



# Stopping Chinese Infiltration of U.S. Educational and Research Institutions

## Significant steps taken against PRC's proxy spies, but more can be done

By Dan Cadman

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### Introduction

Last August, the Center for Immigration Studies (CIS) published my report “How U.S. Foreign Student and Exchange Visitor Policies Undercut National Security”, outlining how foreign students and exchange scholars from certain countries — predominantly, but not exclusively, the People’s Republic of China (PRC) — represent an extraordinary risk to the United States through their extracurricular espionage activities.<sup>1</sup> This was not the first time the general issue was addressed, although it was the most specific and detailed. The *Backgrounder* laid out a number of steps that might be taken to lessen the risk and safeguard critical American defense, security, industrial, and trade secrets.

It is becoming clear that the federal government has finally started to focus in earnest on the danger posed by China’s pervasive espionage efforts, particularly in and around U.S. universities and research institutions. Two things make this evident:

- Since publication of the report, a host of arrests have occurred charging individuals — some foreign, some native-born, and some naturalized — with fraud, theft of secrets, and various other illicit activities while working on behalf of China.
- The president has recently issued an executive order, in the form of a presidential proclamation, which will curtail access of certain Chinese foreign students and researchers to sensitive work and locations.

Both of these developments are discussed below.

**Arrests of Academicians and Researchers.** The extraordinary thing is that many of the recently arrested (or convicted) professors, researchers, and other academics were recruited under China’s Thousand Talents program — which appears to be a thinly veiled bribery scheme by which such academics are lured with prestigious titles and laboratory access at Chinese universities, along with unlimited funds, handsome salaries, and fringe benefits in return for giving away secrets that they developed under the auspices (and with funding from) the U.S. government.<sup>2</sup>

Some of these arrests were noted in prior blogs published by CIS, such as that of Anming Hu<sup>3</sup> and Charles Lieber, Zaosong Zheng and Yanqing Yi.<sup>4</sup> Here are some of the other recent arrests made of various academics accused of engaging in criminal activity on behalf of China:

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- Saw-Teong “Simon” Ang;<sup>5</sup>
- Dr. James Patrick Lewis;<sup>6</sup>
- Dr. Xiao-Jiang Li;<sup>7</sup>
- Kiet Ahn Mai and Yi-Chi Shi, the latter being described as “a part-time Los Angeles resident” by the U.S. Attorney’s Office, whatever that is meant to imply;<sup>8</sup>
- Franklin Feng Tao;<sup>9</sup> and
- Dr. Qing Wang, who is described as having naturalized in 2005.<sup>10</sup>

These investigations almost seem to be a shooting-fish-in-a-barrel exercise.<sup>11</sup> This is deeply disturbing because, when one contemplates it, it suggests the brazenness with which China has been picking U.S. pockets — for a very long time — and the casual indifference with which American researchers and academia have approached their often-secret research on behalf of our government. But the recent series of arrests and prosecutions are extraordinary given the short span in which they’ve occurred, and clearly suggest that the pace has quickened and become more public. They reflect an urgency not previously observed on the part of the federal government. That is to be applauded.

**The Presidential Proclamation.** On May 29, President Trump issued a “Proclamation on the Suspension of Entry as Nonimmigrants of Certain Students and Researchers from the People’s Republic of China.”<sup>12</sup> The proclamation relies on the same provisions of law discussed in my previous *Backgrounder* (sections 212(f) and 215 of the Immigration and Nationality Act (INA)) as authority to direct that nonimmigrant visas and admission into the United States be denied to any Chinese national who:

*[E]ither receives funding from or who currently is employed by, studies at, or conducts research at or on behalf of, or has been employed by, studied at, or conducted research at or on behalf of, an entity in the PRC that implements or supports the PRC’s “military-civil fusion strategy” ... . [F]or the purposes of this proclamation, the term “military-civil fusion strategy” means actions by or at the behest of the PRC to acquire and divert foreign technologies, specifically critical and emerging technologies, to incorporate into and advance the PRC’s military capabilities.<sup>13</sup>*

There are a variety of caveats and exceptions to the proclamation. For example, it only applies to Chinese nationals seeking entry as postgraduate students or researchers. Undergraduates are exempted. So are lawful resident aliens; the Chinese spouses of U.S. citizens and resident aliens; aliens seeking entry under United Nations agreements; aliens who are the spouses or children of members of the U.S. armed forces; aliens seeking asylum, refugee status, or other similar protections; and, aliens “studying or conducting research in a field involving information that would not contribute to the PRC’s military-civil fusion strategy, as determined by the Secretary of the Department of State (DOS) and the Secretary of the Department of Homeland Security (DHS), in consultation with the appropriate executive departments and agencies.”

Much of the exempting language appears superfluous insofar as the clear language of the suspensions is limited to postgraduate students and researchers seeking admission under F and J visas, respectively. For instance, a returning resident alien would never be seeking admission as a nonimmigrant student. Similarly, it seems unlikely that an immediate family member of someone serving in the U.S. armed forces would seek entry as a nonimmigrant student or researcher while acting as a proxy for the People’s Liberation Army (PLA) of China.

One important proviso contained in the proclamation at Section 6 is the requirement that the secretary of State should consider in appropriate cases revoking the visas of individuals who have already entered the United States but appear to be within the ambit of the suspensions, to wit, post-graduate or post-doctorate students and researchers acting as proxies for the PLA. This would place such an alien out of status, and trigger expulsion proceedings under the INA. (Section 4 directs the secretary of Homeland Security to make such removal cases an enforcement priority.)

In addition, the proclamation requires that, within 60 days, the secretaries of State and Homeland Security “review nonimmigrant and immigrant programs and ... recommend to the President ... any other measures requiring Presidential action that would mitigate the risk posed by the PRC’s acquisition of sensitive United States technologies and intellectual property.”

## Recommendations and Observations

The enforcement actions to date, and the president’s proclamation exhibit some obvious limitations, but also opportunities that should be seized to further American efforts to combat China’s (and other hostile or competitive nations’) comprehensive theft and espionage programs.

### *Enforcement and Compliance*

While it’s pleasing that the federal government is starting to devote significant effort to interdicting China’s massive infiltration of our academic and research institutions through law enforcement action, it’s not clear that it is being undertaken in an interdisciplinary way. For example:

1. **Denaturalization Where Appropriate.** Are the arrested scholars who have become naturalized Americans being scrutinized to determine whether their citizenship was procured by fraud because they had, and concealed, a long-standing relationship with the Chinese government and thus were ineligible? These are precisely the types of cases that should be routinely referred to the Justice Department’s civil denaturalization prosecutions unit for review.
2. **Expulsion of All Foreign Proxy Spies, Including Resident Aliens.** Immigration expulsion actions should be initiated against those who are not U.S. citizens, to be completed once they have served any sentence meted out upon conviction. In the event they are not convicted, removal proceedings should still be conducted as they require a lesser burden of proof, and in any event such aliens might be expelled under INA section 237(a)(4)(C)(1) upon a declaration by the secretary of State that their presence is contrary to the foreign policy interests of the United States.
3. **Post-Mortems of Each Case.** The question also arises as to whether any kind of post-mortems are being done to consider what these individuals had in common at the time of arrival, whether that was by application for visas, admission as students or researchers, or via other means. Knowing the methodologies being employed to ensure entry of Chinese proxy spies would be extremely helpful in making better future decisions during the U.S. government’s vetting processes prior to entry.
4. **Non-Chinese Proxy Spies.** Significantly, there is also the question of what efforts are being undertaken with regard to other, non-Chinese, students and research scholars who pose a heightened security risk because of their nationalities, something laid out in my prior *Backgrounder* — for example, the cumulative tens of thousands of Iranian, Pakistani, Russian, Syrian, and Turkish students and scholars in the United States. While China may be the most pervasive and disciplined in its efforts to steal government and trade secrets, it is by no means alone.
5. **Risk Mitigation Through Education.** It is clear that many universities and their researchers do not take seriously, or do not comprehend, the stakes involved in maintaining secrecy and security in their programs. One obvious step would be for the U.S. government to prepare online materials outlining the comprehensive nature of the threat, and to require that all researchers performing under U.S.-funded programs/grants periodically view those materials, with electronic records kept to ensure that they have done so.
6. **Tightened Control of Universities and Research Facilities Receiving U.S. Funds.** Concomitant with Recommendation 5, the U.S. government should establish a disciplinary regimen where university and research laboratory failures are concerned; one that extends beyond the individual violator, so that university and laboratory administrators understand that they remain responsible for maintenance of adequate security standards for access to physical spaces as well as data and information relating to the program(s).

7. **Oversight of Foreign Travel and Conferences.** The United States has a vested interest in ensuring that its secrets do not hemorrhage out. It can be expected that, with suspension of visas and entry to its post-graduate scholars and post-doctorate researchers, China will step up its game to procure sensitive program data and information in other ways. For instance, it will do so at every opportunity for interaction with U.S. scholars and scientists. By implication, this suggests that the United States must exercise meaningful oversight of participation by key scientists and researchers in international conferences. In order to balance personal and academic freedoms, the United States should require researchers who receive federal monies to commit to notifying, and receiving permission in advance, to travel abroad — most particularly when doing so to participate in technical and scientific conferences and seminars. While academicians might balk at this requirement, it's worth noting that there are literally millions of federal government workers and contractors, and every one of them who is involved in secret or sensitive work is already subject to such oversight and restrictions, and for very good reasons.

### *The Presidential Proclamation*

The limitations contained within the proclamation have already been discussed to some extent, but merit additional comment in light of the president's directive that his cabinet secretaries submit to him by July 29 a list of additional steps that might be taken. This is a signal opportunity that should not be missed. Here are a few thoughts:

8. **Clarifying “Military-Civil Fusion Strategies” and Protecting Important Commercial Secrets.** The phrase “military-civil fusion” is somewhat amorphous. Even though the proclamation refers in various places to China's consistent theft of intellectual property, it is not clear whether that reference is intended solely in the context of military-civil fusion, or whether it also includes highly advanced commercial technologies that may not have any clear military application but are nonetheless important if the United States is to maintain its edge in the technological sector. Protecting cutting-edge commercial technology is surely economically as important as safeguarding dual-use technologies is for defense and national security reasons. After all, the economy is the life-blood of our nation, as the pandemic has made so clear to us in both general and very personal terms.

It is also worth recollecting that the PLA has planted its tentacles deeply in any number of Chinese industries and enterprises with little, if any, military application. This is because senior PLA members have enriched themselves and their extended families with the profits reaped from those industries. Thus, in a tangible sense, drying up the constant drip caused by theft of U.S. trade secrets to companies controlled by the PLA, which use them to produce, and sell internationally, knock-off products at a fraction of the cost, or to play catch-up without the need to invest substantial time and money in research, is clearly in U.S. national interests.

9. **Putting Teeth into the Visa Revocation Language of Section 6.** There are already hundreds of thousands of Chinese F and J students and researchers present in the United States who, because they are not seeking admission, are outside the general boundaries of the suspension proclamation.<sup>14</sup> Even after eliminating those present who are undergraduates or engaged in J scholar programs, in the aggregate the number is significant. DHS and DOS officials, working collaboratively with U.S. intelligence and other agencies, might be able to winnow the figures further down to a manageable number who merit careful examination based on information submitted in their visa applications, combined with their courses of study and/or fields of research. This is a project worth undertaking. Simply letting the proviso authorizing the secretary of State to revoke visas of post-graduate and post-doctorate researchers with links to the PLA to sit dormant virtually assures that the hemorrhage of secrets and technology will continue.

### *Strategic Policy Considerations*

In addition to the above recommendations, there are other policy issues ostensibly outside the boundaries of the proclamation that merit careful consideration and a balancing of their effectiveness against other less tangible but important factors, such as our commitment to openness as a society, when we know that this openness will be abused by competitor nations.

10. **Admission of, and Limitations Upon, Undergraduates.** U.S. policy-makers will of necessity be forced to confront the question of what to do about undergraduates since China will self-evidently begin to focus on grooming them to acquire sensitive data, information, and technologies for the years-long duration of their stays in the United States.

What mechanisms should be established to curb this effort, for instance, by denying them the opportunity to pursue STEM (science, technology, engineering, and mathematics) or other, similar courses of study?<sup>15</sup> A corollary to this is whether such students should as a matter of course be denied the chance to participate in the OPT (Optional Practical Training) program since there are at present no boundaries on where such students might seek employment — and clearly, when being directed or manipulated by the Chinese government, they will seek work where the opportunities to steal are richest.<sup>16</sup>

11. **Admission of, and Limitations Upon, Temporary Workers.** Similarly, careful thought must be applied to whether and how to grant — or limit — the access of PRC nationals to work visas in certain kinds of occupations or at certain employers. There is no reason to think that such “temporary” workers are not also being used as proxy spies to facilitate the transfer of important trade secrets to China, especially in those industries and technologies in which PLA leaders and members maintain a proprietary or fiduciary interest.
12. **Vetting of Applicants for Change of Status, Adjustment of Status, and Naturalization.** So much has been said recently about U.S. vetting failures where immigration and visas are concerned. The truth is that there are limitations on the success of such vetting, because it relies in large measure on whether or not there is a history of the person that can be traced using our intelligence agencies or, more recently, through examination of their social media accounts. Even so, it would be remiss not to raise the matter in the context of this document. Recommendation 3 pointed out the need for post-mortems of past cases of theft and espionage to determine patterns that might be useful in detection of future cases. This cannot be emphasized enough.

To drive the point home: If one examines the cases laid out at the beginning of this *Backgrounder*, one will inevitably find that most, if not all, of these individuals penetrated our immigration system far enough to have obtained resident alien status, and probably a significant number gained citizenship. Each application of these individuals to change status (for instance, from student to temporary worker — or to adjust status to resident alien, for instance upon the petition of a U.S. employer — and finally, to seek naturalization) represents an opportunity for the government to exhaustively explore, and re-explore, an individual’s background and connections to the PLA or other organs of the PRC. Clearly, those efforts have not been exhaustive enough. We must ask why, and what can be done differently to interdict spies at the earliest opportunity. Unless and until that is done, then other efforts, such as the proclamation suspension, or the ad hoc apprehension and prosecutions we have seen to date, will to a significant extent simply be a papering over of the more significant problem.

A final thought: The language of the proclamation specifically limits application to those nonimmigrant F and J post-doctorates and post-graduates linked to entities supporting the PRC’s “military-fusion strategy”. Are U.S. authorities sufficiently confident that they are fully aware of all the entities, whether academic, commercial, or research-oriented, that fit that description?

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## End Notes

<sup>1</sup> Dan Cadman, [“How U.S. Foreign Student and Exchange Visitor Policies Undercut National Security”](#), Center for Immigration Studies *Backgrounder*, August 20, 2019.

<sup>2</sup> See, for example, Ellen Barry and Gina Kolata, [“China’s Lavish Funds Lured U.S. Scientists. What Did It Get in Return?”](#), The New York Times, February 6, 2020, updated February 7, 2020.

<sup>3</sup> Dan Cadman, [“More Evidence Yet of China’s Systemic Penetration of U.S. Academic and Research Institutions”](#), Center for Immigration Studies blog, March 4, 2020.

<sup>4</sup> Dan Cadman, [“U.S. Secrets Continue to Hemorrhage through Flawed Policies Governing Students, Scholars, and Institutions of Research and Learning”](#), Center for Immigration Studies blog, February 4, 2020.

- <sup>5</sup> Bob Fredricks, [“Arkansas Professor busted for hiding China ties while pursuing NASA grants”](#), New York Post, May 12, 2020.
- <sup>6</sup> [“Former West Virginia University Professor Pleads Guilty to Fraud That Enabled Him to Participate in the People’s Republic of China’s ‘Thousand Talents Plan’”](#), U.S. Department of Justice press release, March 10, 2020.
- <sup>7</sup> [“Former Emory University Professor and Chinese ‘Thousand Talents’ Participant Convicted and Sentenced for Filing a False Tax Return”](#), U.S. Department of Justice press release, May 11, 2020.
- <sup>8</sup> [“2 Los Angeles-Area Men Charged with Conspiring to Illegally Obtain Technology and Computer Chips that Were Sent to China”](#), U.S. Attorney’s Office, Central District of California press release, January 19, 2018; Colleen Shalby, [“UCLA professor faces 219 years in prison for conspiring to send U.S. missile chips to China”](#), Los Angeles Times, July 11, 2019.
- <sup>9</sup> Jyllian Kemsley, [“New charges filed against University of Kansas chemist Feng ‘Franklin’ Tao”](#), Chemical & Engineering News, January 24, 2020.
- <sup>10</sup> [“Former Cleveland Clinic Employee and Chinese ‘Thousand Talents’ Participant Arrested for Wire Fraud”](#), U.S. Department of Justice press release, May 14, 2020.
- <sup>11</sup> To get a sense of the depth and breadth of China’s espionage efforts, all one need do is search for [“thousand talents”](#) on the Justice Department website or, for that matter, on the internet generally.
- <sup>12</sup> President Donald J. Trump, [“Proclamation on the Suspension of Entry as Nonimmigrants of Certain Students and Researchers from the People’s Republic of China”](#), May 29, 2020.
- <sup>13</sup> For an official interpretation of “military-civil fusion strategy”, see the diplomatic note (dipnote) authored by Jenny Bavisotto of the Bureau of International Security and Proliferation, [“China’s Military-Civil Fusion Strategy Poses a Risk to National Security”](#), published on the Department of State website.
- <sup>14</sup> See, e.g., Table 3 in Dan Cadman, [“How U.S. Foreign Student and Exchange Visitor Policies Undercut National Security”](#), Center for Immigration Studies *Backgrounder*, August 20, 2019.
- <sup>15</sup> This can be done via regulation — it has been used before, for instance to prohibit Libyan nationals from pursuing physics and flight school courses of study during the reign of Muammar Gaddafi.
- <sup>16</sup> As a general matter, it is important to reiterate the position of the Center that the entire OPT program is abusive and unsupported by law and, if not shuttered completely, it should be substantially revised and curtailed. See, e.g., Recommendation 3 in [“Hire American: 20 Presidential Actions Needed to Reduce Work Visas and Permits”](#), Center for Immigration Studies *Backgrounder*, May 15, 2020.