails between Gray Handley and Ping Chen et.al Oct. 26-Nov. 27, 2017, JohNIH-00004163-68 [on file with Subcomm.].

⁵ A p4 lab is a laboratory rated at Bio-Safety Level 4. Ping Chen, Summary on China's Bio-safety Protection Level 4 (P4) laboratory, Wuhan Institute of Virology, enclosed and on file with staff. (emphasis added). Staff transcribed the enclosed document during an *in camera* review. HHS did not provide the document prior to the *in camera* review, and portions of the document remained redacted during the review.

⁶ Cable from U.S. Embassy in Beijing, China Opens First Bio Safety Level 4 Laboratory, Jan. 19, 2018 at 2 (emphasis added) [on file with Subcomm.].

My staff's *in camera* review of Dr. Chen's report raises even more concerns about the validity of the redactions HHS previously applied to documents produced pursuant to Freedom of Information Act (FOIA) requests. Below are two images of Dr. Chen's report. The image on the left shows what HHS produced publicly via FOIA.⁷ On the right is an image of what my staff transcribed during an *in camera* review of Dr. Chen's report:

Ping Chen report via FOIA



Ping Chen report via in camera review (enclosed)



In the public FOIA document, HHS redacted Dr. Chen's entire report claiming that it contains privacy and deliberative information.⁸ Following my staff's *in camera* review of the report, it seems apparent that the only reason that HHS redacted this information was to hide the report's contents from the American people. Perhaps HHS did not want the public to fully understand the fact that NIH and NIAID officials were aware of safety concerns at the WIV dating as far back as 2017.

⁷ U.S. Right to Know, available at <https://usrtk.org/wp-content/uploads/2022/01/Ping-Chen-WIV-trip-report.pdf> at 6-7.

⁸ The report released pursuant to FOIA is redacted pursuant to exemptions (b)(6) and (b)(5). FOIA exemption (b)(6) shields from publication, "information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved." FOIA exemption b(5), "[p]rotects the integrity of the deliberative or policy-making processes within the agency by exempting from mandatory disclosure opinion, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters." See FOIA Exemptions & Exclusions, Department of Health and Human Services, Aug. 28, 2015, <https://www.hhs.gov/foia/exemptions-and-exclusions/index.html>.

The extent to which NIH and NIAID officials took action following receipt of Dr. Chen's report remains unclear. However, on September 19, 2023, nearly six years after NIH and NIAID received Dr. Chen's warning about the WIV's need for more training, HHS notified Congress that the WIV has been debarred from participating in U.S. federal government procurement and non-procurement programs until July 2033 because of "noncompliance with Government award regulations, and failure to acknowledge and correct this violation[.]"⁹ The reasons for why HHS debarred the WIV many years after Dr. Chen initially raised concerns about the lab must be fully investigated.

Yet, HHS and NIH continue to obstruct my oversight efforts. It is unacceptable that HHS and NIH had Dr. Chen's report in its possession and only provided a slightly-less redacted version for my staff to review *in camera*. The majority of the documents that HHS produced relating to Dr. Chen are still heavily redacted (as exemplified in the enclosed email chain).¹⁰

HHS further asserted in a briefing with my staff that the remaining redactions in both the report and the communications were for "security" reasons.¹¹ However, HHS admitted that the redactions do not implicate national security and the redacted documents are not classified.¹² Given HHS's extensive redactions of unclassified documents, I can only assume that the true nature of HHS's "security" interest is to protect itself from additional embarrassment over its handling of the COVID-19 pandemic. In the interest of transparency, and in a continued effort to uncover the origins of COVID-19, I reiterate the following requests from the Permanent Subcommittee on Investigations:¹³

1. Complete **unredacted** copies of Dr. Ping Chen's 2017 report on her visit to the WIV, and all communications referring or relating to the report, including but not limited to all communications in Dr. Ping Chen's NIAID email account ([REDACTED]), Dr. Ping Chen's State Department email account ([REDACTED]), and complete unredacted copies of JohNIH-0004081-4281;
2. Complete **unredacted** copies of all documents and communications referring or relating to the WIV and PREDICT; and

⁹ Letter from Suspension and Debarment Official, Deputy Assistant Secretary for Acquisition, Department of Health and Human Services, to Yanyi Wang, Dir. General, Wuhan Institute of Virology, Sept. 19, 2023 [on file with Subcomm.].

¹⁰ See Email exchange between Gray Handley, Ping Chen, Gayle Bernabe, James Meegan, and William Rosa, subject: Trip Report, Oct. 26, 2017 through Nov. 27, 2017 (JohNIH-000004163 to JohNIH-00004168), enclosed and on file with Subcomm. The enclosed email chain contains the original email chain HHS produced to the Subcommittee. During an *in camera* review of the email chain, HHS lifted some redactions and the enclosed email chain reflects staff's transcription of the information that HHS initially redacted.

¹¹ Bipartisan Briefing by HHS Assistant Secretary for Legislation, Melanie Egorin, Ph.D, to Permanent Subcommittee on Investigations staff, Jan. 24, 2022.

¹² *Id.*

¹³ Then-PSI Chairman Jon Ossoff and Ranking Member Johnson initially requested the majority of this information on Feb. 10, 2022. HHS has failed to completely respond to the bipartisan request. See Letter from Jon Ossoff, Chairman, Permanent Subcommittee on Investigations, and Ron Johnson, Ranking Member, Permanent Subcommittee on Investigations, to Xavier Becerra, Secretary, U.S. Dep't of Health and Human Services, Feb. 10, 2022 [on file with Subcomm.].

3. Make Dr. Ping Chen available for an interview before the staff of the Permanent Subcommittee on Investigations.

Please provide this information as soon as possible but no later than October 5, 2023.
Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Ranking Member
Permanent Subcommittee on Investigations

cc: The Honorable Richard Blumenthal
Chairman
Permanent Subcommittee on Investigations

The Honorable Christi Grimm
Inspector General
Department of Health and Human Services

Ms. Diana Shaw
Acting Inspector General
Department of State

Enclosure

Enclosure

From: Handley, Gray (NIH/NIAID) [E]
Sent: Mon, 27 Nov 2017 06:30:37 +0000
To: Chen, Ping (NIH/NIAID) [E]
Cc: Bernabe, Gayle (NIH/NIAID) [E]; Meegan, James (NIH/NIAID) [E]; Rosa, William (NIH/NIAID) [E]
Subject: RE: trip report

P.S. There is enough good information in your report that it needs to be shared in some form or another. Gray

From: Chen, Ping (NIH/NIAID) [E]
Sent: Wednesday, November 22, 2017 2:03 AM
To: Handley, Gray (NIH/NIAID) [E]
Cc: Bernabe, Gayle (NIH/NIAID) [E]; Meegan, James (NIH/NIAID) [E]
; Rosa, William (NIH/NIAID) [E]
Subject: Re: trip report

I drafted the following report for my visit to the P4 lab as you requested. ESTH has been working with the health group in the embassy for cables. **not sure this would be their interests. and we can decide whether to do a cable or not. there is just not enough info for a full cable.**

Anyway I want to get it out before the holiday starts now in the embassy (early release).

Have a nice Thanksgiving! I won't eat any turkeys but will try to find chicken in Gulangyu Island.

Ping

Ping Chen, PhD
Director of NIAID Office in China
Office of Global Research, NIAID, NIH
Bethesda Office:
BB:
Beijing Office:
Cell:
U.S. Cell:
U.S. Embassy Beijing
#55 An Jia Lou Road

ChaoYang District, 100600
Beijing, China

From: Chen, Ping (NIH/NIAID) [E]
Sent: Monday, November 6, 2017 21:24
To: Handley, Gray (NIH/NIAID) [E]
Cc: Bernabe, Gayle (NIH/NIAID) [E]; Meegan, James (NIH/NIAID) [E]; Rosa, William (NIH/NIAID) [E]
Subject: Re: trip report

OK.

Sent from my iPhone

On Nov 6, 2017, at 9:21 PM, Handley, Gray (NIH/NIAID) [E] wrote:

Please send us by e-mail your full report on the visit and then we can decide what to do with that information. Gray

From: Chen, Ping (NIH/NIAID) [E]
Sent: Thursday, October 26, 2017 11:28 PM
To: Handley, Gray (NIH/NIAID) [E]
Cc: Bernabe, Gayle (NIH/NIAID) [E]; Meegan, James (NIH/NIAID) [E]
; Rosa, William (NIH/NIAID) [E]
Subject: Re: trip report

Redacted Paragraph

Redacted Paragraph

About the cable, US consulate in Wuhan has shown interest to visit p4 lab. I sent them the contact at the institute so they can arrange a visit directly with the institute. If they go they are likely to generate a cable. I can help them do so.

REDACTED
REDACTED

Let me know what you would like me to do.

Ping

Ping Chen, PhD
Director of NIAID Office in China
Office of Global Research, NIAID, NIH
Bethesda Office: [REDACTED]
BB: [REDACTED]
Beijing Office: [REDACTED]
Cell: [REDACTED]
U.S. Cell: [REDACTED]
U.S. Embassy Beijing
#55 An Jia Lou Road
ChaoYang District, 100600
Beijing, China
[REDACTED]

From: Handley, Gray (NIH/NIAID) [E]
Sent: Friday, October 27, 2017 1:40:04 AM
To: Chen, Ping (NIH/NIAID) [E]
Cc: Bernabe, Gayle (NIH/NIAID) [E]; Meegan, James (NIH/NIAID) [E]; Rosa, William (NIH/NIAID) [E]
Subject: RE: trip report

Thanks for this report, Ping. I recommend you turn this into a short cable but before you send for clearance please share with us for a quick review. This is a sensitive subject and will be of interest to others.

It is good they welcomed your visit and will be good to keep in touch so we are aware of what they are doing in the future.

Redacted

Gray

From: Chen, Ping (NIH/NIAID) [E]
Sent: Thursday, October 26, 2017 5:01 AM
To: Handley, Gray (NIH/NIAID) [E]; Bernabe, Gayle (NIH/NIAID) [E]; Meegan, James (NIH/NIAID) [E]; Rosa, William (NIH/NIAID) [E]
Subject: trip report

Hi,

This week I went to Wuhan to visit the Bio safety lab 4 in Wuhan Institute of Virology (WIV), an institute under the Chinese Academy of Sciences (CAS). My contact who helped arrange the visit is Dr. Zhengli Shi, who is a Chinese collaborator on a NIAID grant to EcoHealth for SARS like corona virus project.

The P4 lab is located in a new developing zone about one hour car ride from the current institute location in central Wuhan city. The location will be the new campus for the entire institute in the near future (a lot of construction is going on right now). Since we are not allowed to take photos so only the photo from the outside is attached.

Although the labs are not hot yet we are not allowed to enter the laboratories. The facility is larger than I thought it would be. It has three laboratories inside. Two of them can have 4 people work inside at the same time., quite spacious (can look into it through a window not open to the outside). Another smaller one is connected to the animal housing area, one for small animals and one for mid size animals such as ferrets and non-human primates.

Several teams are involved in facility in management of the facility. There is a team of technicians who are trained to conduct experiments inside the p4 lab. others include the facility people, the management personnel, bio safety team, and security.

I learned from the conversation and find interesting that the institute has to apply for permission for the types of pathogens they can work with in the p4 lab. So far they only have three permissions: Ebola, Nipah, Xinjiang hemorrhagic fever (a strain of Crimean Congo hemorrhagic fever found in XinJiang province in China). The permission is given by the National Health and Family Planning Commission. Interestingly Chinese government does not allow the import of Ebola viruses so what is the point to give the permission for working on Ebola viruses when there is no pathogen available. (The following two to three sentences remain redacted) So the facility won't get much of use at this point. They also don't know what were the criteria or considerations that NHFPC had when they made the decision on what viruses can or can't be worked in the p4 lab.

It is clear to me by talking to the technician that certainly there is the need for training support as he said being the first one in China, they have to learn from others. I don't think the French does much now after the facility has been turned to China. Right now they rely on Chinese who had worked in p4 labs before and now returned to China. A couple of researchers in the WIV returned from UTMB Galveston. I learned that UTMB will come to the WIV soon to conduct a training. I think the institute would welcome any help and technical support that NIAID can provide when there is need.

I asked about whether the institute would welcome and host high level of US visitors. The response was yes. The institute can be a back up for our Henan TB project to cope with request for site visits by U.S. officials. I obtained contact information and forwarded to the consulate in Wuhan as they had shown interest to visit the lab.

I also learned from the conversation that another p4 lab is either under construction or planning, which will be for veterinary use. Will be located in Harbin Veterinary Research Institute, another CAS institute. This P4 would have capacity to work on large animals.

I am getting a lot of detailed questions from Janette on the EID planning. We are getting good responses from our contacts.

I am working with CAMS for a couple of follow ups following the AMR meeting.

Please let me know if you have any questions.

Thanks

Ping

Ping Chen, PhD

Director of NIAID Office in China

Office of Global Research, NIAID, NIH

Bethesda Office: [REDACTED]

BB: [REDACTED]

Beijing Office: [REDACTED]

Cell: [REDACTED]

U.S. Cell: [REDACTED]

U.S. Embassy Beijing

#55 An Jia Lou Road

ChaoYang District, 100600

Beijing, China



Summary on China's Bio-safety Protection Level 4 (P4) laboratory, Wuhan Institute of Virology

Ping Chen

Background

China decided to build a P4 laboratory in 2003 when the outbreak of SARS spread across the country. In April 2003, the former prime minister of France, Jean-Pierre Raffarin visited China, and the two countries agreed to cooperate over infection disease control. The construction of the P4 laboratory became the top priority.

In collaboration with Jean Merieux BSL-4 laboratory in Lyon, France, China's first p4 lab was constructed in Wuhan Institute of Virology (WIV, an institute under the Chinese Academy of Sciences CAS). It took 11 years to complete. In January 31, 2015 WIV celebrated the completion of the facility. Now 2 years and 9 months later the lab is operational and ready to be used for research on highly infectious pathogens. This is the first p4 laboratory in Asia.

Facility

The p4 lab is located in a new developing zone about one hour car ride from the current institute location in the city of Wuhan, Hubei province. The location will be the new campus for the entire institute in the near future. The building, which looks like a giant cube from outside, occupies over 3000 sq meters. It has 4 floors. The bottom floor is for water treatment and essential equipment for protection and safety operations such as oxygen generators. The second floor has 3 experimental (two equally sized labs each can have 4 people working at the same time; another smaller lab is connected to the animal housing area for conducting animal experiments), 2 animal laboratories (one for small sized animals and one for mid-sized animals such as non-human primates or ferrets), 1 operating room for animals, an animal viral storage room. The third floor holds various ducts and wires, the fourth floor is for air filtering.

Several teams are involved in management of the facility. There is a team of technicians who are trained to conduct experiments inside the p4 lab. Others include the facility people, the management personnel, biosafety team, and security. The person who gave me the tour is a trained technician. According to him, being the 1st p4 lab in the country, they have to learn everything from zero. They rely on those scientists who have worked in p4 labs outside China to train the other scientists how to operate in the p4 lab.

I learned from the conversation and find interesting that the institute has to apply for permission for the types of pathogens they can work with in the p4 lab. So far WIV only obtained the permissions for three viruses: Ebola, NIPAH, and XinJiang hemorrhagic fever (a strain of Crimean Congo hemorrhagic fever found in Xinjiang province China). The permission is given by the National Health and Family Planning Commission. Interestingly Chinese government does not allow the import of Ebola viruses. So what is the point to permission for working on Ebola viruses when there is no pathogen to work with **(three lines of redaction present)**

How NHFPC determines what kind of viruses can or can't be worked in the p4 lab now is unclear. **(three lines of redaction present)**

It is clear to me by talking to the technician that certainly there is a need for training support. The French lab that helped the construction of the lab does not provide technical training for laboratory operations. From limited information I have UTMB in Galveston, which also hosts one of several p4 labs in the united states and supported by NIAID, has provided training to WIV. I think the institute would welcome any help and technical support by NIAID, has provide training to WIV. I think the institute would welcome any help and technical support that NIAID can provide when there is need.

I also learned form the conversation that another –p4 lab is either under construction or planning, which will be for veterinary use. It would be located in the Harbin Veterinary Research Institute, another CAS institute. This p4 lab would have the capacity to work on large animals.