Research Security Revisited: COVID-19 & Immigration

Ben Goodrich, Consortium of Social Science Associations

Summary

In January 2020, COSSA released a Hot Topic titled "Foreign Interference in the U.S. Research Enterprise & Policy Responses," which reported on the broad policy concerns about securing the U.S. research enterprise, foreign influence, racial bias against Chinese and Chinese-American citizens, and the wide range of actions in response to these concerns taken by the White House, federal agencies, and Congress. Since the publication of that analysis, the sudden and unprecedented global spread of the COVID-19 pandemic in the early months of 2020 has had a significant impact on the policy conversations surrounding the security of the U.S. research enterprise. The global community became singularly focused on developing vaccines or other treatments for COVID-19, directing attention away from other science priorities. Furthermore, the pandemic has had other indirect impacts on research security, in some cases exacerbating existing concerns such as discrimination against Chinese citizens, Asian Americans, and Pacific Islanders, and a chilling effect on international research collaboration.

The following pages revisit the topics discussed earlier in the year and provide updates on activities that have since occurred, including how the global COVID-19 pandemic has affected U.S. research security activities. Readers are encouraged to read the information in the prior report for a more comprehensive look at research security efforts and concerns prior to January 2020.

An Unprecedented Year

Against the backdrop of an ongoing global pandemic stemming from the novel coronavirus, efforts to ensure research security quickly began to conflate with two other major policy areas: COVID-19 vaccines and immigration. What was already a complicated topic with several moving parts has grown into a much thornier suite of issues, from protection of intellectual property and the international race to a vaccine, to heightened efforts to restrict travel through U.S. borders and renewed concerns about racial profiling and discrimination. In some cases, conversations about research security policy have been so fused with other major policy concerns, for example the restrictions on immigration and travel into the U.S., that it is necessary to identify where each issue begins and ends.

Contents

The following pages acknowledge the diversity of policy issues to the extent they overlap significantly with research security policies; however, for the purposes of this discussion, the focus remains on research security. COSSA will report on the impact that changing immigration restrictions may have on social science students and professionals as these issues continue to unfold.

COVID-19 & Research Security

The initial outbreak of COVID-19 in early 2020 caused governments around the world to turn to their research enterprises to guide COVID-19 policy, with many in the research community hoping that the global health crisis would be an opportunity for international collaboration on research and vaccine development. This seemed to be a possibility with the formation of Covid-19 Vaccines Global Access (COVAX), an initiative from the World Health Organization (WHO), GAVI, and the Coalition for Epidemic Preparedness Innovations (CEPI) to coordinate the fair and equitable development and distribution of an eventual COVID-19 vaccine.

However, hopes were quickly dashed when the White House announced in May that the U.S. would attempt to withdraw from the WHO and refuse to sign onto the COVAX initiative, indicating a growing atmosphere of "vaccine nationalism" and distrust of international collaboration from U.S. leadership. Furthermore, in July, national security agencies from the United States, United Kingdom, and Canada reported that Russian Intelligence Services were spying on the COVID-19 vaccine effort. Days later, the U.S. Department of Justice alleged a team within the Chinese government was attempting to steal data and research on COVID-19 vaccine development from U.S. institutions. These incidents were cited as justification for the U.S. government to reject calls for comprehensive international collaboration on a vaccine effort and to continue tightening security within the research enterprise in general.

Immigration & Research Security

Developments related to U.S. immigration policy significantly inform recent discussions of U.S. research security. The Trump Administration has used a variety of tactics to limit the entry of foreign workers and travelers into the U.S., occasionally citing research security as the justification. However, the Trump Administration's rivalry with the Chinese government along with alleged anti-Asian sentiments means that a more granular look at policies that affect Chinese citizens and Asian Americans is necessary to determine how they are informed by the immigration debate and the research security debate. It is impossible to comment on research security policy without also noting how entangled it currently is with immigration policy and the broader rise of hawkishness and mistrust of the Chinese government and individuals of Asian descent.

Travel Bans

Governments around the globe started restricting international travel to limit the spread of COVID-19 early in the pandemic's emergence. Between February and May, the White House imposed restrictions through Presidential Proclamation on entry into the U.S. for noncitizens traveling from China, Iran, Europe, and Brazil.

However, amidst the public health-focused travel bans, the Trump Administration also introduced a more targeted ban on entry to the U.S. by certain Chinese scholars, unrelated to efforts to halt the spread of COVID-19, muddying the waters between research security policy and immigration policy. A May 29, 2020 proclamation restricted entry for Chinese graduate and post-graduate students and researchers who were perceived to be a research espionage threat. The proclamation applied to researchers or students "who either receives funding from or who currently is employed by, studies at, or conducts research at or on behalf of" any institution with any ties to the Chinese government's "Military-Civil Fusion" strategy, the Chinese government's concerted effort to transfer foreign technologies to advance the Chinese military. The proclamation was quickly denounced as discriminatory by the research and education communities due to the broad language within the regulation. In a response, NAFSA: Association of International Educators condemned the proclamation's effect on international research collaboration, stating that "restricting the entry and possibly revoking visas of certain Chinese graduate students and researchers will undoubtedly disrupt instruction and research on [U.S.] campuses. In a global competition for talent,

policies like this send the wrong message at a time when it is vital for us to attract the best and the brightest to [U.S.] universities and communities."

Visas Restrictions

The Trump Administration has also introduced a wave of new policies restricting international students and workers in the sciences through limitations on the international visa process. These policies are not overtly related to the security of the U.S. research enterprise, but they are frequently informed by the same concerns over the share of the U.S. labor force occupied by foreign workers—exacerbated by the lingering impacts of COVID-19 on the U.S. economy—as well as some of the anti-Asian sentiments, that run through research security discussions. While limiting immigration is not new for this Administration, the Executive branch began using the economic downturn caused by the pandemic as justification for increasingly restrictive immigration policies.

The Department of Homeland Security's Immigration and Customs Enforcement (ICE) proposed a rule on September 25, 2020 that would limit the initial visa term for international students to a maximum of four years before needing to reapply. In addition, the U.S. Customs and Immigration Services (USCIS) issued an interim final rule (IFR) on October 10, 2020 that would restrict who is eligible for the H-1B nonimmigrant visa for skilled foreign workers, citing the changes as "urgently necessary to strengthen the integrity of the H-1B program during the economic crisis caused by the COVID-19 public health emergency." The fate of these and other immigration restrictions likely hinges on the outcome of the Presidential election. For now, we expect to see a continued emphasis on limiting immigration to the U.S. through at least the remainder of 2020 and potentially over the next few years should the Trump Administration be reelected to a second term. COSSA will continue to report on additional developments.

Federal Agency Activities

Despite the great impact the COVID-19 pandemic had upon U.S. policymaking, many decisions made by federal agencies over the past several months are simply continuations of or updates to existing policies unrelated to the COVID-19 crisis. This section discusses research security policy updates released by federal agencies that are most relevant to the research community at large. While they may be informed by ongoing public health concerns, they are not specific to the pandemic response effort at-large.

- In June 2020, The White House Office of Science and Technology Policy (OSTP), through its **Joint Committee on the Research Environment** (JCORE) and partnering with other federal agencies, released a strategic document titled *Enhancing the Security and Integrity of America's Research Enterprise*, summarizing identified threats to U.S. research security. In addition, an August 2020 memorandum (M-20-29) on the Administration's research and development priorities for Fiscal Year (FY) 2022 released jointly by OSTP and the White House Office of Management and Budget (OMB) listed "strengthening the security of [the] U.S. research enterprise" as a high-priority area requiring significant attention.
- The **National Institutes of Health** (NIH) has continued to work with universities and other federal agencies to identify researchers under suspicion of foreign influence and has publicly released data during a June 2020 Advisory Committee to the Director (ACD) meeting on the findings of open investigations of accused scientists and their U.S. institutions. NIH has also collaborated with other federal agencies in a broader awareness campaign about foreign influence in research.
- In March 2020, the **National Science Foundation** (NSF) released a series of policy responses to a December 2019 report from JASON, the independent scientific advisory group, commissioned by NSF. Among NSF's responses was the establishment of a new Chief of Research Security Strategy and Policy position at NSF.
- The **Department of Justice** (DOJ), as part of its China Initiative, increased enforcement of non-traditional espionage threats, including those in academia. DOJ is also compiling a list of criminal

prosecutions against academics accused of fraud or falsification of statements on their relationship with the Chinese government.

- In July 2020, the **Department of Defense** (DOD) released *DOD Instruction 5000.83*, which gives direction and assigns responsibilities for science and technology managers to enhance security measures for strategic technology and research projects at DOD with military or national security implications.
- The **Department of Education** (ED) released guidance in June 2020 requiring educational institutions to report foreign financial relationships through a new reporting system and outlining the consequences of noncompliance. ED also released a report in October 2020 detailing the magnitude of foreign influence at U.S. universities, finding that more than $6.5 billion had gone unreported from entities linked to governments such as China, Russia, Saudi Arabia, and Qatar.
- A report from the **Government Accountability Office** (GAO) recommended that DOD, the Department of State, and the Department of Commerce consistently and correctly interpret regulations regarding fundamental research at universities due to concerns these agencies have been too inconsistent in their export control classifications of "fundamental research."
- In August 2020, the **Department of State** designated the Confucius Institute U.S. Center along with the network of Confucius Institutes at U.S. universities as "a foreign mission of the [People's Republic of China]." In addition, the Department has been documenting instances of "Military-Civil Fusion" by the Chinese government which may result in research espionage. The Department of State is also partially responsible for the changes in visa policies as explained in an earlier section.

Congressional Activities

Several Members of Congress have introduced proposals to respond to concerns of foreign interference in research—or to push back against xenophobia and anti-Asian sentiment evoked by such concerns. The most noteworthy piece of research security legislation of 2020 is the *Safeguarding American Innovation Act* (S. 3997) introduced by Senators Rob Portman (R-OH) and Tom Carper (D-DE)

in June 2020. The bill aims to tighten the security of the U.S. research enterprise against competing governments by imposing restrictions on research collaborations with foreign entities and follows many of the recommendations listed in a 2019 report produced by the Senate Permanent Subcommittee on Investigations (PSI), which Portman chairs. However, the bill has been criticized by many in the research community for being too restrictive and for potentially discouraging foreign scientists from working in the United States. Some of the most controversial provisions of the legislation include:

- Expanding the authority of the U.S. Department of State to reject visa applications from anyone seen as tied to a hostile foreign government;
- Imposing criminal penalties, including jail time, for scientists who fail to disclose ties to a foreign government;
- Requiring international research partners to comply with U.S. scientific norms; and
- Establishing a new research security oversight body at the White House Office of Management and Budget (OMB), which may be intended to replace OSTP's JCORE as the leading federal agency on research security.

The *Safeguarding American Innovation Act* was incorporated into the Senate's July 2020 draft of the *HEALS Act*, a COVID-19 relief package proposed by Senate Majority Leader Mitch McConnell (R-KY), despite the objections of the research community. However, the *HEALS Act* subsequently failed to gain broad support in the Senate, effectively killing the momentum for the research security legislation included within it. While the *Safeguarding American Innovation Act* is not anticipated to move forward during the remainder of the current Congress, the proposals within the legislation could be included in future legislation.

In addition, some Members of Congress have invoked research security as a justification for legislation excluding Chinese students and researchers from attending U.S. universities. One such piece of legislation, the *SECURE CAMPUS Act* (S. 3920) introduced by Senator Tom Cotton (R-AR), would prevent Chinese citizens from obtaining student or exchange visitor visas for graduate and post-graduate STEM education and mandates that recipients of

federal grants for STEM research certify that they are not Chinese citizens. Another bill, the *COVID-19 Vaccine Protection Act* (S. 3837) introduced by Senator Rick Scott (R-FL), would temporarily halt all student visas to Chinese citizens and would require enhanced background checks on Chinese citizens already in the U.S. on whether they would be considered a national security threat or attempting to steal research on a COVID-19 vaccine. Neither bill is anticipated to receive serious consideration in the Senate, and both would almost certainly be widely condemned by the House of Representatives, the scientific community, and civil rights organizations.

At the same time, other Members of Congress have taken the opportunity to condemn the rise in anti-Asian discrimination and hate crimes during the COVID-19 pandemic. Most notably, Representative Grace Meng (D-NY) introduced House Resolution 908 on March 25, 2020 condemning all forms of anti-Asian sentiment as related to COVID-19, listing examples of hate crimes against individuals of Asian descent and harmful rhetoric such as calling COVID-19 the "China Virus" or the "Wuhan Virus." The Resolution was agreed to in the House on September 17, 2020.

In addition to the Resolution, Senators Mazie Hirono (D-HI) and Cory Booker (D-NJ), along with fourteen cosigning Democratic Senators sent a letter demanding action from the Department of Justice Civil Rights Division to address discrimination and hate crimes against Asian American and Pacific Islander (AAPI) communities. Some of the requested actions in the letter include:
- Publicly releasing a plan detailing the DOJ's strategy in addressing increases in discrimination and hate crimes against AAPI individuals;
- Designating a DOJ official responsible for reviewing discrimination and hate crimes related to COVID-19;
- Reporting to Congress with data on discrimination and hate crimes related to COVID-19;
- Conducting community outreach with AAPI community leaders; and
- Distributing materials explaining civil rights protections in diverse languages used by AAPI communities.

The demands in the letter are not enforceable by law, and no apparent action has been taken to date by the DOJ's Civil Rights Division in response. Any change in DOJ policy would, at this point, be contingent on a change in Presidential administration.

Next Steps

At this point, the outcome of the U.S. elections on November 3 is the single most important factor in determining the fate of many of the policies and efforts discussed here. A change in Administration or in party leadership in either the House or Senate could significantly tip the scales in new directions, especially regarding many of the more stringent restrictions that have been proposed or already placed on visas, international travel, and global research partnerships.

In addition, the COVID-19 pandemic will undoubtedly continue to have an impact on research security efforts, and the U.S. research enterprise more broadly. COSSA will continue to monitor and report on the COVID-19 pandemic and research security policies as they develop. You can follow our coverage in the *COSSA Washington Update*.

BEN GOODRICH (bgoodrich@cossa.org) is a staff assistant at the Consortium of Social Science Associations.

Previous COSSA Coverage

September 29, 2020: ICE Proposes Major New Restrictions to International Student Visas

September 15, 2020: House Science Committee Holds Hearing on the Impact of COVID-19 on University Research

August 4, 2020: Controversial Research Security Legislation Could Move Forward in COVID-19 Relief Package

August 4, 2020: Congress Struggling to Reach Agreement on COVID-19 Relief, Potentially Delaying August Recess

July 21, 2020: House Budget Committee Holds Hearing on Federal R&D Spending

June 23, 2020: White House Issues Ban on Entry of Skilled Foreign Workers

March 3, 2020: NSF Releases Responses to JASON Research Security Report

March 3, 2020: House Science Committee Holds Hearing on FY 2021 Research and Development Budget Request

February 4, 2020: COSSA Responds to JCORE RFI