



How U.S. Foreign Student and Exchange Visitor Policies Undercut National Security

By Dan Cadman

Key Findings

Current policy toward admission and control of international students and scholars represents a material weak point in U.S. national security. This weakness has at least two major dimensions:

First, there has been a de facto weakening of America's ability to educate, train, and hire into U.S. government and industry, native-born graduates of STEM (science, technology, engineering, mathematics) courses. This is because many institutions of higher learning recognize the monetary benefits of accepting foreign students whose governments often pay their fees. It is an irony that our premier academic and research institutions are contributing to this withering away of native capacity at the expense of many nationalities whose governments are actively hostile to, or global competitors of, the United States.

Second, because there is no control over the number, place of origin, or courses and research studies of foreign students and exchange scholars, many of those governments use the U.S. foreign student and scholar programs as opportunities to engage in spying and theft of important defense and trade secrets, as well as cutting-edge technological advances. For many nations — China is a prime example — such espionage is a “family affair” and it encourages all of its students and scholars to bring important information home whenever the opportunity presents itself.

Although legislation would be desirable and helpful to advance the interests of a robust native-born population of STEM students and graduates, a great many things may be done administratively to ameliorate these weaknesses simply by exercising the lawful powers and authorities already embedded within the Immigration and Nationality Act (INA). These include, but are not limited to:

- Issuing executive orders to limit the overall number of visas granted to international students and exchange scholars — particularly those intent on studying STEM subjects, and quite possibly with regard to specific nationalities of students and scholars.
- Revoking the approval of U.S. institutions of learning or research to accept foreign students and scholars if those students or scholars overstay, violate the conditions of their status, or are otherwise discovered to be engaged in activities prejudicial to national security.

Introduction

The admission of nonimmigrant students and scholars (technically, “exchange visitors”) has always been a dual-edged sword for the United States. On the plus side, foreign students and scholars, while gaining education or participating in various research projects, get to know and hopefully appreciate something about American culture and values, which appreciation they will bring back home with them, thus increasing global goodwill

Dan Cadman is a fellow at the Center for Immigration Studies.

toward our country. This is especially important since at least some of those foreign students and scholars will become leaders and persons of influence within their own polity.

On the down side, an unknown number of them also engage in activities hostile to our country and communities. These activities range from participation in terrorism to espionage. Some of them are “sleepers” put into place to be activated either by order of their masters, or upon some specific triggering event. While the percentage and number of such individuals is undoubtedly small, it takes only a few aliens intent on serious harm to the United States to create a national tragedy. Other international students or scholars are professional intelligence officers operating under cover; even more are “spies of opportunity” with little tradecraft or training, but who have been instructed by their governments to be alert to chances to pilfer important or sensitive research should the occasion present itself.

The Student and Scholar Visa Process

Foreign students and scholars have been coming by the hundreds of thousands each year to the United States for many decades — in fact, Table 1 shows a five-year trend that reflects over two million admissions each year in the three relevant visa categories (F-1 students, M-1 vocational students, and J-1 exchange visitors) from 2013 to 2017, according to official Department of Homeland Security (DHS) data.¹

Table 1. Nonimmigrant Student & Scholar Admissions

	2013	2014	2015	2016	2017
F-1 Students	1,577,509	1,737,927	1,886,948	1,858,644	1,845,739
M-1 Vocational Students	19,106	20,534	19,878	18,726	19,129
J-1 Exchange Scholars	433,534	486,827	502,372	505,448	523,864
Total	2,030,149	2,245,288	2,409,198	2,382,818	2,388,732

Source: [Yearbook of Immigration Statistics](#), Department of Homeland Security, 2013-2017, “Nonimmigrant Admissions”.

Note that “admissions” does not necessarily equal “individual aliens” since an alien may sometimes depart the United States for a brief period of time — for vacation, to visit home, etc. — and then return within the space of a single year. But it is a reasonable approximation for the size of the student and scholar populations.

Note also that these categories of aliens are allowed to bring their respective families with them as F-2, M-2, or J-2 dependents. Table 1, however, only reflects the principal aliens, not their spouses or children.

Finally, note that students and scholars are admitted for “duration of status”, meaning for the entire course of study or program research, which can span several years. Thus, at any point in time, there are without doubt well over a million aliens under F-1, M-1, and J-1 visas scattered throughout the United States in large institutions and small.

How do they get here? The process is diffuse and involves several governmental agencies and departments, as well as the institutions of learning or research themselves. Here’s a brief overview:

A U.S. institution of learning applies for, and obtains from the Student and Exchange Visitor Program (SEVP), federal authorization to accept F-1 or M-1 students. The process is defined by regulation, as are the conditions under which approval to accept foreign students may be denied or revoked.² This, in turn, enables the institution to accept applications from prospective students. If they are accepted for a course of academic or vocational study, the institution issues a DHS form I-20 to the student, who is at this point still abroad seeking the ability to enter. The J-1 process is slightly different in that the Department of State controls which institutions and entities are entitled to accept foreign scholars.³

The prospective student takes the form I-20 (or equivalent J visa authorization form) to a U.S. consular officer at an embassy or consulate abroad, along with proof of his or her capacity to pay for tuition or program fees, and to support him- or herself adequately without need to work illegally, etc. The consular officer also conducts background checks to attempt to determine that the alien is not excludable on any of a wide range of grounds, from national security to criminality to health and safety. According to the Government Accountability Office (GAO), in the same five-year period outlined in Table 1, U.S. consular officers adjudicated well over a million visa applications every year except 2017.⁴ During that time frame, denial

rates trended higher over time although, as can be seen, even in the highest year for denials (2017), more than 80 percent of all applications still resulted in a visa.

Once a visa has been issued, the alien proceeds to a U.S. port of entry for inspection by a DHS Customs and Border Protection (CBP) officer, who examines all of the documents (valid passport, visa, and form I-20, at minimum), conducts systems checks and asks any questions deemed appropriate, all within the span of a few minutes. The alien is then admitted to continue to the institution to commence his or her program of study or research. Upon arrival and enrollment, the loop is closed when the institution formally notifies SEVP. It remains incumbent on that institution to notify SEVP should the student or scholar fail to show up, or drop out later, or in any other way violate the conditions of admission. At least in theory, an institution that fails in its responsibilities may have its authorization to accept students or scholars revoked. In fact, that rarely happens.

Table 2. Nonimmigrant Student & Scholar Consular Visa Adjudications

	2013	2014	2015	2016	2017
Total Adjudications	1,050,306	1,140,338	1,230,009	1,106,645	992,855
Number of Visas Issued	928,310	1,013,047	1,064,176	892,999	814,138
Percentage Denied	11.6%	11.2%	13.5%	19.3%	18.0%

Source: “[Nonimmigrant Visas: Outcomes of Applications and Changes in Response to 2017 Executive Actions](#)”, GAO-18-608, U.S. Government Accountability Office, August 2018. See Table 10.

A Historical Perspective of the National Security Risk Problem

There are several dimensions that attend to the national security risks inherent in a robust foreign student and scholar program.

One problem is the sheer size of the population. The Migration Policy Institute estimates that in 2016-2017, there were approximately 1.1 million foreign students in institutions of higher learning.⁵ Add to that the students attending various vocational institutes (including, e.g., flight and maritime training, trade schools, and the like), and then add again to that the foreign researchers, and one gets a sense of the volume.

Why is that problematic? Because keeping an eye on a group that large is functionally beyond the capabilities of government agencies. It’s worth observing that every permanent FBI director from the 1970s onward has, at one time or another, included in his public remarks the special difficulties that exist in tracking potential spies or malefactors from among such a large and fluid population.⁶

The last several decades of the nation’s history provide ample evidence that the concerns of these FBI directors were warranted. Here are a few examples:

Iran. During the Iranian hostage crisis of 1979, U.S. enforcement and intelligence agencies were deeply concerned over the possible existence of hostile students among those studying in this country. The concern was compounded by the fact that the Immigration and Naturalization Service (INS) was so poorly automated that it relied on paper records and could not provide even a rough estimate of the number of Iranian students. As a result, President Jimmy Carter, one of the most liberal individuals to ever hold that office, directed that every Iranian student in the United States specially register and establish his or her legal nonimmigrant presence here. By regulation, failure to register was declared to be a violation of status. INS officers were further directed to coordinate with institutions of learning to obtain the names and personal data of Iranians who were attending, or who had been and dropped out. This information was compared against the registration lists and when individuals were identified who had not complied with special registration, they were targeted for arrest.⁷

Libya. Under the leadership of Colonel Muammar Qaddafi, Libya was fiercely hostile toward the United States and other western powers. His government was believed to be attempting to develop nuclear and chemical weapons, as well as establishing an aggressive air defense policy that included territorial waters claims that extended far beyond the traditional three-mile limit (the so-called “line of death” beyond which foreign military powers might expect attack). In addition, Qaddafi was believed to have authorized cells of hit teams whose task was to rove internationally and assassinate enemies identified by

the Brotherly Leader. By 1983, President Ronald Reagan, who succeeded Carter in the presidency, was so concerned about Qaddafi's erratic actions and intentions that he directed INS officials to promulgate regulations prohibiting Libyan students from studying at U.S. flight schools or taking various physics or other technical courses that might enable those students to further Qaddafi's bellicose military and nuclear plans.⁸

The actions taken toward Iranian and Libyan students occurred at the urging of multiple federal intelligence and counterintelligence officials who recognized that foreign students and exchange scholars pose a special case: Although technically they are "temporary" visitors, in point of fact, they are in the United States for years at a time; by virtue of their position in the higher levels of academia, they have access to sensitive scholarly research; and they are a constant presence in and around universities and colleges that are by their nature the antithesis of a closed, secure environment, even though sensitive work and research is in close physical proximity.

9/11. As mentioned earlier, while the number of foreign students and scholars engaged in hostile activities such as terrorism or espionage is undoubtedly small relative to the overall population of F, M, and J visa holders, even just a few aliens intent on harm to the United States can have an outsized negative impact on our society. The most obvious example is the multiple attacks of September 11, 2001, when 19 terrorists and their co-conspirators changed our country forever. Some of those terrorists came to the United States as students, others as so-called "visitors for pleasure" who attempted to change status once here, or even attended courses of instruction such as flight school without authorization and did so with impunity, knowing the chance of detection and apprehension was small.

By way of example, one of the 9/11 terrorists, Hani Hanjour, who came and went back and forth from Saudi Arabia to the United States several times, received a student visa in Saudi Arabia to attend an English-as-a-Second-Language (ESL) program in Arizona, and then one in California. His attendance at these ESL schools was negligible, and he instead began pilot training. On his last return to the United States, he joined another co-conspirator and simply departed for San Diego. This was one of the motivators for the INS to institute a requirement that schools promptly report no-show students, or those who drop below the minimum number of courses to maintain full-time status. Of course, absent any meaningful penalties for failing to do so as required (such as revocation of approval to enroll foreign students), the requirement functions as an honor system and not as a legitimate national security fail-safe or immigration control mechanism.

This brings us to the next problem:

Even though SEVP is part of a federal law enforcement organization (ICE), the personnel who staff SEVP don't as a rule have any enforcement background and don't see their role as one of enforcement so much as facilitation and liaison with academia. This is an irony given that SEVP itself is a post-9/11 creation deliberately placed into a DHS enforcement organization in order to establish the kind of control regimen over policing the foreign student and scholar population that had been lacking prior to the attacks.

The consequence of this service-oriented philosophical outlook prevalent at SEVP is that there is remarkably little oversight or control of the institutions granted I-20 issuance authority, and the occasional revocations or threats of revocation are inevitably focused on small schools rather than large or prestigious universities whose political weight can be presumed. And make no doubt that those universities and research institutes value the presence of foreign students and scholars not just as an exercise in freedom of expression and exchange, but for monetary reasons.

Many of the foreign students from certain countries — most especially those that are hostile to the United States or who constitute strategic global political, military, or economic competitors — come with all expenses paid by the home government, and the out-of-state fees they pony up are shockingly high. This alone should be a warning sign to U.S. counterintelligence and enforcement agencies, particularly when combined with a recognition that these students and scholars are frequently occupied in STEM studies, many of which have multiple-use applications in sensitive areas such as defense or nuclear physics.

By way of example, according to the Institute for International Education (IIE), during the 2017-2018 academic year, there were:⁹

- 363,341 Chinese students enrolled, an increase of 3.6 percent over the 2016-2017 academic year;

- 12,783 Iranian students, an increase of 1.1 percent;
- 7,537 Pakistani students, an increase of 7.4 percent;
- 5,518 Russian students, an increase of 2 percent;
- 44,432 Saudi Arabian students, which actually reflected a decrease of 15.5 percent (despite which the overstay rate for this country, as discussed below, is inordinately high);
- 726 Syrian students, a decrease of 12.2 percent, not a surprise given Syria's state of war, but surprising in that there are any students from that country; and
- 10,520 Turkish students, a slight decrease of .6 percent.

The general lack of oversight of the institutions authorized to accept foreign students and scholars is equally true of the students and scholars themselves. As Jessica Vaughan, director of policy studies at the Center for Immigration Studies (CIS), pointed out in a series of tweets and a *Backgrounder* after the release of the most recent DHS statistics governing overstays, *foreign students violate their visas at double the rate of other nonimmigrants in the country*.¹⁰

Notably, 40 percent of the 70,000 student/exchange visa overstays in 2017 alone were from only four countries, of which China was one; in fact, numerically it had the most overstays (18,075), with Saudi Arabia in second place.

When alien students and scholars violate the terms of their admission, SEVP records the information and relays it in due course to a unit within the Homeland Security Investigations (HSI) division of ICE. That unit is charged with scrubbing and forwarding the information to HSI field offices as a lead to be worked, but — as with nonimmigrant overstays and violators generally — the leads don't constitute a priority for HSI. The percentage of productive time spent on such investigations by HSI agents falls into the single digits.

While this is inexcusable, one can almost understand the reluctance of HSI to fully engage given today's charged political environment. Engaging in enforcement efforts that would inevitably require federal agents to be on campuses on a routine basis nationwide might incur troubling reactions. Many campuses are hotbeds of progressive, sometimes extreme activist, communities among both the student body and faculty/staff. Some campuses have gone so far as to declare themselves sanctuaries, even as they continue to issue I-20s for foreign students — a privilege granted them by the federal government in return for their cooperation on immigration matters — and, in places like California, the state university system proudly admits illegal alien students at in-state tuition rates. One can hardly expect that these bastions of progressive-activist academia would welcome or willingly assist ICE agents in their duties even though the conditions under which they have been authorized to accept foreign students clearly levies a demand for such cooperation. Historically, there is no reason for them to think there will be adverse consequences for refusing to cooperate, even when the terms of their ability to issue I-20s are so clearly conditional on this cooperation.

Current Dimensions of the National Security Risk

Given the lax state of nonimmigrant enforcement efforts, particularly for foreign students and scholars, there is a continuing risk of admitting aliens who might later, given the right circumstances, prove to be national security threats because of affiliations with terrorist organizations such as Hizballah, al Qaeda, or Islamic Jihad, to name just three. There is also the risk of admitting, as students and scholars, intelligence officers whose job is to sit in place under non-official cover awaiting instructions or opportunities.¹¹ Finally, there is the very real likelihood — as has been proven again and again — that many foreign students and scholars are co-opted by their countries to act as intelligence conduits. They may not be professional “spies”, but the opportunities are rich, particularly for STEM students and researchers, to glean significant amounts of tactically and strategically important information of the type to be found in universities such as MIT or CalTech, ranging from defense to physics to trade secrets. The warning signs proving these assertions are there to be found if one pays attention.

For example, in October 2018 the Department of Defense (DOD) issued a report with the wonkish title: “Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States: Report to President Donald J. Trump by the Interagency Task Force in Fulfillment of Executive Order 13806”.¹²

Dry title notwithstanding, the report carries some alarming data. Take, for instance, this snippet from p. 42:

Increasing globalization of the supply chain and a diminishing domestic manufacturing sector are combining to create human capital gaps and erosion of American capabilities. STEM knowledge and core trade skills are necessary to ensure the holistic and synergistic health of the defense ecosystem. Skill gaps in both areas entail inherent risk, from a decline in production capacity to decreased innovation.

The report goes on to explain (p. 44):

While the total number of bachelor’s degrees in the U.S. has increased steadily in the last two decades, the number of STEM degrees conferred in the U.S. still pales compared to China.

In addition, the U.S. has seen an increase in students on temporary visas, many of whom would be unable to gain the security clearances needed to work in the defense ecosystem.

*Growth in advanced science and engineering degrees shows the U.S. graduating the largest number of doctorate recipients of any individual country, **but 37% were earned by temporary visa holders with as many as 25% of STEM graduates in the U.S. being Chinese nationals.***

*As the U.S. continues to attempt progress in STEM, ongoing Chinese support and influence continues to demonstrate strength in building a workforce of the future, **while American universities are major enablers of China’s economic and military rise.*** [Emphasis added.]

The report confirms many things published elsewhere in the media about China’s policy of stealing key U.S. secrets and technologies — not just in the area of defense and security, although of course those are paramount, but also as regards any kind of cutting-edge information or technology that would give the United States a lead going into the future. The policy is aggressive, systematic, sustained, and pervasive, as a host of espionage cases in recent history have evidenced.¹³

Similarly alarming conclusions about China’s intentions and capacities can be found in a November 2018 report, “Providing for the Common Defense: The Assessments and Recommendations of the National Defense Strategy Commission”:

*The Commission argues that America confronts a grave crisis of national security and national defense, as U.S. military advantages erode and the strategic landscape becomes steadily more threatening. If the United States does not show greater urgency and seriousness in responding to this crisis and does not take decisive steps to rebuild its military advantages now, the damage to American security and influence could be devastating.*¹⁴

In the same vein, FBI Director Christopher Wray has depicted China as a greater threat to U.S. national security than Russia, despite the heated rhetoric surrounding Russia’s attempts to interfere in U.S. elections.¹⁵ In recent congressional testimony about China’s long-range plans for global military, scientific, and economic domination, he declared that while Russia is fighting today’s battles, China is fighting tomorrow’s. He also asserted:

*The Nation faces a rising threat, both traditional and asymmetric, from hostile foreign intelligence services and their proxies. ... [A]symmetric espionage, **often carried out by students, researchers, or businesspeople operating front companies, [is] prevalent.***¹⁶ [Emphasis added.]

It’s important to understand Wray’s reference to “foreign intelligence services and their proxies” as encompassing more than just China — Iran also comes to mind — although China is both a prime example as well as the primary threat, given the huge numbers of students and scholars it sends to the United States. Chinese students and exchange visitors are under significant pressure to comply with “requests” from the People’s Liberation Army and other government intelligence and security organs to snag information at any opportunity, or to actively seek out chances to work in university labs where both

applied and theoretical science programs are being undertaken that have application to a whole host of sensitive technologies. This includes working as graduate research assistants, as recipients of Optional Practical Training, and even when teaching at various colleges and universities. They receive funding and stipends in whole or in part from the Chinese government, which are at risk if they refuse to cooperate. Their families remain on the mainland, subject to the whims of the government when students or exchange visitors fail or refuse to cooperate.

Sometimes, the students and researchers are graduates of Chinese university systems that specifically groom them to ultimately work in Chinese government ministries once their overseas studies and research programs are finished. China's spying apparatus is huge, well-funded, and a systemic outgrowth of the Chinese state. It is also aimed in large measure at U.S. institutions and economic sectors. Theft of intellectual property is a part of China's way of doing business.¹⁷ When Chinese agents cannot get what they want through the front door, they go through the back.¹⁸

On the U.S. side, many institutions of higher learning have also been seduced by the lure of money. Chinese students whose fees and stipends are paid by the Chinese government at lucrative "out of state" rates are a cash cow for American universities. And it hasn't stopped there: The Chinese government has actively encouraged many universities to set up cooperative "Confucius Institutes" funded in whole or large part by the Chinese Ministry of Education, although there is good reason to believe that the Ministry of Education is nothing more than a pass-through for monies in fact ponied up by the Chinese government's defense and security apparatus.¹⁹

As for American professors who are engaged in sensitive work, there is a body of evidence to suggest that they have been lax in the way that they treat the information, sometimes using Chinese students who, at least nominally in the words of the DOD report, are "unable to gain the security clearances needed to work in the defense ecosystem", and who have no business being anywhere near sensitive research data or information.²⁰

Why would professors under contract to the defense or security or intelligence agencies of the United States engage in such slipshod conduct? Sometimes because they undervalue the criticality of the work they are conducting or don't take seriously the security regimens needed to protect the data. Sometimes because, by using bright foreign students of Chinese (or other) nationality, they can avail themselves of labor for free or at little cost as research assistant adjuncts, even though such students are not supposed to be given access to the work being undertaken. And, finally, sometimes it's because professors hew to the philosophy that work of a scientific or mathematics or physics nature should be open for discussion and dialogue among international peer groups, even though such an attitude is anathema to applications of a sensitive or dual-use nature. And of course, university administrators are often enough prone to overlook such slipshod practices on the premise that the professors and researchers are all trustworthy and law-abiding — especially in light of the huge sums of money at stake by the continued acceptance of Chinese (or other) students and scholars.

The consequence is a gaping hole in our national security insofar as a great deal of sensitive, often classified, research conducted at institutions of higher learning and their adjunct laboratories is funded by DOD, the Department of Energy, and other federal departments and agencies.

Where Do Foreign Students and Scholars Come From?

Americans might be surprised by the range of nationalities represented in the foreign student and scholar populations in the United States. They would almost certainly be even more surprised by some of the specific nationalities. Table 3 provides a sample of nationalities derived from DHS statistics. These countries have been chosen for three reasons:

1. They are known to be countries in which there are active terrorist movements, and/or the government itself has been accused of complicity by providing safe haven and material support;
2. They are countries that have hostile and aggressive intelligence agencies actively engaged in collection of all manner of sensitive U.S. data; and/or

3. They have established significant official stumbling blocks to the repatriation of any of their citizens under final orders of removal; in such circumstances, one wonders why others are being granted the privilege of studying or engaging in research in the United States when immigration law provides for visa sanctions against such nations.

Significantly, several nations on the list share more than one of these three characteristics.

Table 3. Nonimmigrant Student & Scholar Admissions, by Selected Nationalities

Country	2015			2016			2017		
	F-1	M-1	J-1	F-1	M-1	J-1	F-1	M-1	J-1
Afghanistan	247	6	400	316	11	334	220	D*	374
China	446,388	2,496	48,777	486,882	2,618	48,229	540,072	2,681	51,789
Cuba	37	68	3	57	0	93	89	0	147
Egypt	4,249	169	1,884	4,661	161	2047	4,296	108	1,758
Iran	5,664	16	1,050	5,229	17	1091	4,279	7	889
Iraq	454	16	909	464	13	559	324	9	553
Jordan	3,735	22	1,149	3,090	21	1213	3,003	21	1,240
Laos	120	D	72	103	D	99	134	0	99
Lebanon	2,249	25	993	2,373	29	1039	2,324	27	985
Libya	668	4	52	303	D	66	137	0	105
North Korea	10	0	4	9	0	4	11	0	D
Pakistan	6,227	38	2,825	7,384	42	3,078	7,289	47	2,896
Qatar	3,543	16	81	3,416	11	70	2,861	13	38
Russia	9,983	111	4,928	9,418	93	6,029	9,503	83	7,168
Saudi Arabia	118,692	285	1,484	84,401	596	1,324	56,366	739	1,402
Somalia	32	0	10	49	0	14	28	D	21
Sudan	325	9	123	352	8	115	239	7	105
Turkey	19,406	297	10,036	18,521	140	10,366	17,172	162	9,903
Venezuela	18,548	190	767	18,140	180	819	15,782	130	807
Vietnam	22,429	221	1,609	20,074	187	1,556	23,046	162	1,558
Yemen	1,110	12	58	1,033	11	42	573	12	24

Source: [Yearbook of Immigration Statistics](#), Department of Homeland Security, 2013-2017.

* According to DHS, the legend “D” means “Data withheld to limit disclosure”.

Toward a New Paradigm

How the United States handles its massive foreign student population is both unacceptable and, in the long run, a danger to our nation’s security and competitive edge. Although much of this document has outlined the China threat, it is clearly not the only one. It is amazing, given the geopolitical realities and asymmetric threats that exist in today’s world, to see that the United States admits as foreign students nationals from places like North Korea and Iran (the latter in eyebrow-raising numbers).

As far back as 1996, the gravity with which the U.S. government takes the threat of espionage by foreign students and scholars could be found expressed throughout the *Operational Security Intelligence Threat Handbook*, which describes itself as “an unofficial publication of the U.S. Government”. Within Section 3 of that edition of the *Handbook*, the HUMINT (Human Intelligence) subsection stated: “The PRC [People’s Republic of China] has more than 2,600 diplomatic and commercial officials in the United States. A substantial percentage of these personnel are actively involved in collecting intelligence. *More than 40,000 students from the PRC also attend schools in the United States, and many of these students have been tasked to collect information by the Chinese government.*” (Emphasis added.) Similarly, the subsection on “Chinese Intelligence Collection Trends” has this to say, in pertinent part: “The PRC will continue to use its intelligence services to gather information about

the United States, and to obtain access to advanced technologies. *An integral part of this effort will be the use of open source information gathered by students, scientific researchers, and the NCNA [New China News Agency, the official organ of the Chinese government].*²¹ (Emphasis added.)

And yet 23 years after its publication and despite the recognition of the threat contained in that handbook, nothing has changed. The United States has taken virtually no steps to curb opportunities for espionage or theft of important government or industrial secrets and intellectual property by foreign students and scholars of any nationality. Nor has it exhibited a willingness to penalize universities or laboratories or research centers that facilitate such abuse through slipshod security practices and noncompliance with their responsibilities as institutions that have been approved to accept these students and scholars.

What can be done? Several things would seem to be in order.

1. Encourage Native-Born STEM Students. There is something perverse in a system that decries the absence of native-born STEM graduates who are available for work in both the public and private sectors, but which then crowds out potential students from access to premier universities because institutions of higher learning prefer the cash cows that foreign students represent. These institutions have become addicted to foreign dollars in exchange for acceptance of foreign students. And there's no doubt that the dollars involved are huge: According to *The PIE News*, a website devoted to "Professionals in International Education", a tally of SEVIS (the Student Exchange Visitors Information System maintained by ICE's SEVP) figures in May 2017 showed that more than half of the international students in the United States — nearly 514,000 — were enrolled in STEM degree programs and, as the DOD report notes, as many 25 percent of STEM graduates in the United States are Chinese nationals.²²

Neither of these figures should be a surprise. When foreign governments are paying the cost of tuition and living stipends at U.S. universities (as they often do, since the costs are out of the range of most such students), they aren't going to subsidize courses in American literature or gender studies, because there is a quid pro quo involved: "We'll pay, if you study in areas of interest and value to us." But there is a societal cost paid by our country for this huckstering of STEM degrees to foreign students in return for premium tuition costs. The more that U.S. universities crowd their finite STEM classrooms and laboratories with international students who bring in the most money, the less space there is available for American students who are already at a disadvantage economically given the staggering cost of a degree these days. Thus, we continue to lose ground in our effort to promote homegrown STEM students who, to use the verbiage of the DOD report, *would* be "able to gain the security clearances needed to work in the defense ecosystem."

Changing this equation would require creating pathways that don't now exist, for instance by establishing legislation that permits key federal departments (DOD, DHS, Energy, perhaps others) to grant full or partial scholarships, or low-interest loans, for such students. In return for scholarship funding, native-born STEM students might in turn be expected to perform a period of federal service, much as graduates of the military academies do.

2. Limit the Number of Student and Research Visas Granted. As Mao Zedong once said, "The guerrilla must move amongst the people as a fish swims in the sea." And so it is with intelligence officers and their proxies hiding in the sea of foreign students present in the United States. One way to cope with this problem is to limit the size of the sea. This is particularly relevant to students seeking to attend (or to shift courses of study after entry) to gain STEM degrees, and to researchers in sensitive or dual-use areas of study. This can be done through executive order, and could be accomplished in several ways, including an overall cap, particular caps according to nationality, or caps — or even outright bans — for certain courses of study and research.

3. Limit Exposure of Foreign Students and Research Scholars to Sensitive Information and Courses of Study. News reports suggest that key figures in the Trump administration recently encouraged the president (unsuccessfully) to completely bar Chinese students from the United States.²³ While this is the most extreme example of limiting students — and was not off-base insofar as it reflected an understanding of the dynamics and breadth of the problem, or how the Chinese intelligence apparatus takes advantage of sending its students and exchange researchers abroad to cast a wide net with which to glean secrets — it created a furor even though it went nowhere. This is not a surprise; any such move would face the same kind of litigious response that the so-called "travel ban" engendered. In fact, it takes little imagination to think that any attempt to limit any foreign student will be met these days by litigation; quite possibly by the universities themselves.²⁴

Sen. Tom Cotton (R-Ark.) recently introduced legislation that would prohibit the granting of visas to individuals found to have a connection to, or be acting on behalf of, the People's Liberation Army. The downside is that one can imagine that in many instances the nexus between student or scholar on one hand, and the PLA on the other, would be so far removed as to be nearly impossible for U.S. intelligence officials or consular officers to detect. This is particularly true since many students and scholars aren't espionage professionals; they are simply instructed to act as vacuums and gather up any and all information that might be useful to their country and ensure that it gets passed back home for evaluation. Despite this drawback, Cotton's legislation is a sound idea, given that virtually nothing at all is being done effectively at the moment; unfortunately, the legislation is on a back burner and unlikely to go anywhere.

In any case, this example is China-specific and, important as it may be given China's overweening ambitions and wide spying and theft net, such an approach fails to address other risky populations, such as the Iranian students previously mentioned.

The actions undertaken by past administrations provide an illustrative precedent for a path the administration could take, should it choose, short of an all-out ban on the admission of Chinese — or any other — students and exchange scholars. By promulgating regulations in the *Federal Register*, the administration could restrict them to — or preclude them from — certain institutions of higher learning or certain geographical areas, particularly those where sensitive government-sponsored research is being undertaken, as a way of conducting closer scrutiny to ensure that they don't engage in spying on behalf of their government.

Or the administration could prohibit their participation in certain kinds of courses of study or research. And, of course, it could (and almost certainly should) eliminate access to Optional Practical Training (OPT), which allows foreign students and researchers to stay in the United States post-graduation and work in a loosely defined area ostensibly connected to their course of study. OPT provides student and scholar spies a wealth of opportunities to worm their way into research areas where they should never be allowed.

The options available to limit participation are plentiful, and it would not be an insuperable difficulty to call together an advisory board of counterintelligence, counterproliferation, and subject-matter experts in a variety of areas to determine the boundaries best used to protect and secure sensitive information as the basis for promulgating restrictive regulations.

4. Reinvigorate Nonimmigrant Student and Scholar Control and Enforcement Programs. Such control starts with the consular officer abroad. President Trump took a salutary step in this direction when he rescinded significant portions of the Obama-era executive order (EO) 13957 of 2012 that, in pertinent part, required consular officers to:

- (i) *increase nonimmigrant visa processing capacity in China and Brazil by 40 percent over the coming year;*
- (ii) *ensure that 80 percent of nonimmigrant visa applicants are interviewed within 3 weeks of receipt of application.*²⁵

Although not student- or scholar-visa specific, the EO undoubtedly played a part in the increase of visas being granted to Chinese for the purpose of studying or engaging in research subsequent to its issuance, at least up until the end of the Obama administration, when visa denials increased slightly, as one can see from Table 2. The Trump rescission formalized what had begun to happen in practice anyway, which is not to say that doing so was unimportant; quite the reverse, since the original EO was, from a national security and counterintelligence standpoint, ill considered to begin with.²⁶

In addition, President Trump recently issued a memorandum directing federal agencies to ramp up efforts to combat the nonimmigrant overstay problem, which has become acute. Estimates suggest that nearly half of the illegal alien population in the United States consists of individuals who originally arrived legally and simply overstayed their period of admission. While it may have an impact on that problem, it is not the same thing as an effective control and enforcement program directed toward students and scholars, and should not be seen that way.²⁷

Subsequent to their admission, there is virtually no effort invested by ICE in programs to ensure that students and scholars carefully and scrupulously abide by the terms and conditions of their admission and permitted courses of study or research. This must change.

Such enforcement efforts would almost certainly feel like a thankless job to the agents, and often they might not even be aware when they have taken an individual into custody for immigration charges who was “moonlighting” as a spy or intellectual

property thief. This is, in effect, a “zero tolerance” approach to immigration controls where foreign students and scholars are concerned, and its benefit is that it sends a strong signal to hostile intelligence services, as well as foreign students, that they risk exposure and expulsion from the United States for any infraction of the laws and rules governing their conduct.

5. Change the Culture at SEVP and Hold Approved Institutions to Their Commitments. SEVP needs to begin to see itself not as an extension of academia, but as a limb of an organization whose job is to administer and enforce the law. One way to do this is to place individuals in charge with background and experience in immigration enforcement, and to establish accountability within the office instead of consigning it to the ICE orphanage, where it suffers not-so-benign neglect.

In addition, the regulations governing approval, denial, and revocation of the *privilege* of enrolling foreign students (and scholars) need to be substantially revised, up to and including holding an institution collectively responsible for instances that reflect negligence when sensitive programs and research projects are determined to have been compromised by the presence of foreign students and scholars on that campus or in that facility.

It can be expected that whatever steps the government opts to take — whether to curb access of Chinese or other foreign students to universities, or in particular STEM courses, or laboratories or research centers — that they will be vigorously resisted by many advocates who come out in favor of broader, not lesser, exposure to foreign students. Some of these objections would undoubtedly be moral posturing to mask the pecuniary interests at stake, or consist of one-sided political spin, such as that put forward by the Washington Institute on its website in 2014, with regard to Iranian nationals studying in the United States: “The rising number of Iranian exchange students presents an opportunity to revitalize U.S. public diplomacy outreach to Iran.”²⁸

It is naive in the extreme to presuppose that the Iranian theocracy would ever permit students or scholars to come to the United States without having been thoroughly vetted for religious and ideological purity first.

Of course, 2014 was the year in enthusiastic lead-up to what many now consider the infamous Iran nuclear deal — the “Joint Comprehensive Plan of Action” that led the U.S. government to provide Iran billions of dollars from frozen accounts in used denominations of mixed currencies on a red-eye flight from Washington D.C. to Tehran, in a failed attempt to hide it from public view. It was an action roundly condemned as the equivalent of a money laundering deal that would allow the Iranian regime to use that cash for a multitude of illicit purposes, including fomenting terror against the West.

But when all is said and done, there is a legitimate question that needs to be addressed: What is the right balance between national security on one hand, and exposing international students to our culture, institutions, and values on the other hand? Surely there can be such a balance. What is clear right now, though, is that the balance has not been struck.

Where theft of ideas, programs, plans, and technology is concerned, as with the trade imbalance, China (and almost certainly other nations as well to a greater or lesser degree) is cleaning our clocks. One can hardly imagine what kind of information the Iranian student and scholar population is sending home to the Iranian Revolutionary Guard Corps or others in the Islamic Republic — and these are just two of many examples of the ongoing risk our nation confronts in dealing with the unique and complex problem of foreign students and exchange scholars.

End Notes

¹ [Yearbook of Immigration Statistics](#), Department of Homeland Security, 2013-2017. See section on [“Nonimmigrant Admissions”](#).

² See Title 8 of the Code of Federal Regulations, at [8 CFR Section 214.3](#).

³ General information on the various “exchange visitor visa” categories, which include more than just academic scholars, can be found at the U.S. State Department [website](#).

⁴ [“Nonimmigrant Visas: Outcomes of Applications and Changes in Response to 2017 Executive Actions”](#), GAO-18-608, U.S. Government Accountability Office, August 2018.

⁵ Jie Zong and Jeanne Batalova, [“Spotlight: International Students in the United States”](#), Migration Policy Institute, May 9, 2018.

⁶ For specific examples of these FBI directors’ remarks, see the author’s blog [“DHS Proposes Scrutinizing Foreign Students More Closely Through Yearly Visa Renewals”](#), Center for Immigration Studies, July 12, 2017; as well as Elizabeth Redden, [“The Chinese Student Threat?”](#), *Inside Higher Ed*, February 15, 2018.

⁷ The author was a young INS agent at the time who participated in effecting those arrests and can speak from personal experience to the fact that some of those taken into custody had in their possession materials reflecting sympathy with the Islamic revolution. Others had materials reflecting sympathy for, if not membership in, the Mujahedeen e Khalq (MEK), an Iranian revolutionary leftist organization that was believed responsible for the murder of U.S. military personnel, as well as other forms of violence. Others had in their possession firearms and/or drugs.

⁸ See Title 8 of the Code of Federal Regulations, at [8 CFR Section 214.5](#).

⁹ The numbers and percentages may be found by referring to the [interactive map](#) on the IIE website. Note also that the figures cited do not include research scholars or students at vocational schools, which includes pilot training and other such courses.

¹⁰ Jessica Vaughan and Preston Huennekens, [“Analyzing the New Visa Overstay Report”](#), Center for Immigration Studies *Background*, September 6, 2018.

¹¹ See, e.g., [“Chinese National Arrested for Allegedly Acting Within the United States as an Illegal Agent of the People’s Republic of China”](#), Department of Justice Office of Public Affairs press release, September 25, 2018.

¹² [“Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States: Report to President Donald J. Trump”](#), The Interagency Task Force in Fulfillment of Executive Order 13806, September 2018.

¹³ For a representative sampling of such cases, see Jeff Mordock, [“Justice Department charges Chinese spy with attempting to steal trade secrets from U.S. Companies”](#), *The Washington Times*, October 10, 2018; Cynthia McFadden, Aliza Nadi, and Courtney McGee, [“Education or espionage? A Chinese student takes his homework home to China”](#), NBC News, July 24, 2018; Zachary Cohen and Alex Marquardt, [“US intelligence warns China is using student spies to steal secrets”](#), CNN, February 1, 2019; and Bill Gertz, [“China using students as spies”](#), *The Washington Times*, April 25, 2018.

¹⁴ A copy of the National Defense Strategy Commission’s report may be downloaded from the United States Institute of Peace [here](#).

¹⁵ Wray’s views were expressed in Senate testimony quoted by Mairead McArdle in the article [“FBI Director: China Is Bigger Counterintelligence Threat Than Russia”](#), National Review Online, October 10, 2018.

¹⁶ [“Threats to the Homeland”](#), testimony of FBI Director Christopher Wray before the Senate Committee on Homeland Security and Governmental Affairs, October 10, 2018.

¹⁷ See, e.g., Shawn Donnan and Jenny Leonard, [“U.S. Accuses China of Continuing IP Theft as WTO Launches Probe”](#), Bloomberg News, November 21, 2018; and Sherisse Pham, [“How much has the US lost from China’s IP theft?”](#), CNN, March 23, 2018.

¹⁸ See Luke Rosiak, [“Chinese Hackers Allegedly Hacking U.S. Universities Tied To Naval Research”](#), *The Daily Caller*, March 5, 2019; and Tim Culpan, [“The West Finally Has Its Huawei Smoking Gun: It may not be enough to sway those who are already convinced of the Chinese company’s innocence”](#), Bloomberg News, April 30, 2019.

¹⁹ Elizabeth Redden, [“New Scrutiny for Confucius Institutes: National Association of Scholars calls on universities to close their Confucius Institutes. Defenders say there’s nothing sinister about the Chinese-backed centers”](#), *Inside Higher Ed*, April 26, 2017; and Rachelle Peterson, [“Senator Josh Hawley Reveals the Nasty Truth Behind Confucius Institutes”](#), *National Review*, August 2, 2019.

²⁰ Many readers would be both interested and shocked in knowing how lax American universities have been in such matters. By way of example, they should take the time to read Daniel Golden’s [Spy Schools: How the CIA, FBI, and Foreign Intelligence Secretly Exploit America’s Universities](#), New York: Henry Holt and Co., October 10, 2017.

²¹ [Operations Security Intelligence Threat Handbook](#), Section 3 (“Adversary Foreign Intelligence Operations”), Interagency OPSEC Support Staff, May 1996.

²² [“U.S. International Students Top 1.1 Million”](#), *The PIE News*, May 2017.

²³ [“Stephen Miller Urged Trump End Student Visas for Chinese Nationals: Report”](#), *The Daily Beast*, October 2, 2018.

²⁴ It’s worth noting that several universities were prominent in filing suit against the administration when it first promulgated the so-called “travel ban”. Curiously, they were granted standing to pursue the suit as plaintiffs in at least one courtroom, although it is hard to determine exactly how or why since they have no intrinsic right to entertain foreign students or scholars at all, except when granted that permission by the federal government by the processes described in this report.

²⁵ [“Executive Order 13597, Establishing Visa and Foreign Visitor Processing Goals and the Task Force On Travel and Competitiveness”](#), *Federal Register*, presidential documents, issued January 19, 2012, by President Barack H. Obama.

²⁶ [“Presidential Executive Order Amending Executive Order 13597”](#), the White House, issued June 21, 2017, by President Donald J. Trump.

²⁷ [“Fact Sheet: President Donald J. Trump is Taking Action to Reduce Visa Overstays and Uphold the Rule of Law”](#), the White House, April 22, 2019.

²⁸ Steven Ditto and Larisa Baste, [“Infographic: Iranian Students in the United States”](#), The Washington Institute, February 14, 2014.