



# CCP Political Warfare: Federal Agencies Urgently Need a Government-Wide Strategy

Report Prepared by the House Committee on Oversight and Accountability Majority Staff

October 24, 2024



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## Executive Summary

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The Chinese Communist Party (CCP or the Party) is engaging in warfare tactics against the United States with increasing efficacy. The communist regime is a totalitarian force that enslaves its own people; surveils and harasses critics of the Party and people of Chinese descent around the world; poisons tens of thousands of Americans every year with fentanyl; and actively seeks to destroy America. It seeks the downfall of the United States because the CCP views the American way of life as a threat to the authoritarian grip it desperately seeks to maintain.

For now, the CCP conflict is not fought with weapons aimed at physical destruction. Instead, the CCP's aim is simple: weaken or, if possible, destroy its enemy. The CCP's "main enemy" is declared and public: the United States and, by extension, the American people.<sup>1</sup> The People's Republic of China (PRC), controlled by the CCP to the point of synonymy, is the greatest foreign threat to the United States' security. The CCP's tactics are an extraordinary and intentional danger to the American way of life, but the U.S. government and its constituent agencies, departments, and commissions under the Biden-Harris Administration have not engaged the CCP malefactor with urgency or candor.

During the 118th Congress, Chairman James Comer initiated an investigation of the U.S. government's strategy to confront the CCP. The House Committee on Oversight and Accountability (Committee) has focused on 25 sectors of the federal government<sup>2</sup> to understand the Biden-Harris Administration's whole-of-government approach to the CCP threat. There is not one. Instead, the Biden-Harris Administration stayed largely silent, forcing agencies to determine whether and/or how to confront the CCP. Unfortunately, most agencies' solutions and policies either ignored, placated, or only weakly addressed the PRC's political warfare.

By any reasonable analysis, the United States faces a new cold war, but under the current administration, only its opponent—the CCP—is committed to winning it. Unlike the first Cold War, the adversary is already within, having entrenched itself within U.S. borders, institutions, businesses, universities, and cultural centers by capturing elites in influential circles. For example, current Democrat Vice Presidential candidate Timothy Walz has longstanding

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<sup>1</sup> Constantine C. Menges, *China: The Gathering Threat* (2005) ("Menges, *China: The Gathering Threat*"); Kerry K. Gershaneck, *Political Warfare: Strategies for Combating China's Plan to "Win without Fighting,"* at 151 (2020) ("The PRC is engaged in war against the United States. It is not mere competition or malign influence, but war by PRC definition.") ("Gershaneck, *Political Warfare: Strategies for Combating China's Plan to 'Win without Fighting'*"); Colonel Grant Newsham, *When China Attacks: A Warning to America*, at 60 (2023) (The CCP "seeks global domination" and "will fight its main enemy, the United States, to achieve it.") ("Newsham, *When China Attacks: A Warning to America*").

<sup>2</sup> The Committee has investigated the following federal government entities' responses to CCP unrestricted warfare: the U.S. Agency for Global Media, the Central Intelligence Agency, the Consumer Product Safety Commission, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Federal Energy Regulatory Commission, the Financial Crimes Enforcement Network, the National Aeronautics and Space Administration, the National Institutes of Health, the National Security Council, the National Science Foundation, the Office of the Director of National Intelligence, the U.S. Department of Agriculture, the U.S. Department of Commerce, the U.S. Department of Defense, the U.S. Department of Education, the U.S. Department of Energy, the U.S. Department of Homeland Security, the U.S. Department of Justice, the U.S. Department of the Navy, the U.S. Department of State, the U.S. Department of Transportation, the U.S. Department of the Treasury, the Environmental Protection Agency, and the Food and Drug Administration.

connections to CCP-connected entities and officials. These connections bear hallmarks of CCP elite capture that make Governor Walz susceptible to CCP influence in his decision-making as governor—and, should he be elected, as vice president.

The CCP’s fight against the United States relies on its deployment of unrestricted warfare and political warfare.<sup>3</sup> In many ways, unrestricted warfare—and political warfare, a component thereof—is a prelude to larger, more direct conflicts, which the CCP anticipates. Through political warfare, the CCP seeks to establish footholds, dependencies, and both willing and unwitting allies that further its larger effort to weaken the United States. Myopic business decisions capitalizing on cheap labor sourced from the PRC, rosy narratives promulgated by government officials in exchange for PRC special treatment, and social tensions the CCP exploits are all CCP tools that make any U.S. effort to excise dependence on the PRC difficult and politically delicate.

Former President Trump and administration officials spoke in a unified voice on the dangers posed by CCP infiltration and influence operations to show the American people the threat the CCP poses to every aspect of American life.<sup>4</sup> For example, former Director of National Intelligence John Ratcliffe warned the American public in an op-ed entitled “China Is National Security Threat No. 1” that “the [PRC] poses the greatest threat to America today, and the greatest threat to democracy and freedom world-wide since World War II.”<sup>5</sup> These public statements and speeches were marked by strong action in the Trump Administration. However, the Oversight Committee’s investigation has revealed that too many of these efforts—especially transparent communication about the CCP threat—were not built upon by the Biden-Harris Administration.

While CCP infiltration and influence operations target every sector and community in America, much of the federal government under the Biden-Harris Administration has failed to understand, acknowledge, and strategically combat CCP political warfare. Not one federal agency in this government-wide investigation demonstrated a sufficient strategy to confront CCP unrestricted warfare. Of the twenty-five agencies the Committee surveyed in this investigation, one transparently acknowledged CCP infiltration operations, elucidated a strategy to combat a piece of the Party’s campaign, and engaged in outreach to the American people about it. Unfortunately, this single example—the Drug Enforcement Administration (DEA), seeking to defeat CCP-backed chemical and drug warfare that fuels the fentanyl crisis<sup>6</sup>—is hindered in its efforts to protect Americans due to the failure of the Biden-Harris Administration to adopt any government-wide strategy.

The majority of agencies do not have a cohesive strategy to identify, counter, and deter CCP political warfare—too often because CCP influence operations have interfered with the judgment, discretion, and fulfillment of duties by federal agencies themselves. This has left a

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<sup>3</sup> Political warfare is “the employment of all the means at a nation’s command, short of war, to achieve its national objectives,” as explicated in a 1948 policy planning memorandum that prepared the United States to fight and ultimately win the Cold War.” Kerry K. Gershaneck, *China’s “Second Battlefield,” Political Warfare in Combat Operations*, JAMS Vol. 15, No. 2, at 145 (2024) (“Gershaneck, *China’s Second Battlefield*”).

<sup>4</sup> See Robert C. O’Brien, *Trump on China, Putting America First* (Nov. 2020).

<sup>5</sup> John Ratcliffe, *China Is National Security Threat No.1*, Wall St. J. (Dec. 3, 2020).

<sup>6</sup> See *infra*, Section III. B. Drug Enforcement Administration.

U.S. bureaucracy with no shortage of personnel willing to point fingers at different offices or agencies but wholly incapable of doing anything to protect the American people. The size, complexity, and compartmentalization of the federal government has amounted to excuses and blame shifting that finds no parallel in the CCP, which is, because of its totalitarian nature, unsparingly unified and efficient in carrying out its plans to weaken the United States. Yet principled leaders—willing to speak candidly about CCP infiltration of influential circles, communities, and businesses across the United States—can turn the tide in America’s favor. The foundational step federal officials must take to implement this shift is simple but powerful: honestly acknowledge the nature of this communist regime and the cold war it is waging against the United States.

The CCP threat is the United States’s challenge that will determine its position of preeminence in the next century. The CCP will continue to seek to undermine the United States through concerted efforts to corrupt the U.S. government and weaken American society. The United States must confront the CCP squarely and rectify the CCP’s influence and infiltration efforts to date. The Biden-Harris Administration has, in its almost four years in power, completely failed at both of these objectives. The entire federal government and individual agencies must fulfill their responsibilities to the American people by transparently communicating with them about how the CCP is seeking to infiltrate and influence their communities.

This report explains what the Chinese communist regime is and the unrestricted warfare it is waging on all fronts against America. Second, this report details the Committee’s findings as to how twenty-five federal agencies are failing (and occasionally succeeding) in identifying, combating, and defeating the communist regime’s decades-long unrestricted warfare against America. The findings include recommendations for federal agencies seeking to protect American communities and sectors that are vulnerable to the communist regime’s destructive campaign.

It is wholly unacceptable that federal agencies have failed to deter CCP unrestricted warfare, let alone to establish a cohesive government-wide strategy to do so, when the CCP has waged this war without weapons for decades.

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## Highlights of Federal Agencies Failing to Identify, Deter, and Defeat CCP Political Warfare

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Without a cohesive strategy from the Biden-Harris Administration, federal agencies are left to fend for themselves against communist China. In limited instances, agencies and officials have sought to acknowledge and address CCP infiltration and influence operations targeting communities across America. The dangerous absence of a government-wide strategy, however, has revealed blunders and failures across the Executive Branch, detailed throughout this report and highlighted as follows:

- The U.S. Department of Education does not have an understanding of or strategy to protect American and Chinese students on U.S. campuses from CCP proxy group harassment and stifling of free speech through, for example, on-campus organizations such as Confucius Institutes and Chinese Students and Scholars Associations.
- Rather than openly and consistently acknowledging that the United States is in a space race with the PRC, the National Aeronautics and Space Administration (NASA) administrator recently congratulated the CCP for obtaining the first samples of lunar rocks from the far side of the moon, gushing that the discovery was “an important step in humanity’s work to understand and explore the lunar surface.”<sup>7</sup>
- U.S. Department of the Treasury wants China to continue buying U.S. Treasury bills, so it has been dangerously reticent to confront or even acknowledge the CCP’s economic warfare. In fact, Treasury has allowed the CCP’s Belt and Road Initiative to financially cripple many of those countries that are pursuing a trading system isolated from American businesses.
- The U.S. Department of Agriculture (USDA) touts China as America’s number one customer; has no plan to secure the food supply from PRC; and does not adequately monitor the CCP’s strategic purchasing of U.S. farmland in close proximity to U.S. military bases.
- While the National Science Foundation (NSF) acknowledged that the PRC is responsible for the majority of all research security issues involving federally funded research, it inexplicably refuses to categorize the PRC as a unique threat, relying instead on country agnostic programs doomed to fail to protect valuable American research.
- The State Department official who oversees the newly created Office of China Coordination (China House), which sought to facilitate the Biden-Harris Administration’s approach to the PRC, had to ask the Committee to define political warfare during a briefing about CCP political warfare and the department’s response to it. **Amidst the cold war the CCP is waging against the United States, the State Department cannot determine the number and nature of the many memoranda of understanding (MOUs) it has entered into with the PRC, CCP, and Chinese-owned entities.** The State Department suggested to the Committee that there are

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<sup>7</sup> See *infra* Section III. F. NASA.

close to one million MOUs between the United States and the PRC given that they are the world's number one and number two largest economies, respectively.

- Consumer products from China are disproportionately harmful to American consumers, yet the Consumer Product Safety Commission (CPSC) does not fulfill its duty to inform and educate Americans of the risks associated with Chinese products.
- The U.S. Department of Justice (DOJ) has insufficient expertise, initiative, and rigor to deter CCP unrestricted warfare. DOJ has succumbed to CCP influence operations by terminating the sole program focused on enforcing federal national security laws against the CCP, based on uncorroborated claims of racial bias. DOJ has lumped the CCP in with other foreign adversaries—compromising the enforcement of federal national security laws to defend America from CCP infiltration and influence operations.
- Despite abundant examples of CCP elite capture, the Department of Commerce is not currently studying, addressing, or otherwise warning the public about CCP infiltration operations targeting state and local governments and business leaders.
- The Environmental Protection Agency (EPA) is pushing a green energy agenda, which the CCP influences and exploits through trade associations, nonprofits, and non-governmental organizations while EPA does nothing to stop such influence operations.
- The U.S. Department of Transportation (DOT) demonstrated limited appreciation for the threat the CCP poses to critical infrastructure. For example, when pressed by the Committee about Chinese-manufactured container cranes in U.S. ports, the U.S. Maritime Administration (MARAD) told the Committee there is no such thing as a spy crane. MARAD told the Committee that it is normal for modems and other equipment installed in Shanghai Zhenhua Heavy Industries Co. Ltd. (ZPMC) container cranes in the United States to transmit data back to China because the equipment was made in China.

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## Committee Recommendations

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As all Americans are targets of the PRC’s warfare, individual federal agencies have responsibilities to use existing authorities and resources to at least (1) conduct outreach to citizens about the dangers they may encounter, and (2) provide appropriate incentives for Americans to proactively protect themselves—their communities, schools, houses of worship, businesses, finances, food, and more—from the threat. Federal agencies must prepare Americans to “take action.”<sup>8</sup> On a larger scale, a successful government-wide strategy must include four components: (1) acknowledgment of and transparent communication about CCP political warfare; (2) rejection of country agnostic and foreign malign influence-focused approaches and embracing of targeted strategies; (3) fostering the depth of knowledge needed to defeat unrestricted warfare; and (4) engaging the American people about the CCP threat and providing resources when appropriate that thwart CCP ambitions.

A strong America can resist even the most aggressive Chinese political warfare. As detailed in this report, federal agencies must use their existing significant authorities and resources to do the following to secure America from CCP unrestricted warfare:

- **Leadership:** Federal leaders must be willing to call the CCP out for what it is and what it is trying to do—a communist totalitarian regime aimed at destroying the United States. Transparent communication about the regime will enable Americans (and the agencies who work for them) to identify CCP interference and influence as it occurs and resist it. Additionally, federal leaders should promote American values, principles, and innovation as the preferred option over communist China.
- **Government-wide:** The U.S. government needs a cohesive government-wide strategy to identify, counter, deter, and defeat CCP political warfare.
- **Targeted strategy:** The strategy must specifically target the unique methods and strategies the CCP employs—through the united front and elite capture, for example—in its efforts to weaken and destroy America.
- **Resist influence within the government:** Federal agencies must resist CCP psychological warfare seeking to influence decision-making and how federal officials carry out their responsibilities to the American people.
- **Strengthen existing personnel and expertise:** Federal agencies must strengthen personnel and trainings to foster the acumen, judgment, language skills, and expertise needed to identify, counter, and defeat CCP political warfare.
- **Inspire and equip America:** Federal leaders should use their platforms and authorities to inspire and equip the American people to strengthen their communities, innovate and create the new technologies and phenomena that will secure a strong future for the nation—in the face of the cold war the CCP is waging against America.

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<sup>8</sup> Robert Spalding, *War Without Rules*, at 214 (2022) (“Spalding, *War Without Rules*”).

- **Offer incentives under existing authorities:** The strategy should include incentives for Americans to make choices in their communities, businesses, careers, and education that will secure American values, security, and prosperity.
- **Transparency:** Federal agencies, especially those in the Intelligence Community (IC), should not hide behind the classification system. As this investigation has made clear, there is ample open-source information available demonstrating CCP infiltration operations—making it inexcusable for federal officials to shirk their responsibilities to candidly communicate with the public and Congress about the CCP threat.
- **Reject mixed-messaging and appeasement:** Federal officials should reject mixed-messaging and appeasement. Effective leadership cannot involve appeasement through engagement with authoritarian leaders, nor wasting resources and attention on meetings with CCP leaders that are designed to distract officials while advancing destructive global ambitions. Such engagement confuses federal employees and the American public—creating disadvantages for officials and citizens striving to strengthen America in the face of CCP infiltration.



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## List of Acronyms

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<b>API</b> – Active Pharmaceutical Ingredient	<b>FBI</b> – Federal Bureau of Investigation
<b>CBP</b> – Customs and Border Protection	<b>FDA</b> – Food and Drug Administration
<b>CCMC</b> – Communist Chinese Military Companies List	<b>FERC</b> – Federal Energy Regulatory Commission
<b>CCP</b> – Chinese Communist Party	<b>FinCEN</b> – Financial Crimes Enforcement Network
<b>CDC</b> – Centers for Disease Control and Prevention	<b>FITF</b> – Foreign Influence Task Force
<b>CFIUS</b> – Committee on Foreign Investment in the United States	<b>GAO</b> – Government Accountability Office
<b>CIA</b> – Central Intelligence Agency	<b>IP</b> – Intellectual Property
<b>CISA</b> – Cybersecurity and Infrastructure Security Agency	<b>IRA</b> – Inflation Reduction Act
<b>CPAFFC</b> – China People’s Association for Friendship with Foreign Countries	<b>IRF</b> – International Religious Freedom Office of Department of State
<b>CPSA</b> – Consumer Protection Safety Act	<b>IT</b> – Information Technology
<b>CPSC</b> – Consumer Product Safety Commission	<b>MARAD</b> – U.S. Maritime Administration
<b>CRSSP</b> – Chief of Research Security Strategy and Policy	<b>MCF</b> – Military-Civil Fusion
<b>CSSA</b> – Chinese Students and Scholars Association	<b>MIC2025</b> – Made in China 2025
<b>DEA</b> – Drug Enforcement Administration	<b>MOU</b> – Memorandum of Understanding
<b>DHS</b> – Department of Homeland Security	<b>MPS</b> – Ministry of Public Safety
<b>DoD</b> – Department of Defense	<b>MSS</b> – Ministry of State Security
<b>DOE</b> – Department of Energy	<b>NASA</b> – National Aeronautics and Space Administration
<b>DOJ</b> – Department of Justice	<b>NCSC</b> – National Counterintelligence and Security Center
<b>DOT</b> – Department of Transportation	<b>NDAA</b> – National Defense Authorization Act
<b>EPA</b> – Environmental Protection Agency	<b>NDS</b> – National Defense Strategy
<b>EV</b> – Electric Vehicle	<b>NGO</b> – Non-Governmental Organization
<b>FARA</b> – Foreign Agents Registration Act	<b>NIH</b> – National Institutes of Health
	<b>NSC</b> – National Security Council

**NSF** – National Science Foundation

**ODNI** – Office of the Director of National Intelligence

**OFAC** – Office of Foreign Assets Control

**PLA** – People’s Liberation Army

**PLAN** – People’s Liberation Army Navy

**PRC** – People’s Republic of China

**STEM** – Science, Technology, Engineering, and Mathematics

**TCO** – Transnational Criminal Organization

**TTP** – Thousand Talents Program

**UFWD** – United Front Work Department

**USAGM** – U.S. Agency for Global Media

**USDA** – U.S. Department of Agriculture

**VOA** – Voice of America

**WBG** – World Bank Group

**WTO** – World Trade Organization

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## I. Committee Hearings

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The Committee held three hearings to ensure the federal government is taking every action necessary to thwart CCP political warfare.

### A. Defending America from the Chinese Communist Party's Political Warfare, Part I

The Committee's first hearing, held on April 17, 2024, introduced the main theme of the investigation, CCP political warfare against America. The hearing examined how China is waging unrestricted warfare against the United States by targeting, infiltrating, and influencing every sector and community in America. The purpose of the hearing was to understand the CCP's ambitions so that the U.S. government can effectively identify and defeat the CCP threat. The hearing discussed specific methods and tactics the CCP uses to achieve its ambitions. While those methods are myriad, the hearing drew attention to the united front. The Committee questioned witnesses about the responsibilities that federal agencies have to safeguard America from CCP political warfare.

The witness panel consisted of three leading experts familiar with the methods and tactics deployed by the CCP to conduct non-kinetic warfare against the United States; the Minority invited Timothy Snyder, a scholar of the history of Central and Eastern Europe and the Soviet Union.

- **Ret. Col. Grant Newsham**, retired U.S. Marine Corps Colonel; former Intelligence and Foreign Service Officer; and Senior Fellow at the Japan Forum for Strategic Studies in Tokyo
- **Peter Mattis**, President of the Jamestown Foundation; former CIA Counterintelligence Analyst; former Staff Director of the Congressional-Executive Commission on China
- **Ret. Brig. Gen. Robert Spalding**, Former Senior Director for Strategic Planning, National Security Council; former senior official at U.S. Departments of Defense and State; CEO of SEMPRES; and Senior Fellow at the Hudson Institute

#### *Testimony*

General Spalding testified that he came to understand that influence is easier, less risky, and more effective than military weapons in a globally connected world.<sup>9</sup> This, General Spalding explained, is how the CCP influences Americans every day: "Today, we are in a new Cold War. Our adversaries wield weapons far beyond the traditional military arsenal, instead harnessing the power of communication to distort and manipulate the very fabric of our

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<sup>9</sup> *Defending America from the Chinese Communist Party's Political Warfare, Part I, Hearing Before H. Comm. on Oversight & Accountability* (Apr. 17, 2024) ("CCP Political Warfare Hearing I") (testimony of General Spalding).

society.”<sup>10</sup>

The methods General Spalding recounted include Chinese investments influencing local politicians with the allure of jobs, U.S. universities and laboratories transferring technology to China, Chinese apps such as Temu harvesting user data:

It is really about taking your data that comes from you being on these platforms, whether it be TikTok or Facebook or any of the others, and then learning how to influence you to not be a fan of a republic and to embrace a more authoritarian system. I mean, that is essentially what they are trying to do, and they have been very successful at it.<sup>11</sup>

Colonel Newsham testified that the United States needs to fundamentally reconsider the threat posed by China because the implications could not be more serious:

So, what’s at stake? The United States as an independent nation — or even a unified nation — is at stake. But ultimately, it’s our freedom that is at risk — from the Chinese communists and even from other Americans working for them, knowingly or not.<sup>12</sup>

Colonel Newsham explained that China is not like other national threats because the PRC expects its citizens to serve the state whenever and wherever they are called upon.<sup>13</sup> Colonel Newsham identified the drug war—fueling the fentanyl crisis—as one method the CCP employs in its campaign to destroy American communities.<sup>14</sup> He also cited examples of economic warfare, luring American companies to China and stealing their technology, and dominating global supply chains to undercut U.S. manufacturing:

...[T]he successful economic warfare, which is part of political warfare that shipped so much of our manufacturing over to China, it leaves these societies that are just dead and vulnerable to drug warfare. Like we are saying, it all feeds on itself, and you can see the effect that has on our military.<sup>15</sup>

Colonel Newsham testified about how the CCP has used psychological warfare to advance the following false narratives that have been readily accepted by many people:

- “[c]riticizing China is racist”;
- “China is no longer communist. It is capitalist”;

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<sup>10</sup> CCP Political Warfare Hearing I (written testimony of General Spalding) (emphasis added).

<sup>11</sup> *Id.*

<sup>12</sup> CCP Political Warfare Hearing I (written testimony of Colonel Newsham) (emphasis added).

<sup>13</sup> CCP Political Warfare Hearing I (testimony of Colonel Newsham) (emphasis added).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

- “The United States must have China’s help on climate change, North Korea, etc.”;
- “China is militarizing/aggressive/expansionist because of the trauma of a century of humiliation.”<sup>16</sup>

Federal leaders should not fall for the lie that it is racist to criticize the CCP. To counter this lie, federal agencies should emphasize what Colonel Newsham explained:

[t]he biggest victims of the Chinese Communist Party are the Chinese people. The Chinese Communist Party has killed 50 million of its own people in peacetime and good weather. It has put over a million of them in concentration camps for religious or political beliefs. It forcibly removes and sells organs from live Chinese citizens. If one cares about the Chinese people, it is a duty to criticize the Chinese Communist Party.<sup>17</sup>

Mr. Mattis spoke about the CCP’s use of the united front to monitor, influence, and mobilize individuals to achieve political goals.<sup>18</sup> He testified that this campaign is aimed at remaking the international system in favor of the CCP.<sup>19</sup> Importantly, the scale of the CCP’s efforts requires expertise to manage and a strategy to focus the U.S. government’s response:

In a common law society, it makes sense on principle to have laws and regulations that are not directed at any given country. However, the scale and delicacy of the CCP’s efforts require expertise to sort through and where to focus government efforts. The most aggressive U.S. adversaries in information and political warfare all have distinct features that must be accounted for in the U.S. effort to counter them. Investigation and enforcement—whether through civil society’s self-regulation or the U.S. Government’s counterintelligence and law enforcement—are not interchangeable. Therefore, it is also advisable not to have blanket laws and regulations that would treat Canadian and Mexican organizations the same way as the CCP’s organizations.<sup>20</sup>

Mr. Mattis testified that America needs to “[i]nvest in expertise building inside and outside the U.S. Government with special attention paid to developing and funding educational programs to support mid-career expertise building and language skill maintenance.”<sup>21</sup> He “firmly believe[s] that we have a shortage of China expertise for all of the different departments in the government,” especially since much of CCP warfare is “often unacceptable but still legal

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<sup>16</sup> CCP Political Warfare Hearing I (written testimony of Colonel Newsham).

<sup>17</sup> *Id.* (emphasis added).

<sup>18</sup> CCP Political Warfare Hearing I (testimony of Mr. Mattis).

<sup>19</sup> *Id.*

<sup>20</sup> CCP Political Warfare Hearing I (written testimony of Mr. Mattis).

<sup>21</sup> *Id.*



behavior.”<sup>22</sup> According to Mr. Mattis, the United States does not have adequate talent to address all of the China-related threats: “I would put it this way, that we do not have enough China expertise to execute our own policy. For example, we are asking a department to enforce a major piece of trade legislation, and yet for a couple of years they were relying on Google Translate for their language resource.”<sup>23</sup>

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<sup>22</sup> CCP Political Warfare Hearing I (testimony of Mr. Mattis).

<sup>23</sup> *Id.* (emphasis added).

## B. Defending America from the Chinese Communist Party’s Political Warfare, Part II

The Committee held its second hearing on June 26, 2024. “Part II” focused on how the CCP seeks to influence and infiltrate U.S. businesses, federal agencies, and international organizations in an effort to destroy America and advance its destructive global ambitions. The CCP has used elite capture to promote a pro-CCP agenda and false narratives. The Party seeks to do so amongst influential circles in ways that have influenced decision-making affecting Americans, and federal agencies have responsibilities to expose this influence. Further, witnesses shared how the American business community is a prime target for the CCP, which seeks to co-opt U.S. businesses to advance the CCP’s interests.

Each of the three witnesses for the majority has significant experience in sectors that have been targeted by CCP infiltration and influence operations—namely, the business community, international organizations, and federal agencies such as the U.S. Department of State (State Department), the U.S. Department of the Navy (Navy), and the IC.

- **Erik Bethel**, former U.S. Executive Director, World Bank
- **James E. Fanell, CAPT USN (Ret.)**, U.S. Navy Captain; former Director of Intelligence and Information Operations for the U.S. Pacific Fleet; Government Fellow at the Geneva Centre for Security Policy
- **Mary Kissell**, former Senior Advisor to Secretary of State Mike Pompeo; former Wall Street Journal Editorial Board Member, including stints as chief foreign policy writer in New York City and Asia-Pacific editorial page editor, based in Hong Kong

The minority invited Tom Malinowski, former Assistant Secretary of State for Democracy, Human Rights and Labor and former Member of Congress (NJ-5).

### *Testimony*

Ms. Kissel told the Committee that many of the CCP’s influence operations are legal under U.S. law.<sup>24</sup> These include influence operations targeting business chamber meetings, think tank conferences, and interviews with Chinese media.<sup>25</sup> She explained that “[t]here are no independent Chinese companies.”<sup>26</sup> Further, Chinese diplomacy seeks to influence how U.S. government officials, including at the State Department, speak about China.<sup>27</sup> Ms. Kissel used the example of the State Department encouraging American students to study in China, but also warning Americans of traveling there due to “the risk of wrongful detentions.”<sup>28</sup> She testified

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<sup>24</sup> *Defending America from the Chinese Communist Party’s Political Warfare, Part II: Hearing Before H. Comm. on Oversight & Accountability* (June 26, 2024) (“CCP Political Warfare Hearing II”) (testimony of Ms. Kissel).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* (emphasis added).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

that the State Department has a major role in responding to CCP influence operations.<sup>29</sup> The State Department should improve vetting for links to Chinese military, intelligence, and security services, as well as proactively refuting China’s propaganda.<sup>30</sup> Further, based on her role as director for two publicly traded companies, she spoke about China’s efforts to target unsuspecting American executives and directors: “Every economic activity accrues to the Party’s benefit, and the Party’s goal is to upend our way of life and to dominate and change our way of life.”<sup>31</sup>

Ms. Kissel issued a stark warning, “My fear . . . is that we do not have the time that we had during the Cold War. We had decades to argue amongst ourselves, Republicans and Democrats, about the best way, right, to combat the Soviet threat. I do not believe that we have that time with Communist China today.”<sup>32</sup>

Captain Fanell focused his testimony on how senior U.S. national security officials allowed China to become a peer competitor.<sup>33</sup> He testified that the CCP’s political warfare reduced these officials’ ability to recognize and address the problem before it was too late.<sup>34</sup> According to Captain Fanell, the CCP used a combination of elite capture, deception, disinformation, and propaganda.<sup>35</sup> Leaders at the U.S. Department of Defense (DoD) and in the IC were “disarmed psychologically, intellectually, and militarily.”<sup>36</sup> Captain Fanell told the Committee that this campaign is decades old and that “threat deflation,” underestimating threats year after year, contributed to the failures of U.S. decision-makers.<sup>37</sup> He explained:

For instance, we saw what happened in 2012 at Scarborough Shoal in the South China Sea. We could not believe that China was going to take sovereign territory from a treaty ally. In 2013 to 2015, they started dredging up sand to build these seven artificial islands, three of which are the size of Pearl Harbor. And they did that, but the IC was reluctant to call that out until it was so painfully obvious. And we did that over and over and over again, over decades, over various programs, not just in the naval arena, across the board.<sup>38</sup>

Mr. Bethel testified about China’s influence in international organizations, including at the United Nations and the World Bank.<sup>39</sup> China’s influence at these organizations has major consequences for the global rules, standards, and international cooperation.<sup>40</sup> Mr. Bethel testified that China used its influence at international organizations to support Huawei and ZTE,

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* (emphasis added).

<sup>32</sup> *Id.* (emphasis added).

<sup>33</sup> CCP Political Warfare Hearing II (testimony of Captain Fanell).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* (emphasis added).

<sup>39</sup> CCP Political Warfare Hearing II (testimony of Mr. Bethel).

<sup>40</sup> *Id.*

PRC telecommunications companies that the U.S. government considers national security threats.<sup>41</sup> In another example, Mr. Bethel cited China taking advantage of the United Nations Industrial Development Organization to advance its Belt and Road Initiative.<sup>42</sup> Additionally, Mr. Bethel emphasized that the finance industry will not take the threat of China seriously unless the U.S. government restricts investment in the PRC.<sup>43</sup> Mr. Bethel testified that failure to address China’s influence within multilateral institutions “could result in a significant shift in global governance dynamics, with far-reaching consequences for international cooperation, the rules-based order, and the promotion of democratic values.”<sup>44</sup>

Mr. Malinowski’s testimony echoed the statements from other witnesses that the CCP is using political warfare to discredit the United States abroad and stoke political divisions here at home.<sup>45</sup> He testified that “the CCP engages in political warfare in America . . . to amplify our divisions and create paralysis so that our government does not act to meet the global domestic challenges of our time.”<sup>46</sup> Mr. Malinowski shared the other witnesses’ views that China is using influence operations at international institutions to change the global rules to benefit the CCP and confirmed Ms. Kissel’s analysis that “[t]here are no independent entities in China.”<sup>47</sup>

Mr. Malinowski testified:

I believe the Trump administration deserves credit for beginning to change the old paradigm of US-China relations when it took office in 2017, by recognizing the need to counter the CCP’s aggressive behavior across multiple fronts, instead of avoiding confrontation to preserve a positive relationship. The Biden Administration rightly continued this approach, making no concessions on matters of principle or national interest for the sake of better ties, and keeping all of the Trump administration’s trade measures against China in place.<sup>48</sup>

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<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> CCP Political Warfare Hearing II (written testimony of Mr. Bethel) (emphasis added).

<sup>45</sup> CCP Political Warfare Hearing II (testimony of Rep. Malinowski).

<sup>46</sup> CCP Political Warfare Hearing II (written testimony of Rep. Malinowski).

<sup>47</sup> CCP Political Warfare Hearing II (testimony of Rep. Malinowski).

<sup>48</sup> *Id.* (emphasis added).

## C. Defending America from the Chinese Communist Party’s Political Warfare, Part III

The Committee held its third hearing on September 24, 2024. “Part III” focused on solutions—what federal agencies and officials must do to protect America from CCP unrestricted, political, economic, and other forms of warfare designed to weaken and destroy America.

Each witness testified about how federal agencies should understand, communicate about, and address the CCP and the many forms of warfare it is waging against the nation.

- **Robert Atkinson**, Founder and President, Information Technology and Innovation Foundation (ITIF)
- **Ambassador Joseph Cella**, former U.S. Ambassador to Fiji, Kiribati, Nauru, Tonga, and Tuvalu; Co-Founder of citizen-led Michigan China Economic Security and Review Group
- **Dr. Bradley Thayer**, Founding Member, Committee on the Present Danger: China

The minority invited Jacob Stokes, Senior Fellow for the Indo-Pacific Security Program at the Center for a New American Security. Mr. Stokes was on the national security staff of then-Vice President Joe Biden, serving as the senior advisor to the national security advisor.

### *Testimony*

Dr. Thayer testified that the CCP has effectively deceived successive administrations into ignoring the rising threat that the CCP has posed to the United States for 30 years.<sup>49</sup> According to Dr. Thayer, “The CCP has waged political warfare against the United States government since it seized power in China in 1949 and has done so very successfully.”<sup>50</sup> He testified that “the U.S. is now in a new Cold War.”<sup>51</sup> According to Dr. Thayer, “avarice and finance trumped strategy and set the perfect environment in which PRC Political Warfare could subvert U.S. national security interests from within.”<sup>52</sup> He further explained that “U.S. business interests and financiers consistently and indefatigably sought economic cooperation with the PRC, treating the Chinese people as the source of cheap physical labor for manufacturing, investment, as well as inexpensive intellectual labor, including for research and development.”<sup>53</sup>

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<sup>49</sup> *Defending America from the Chinese Communist Party’s Political Warfare, Part III: Hearing Before H. Comm. on Oversight & Accountability* (Sept. 24, 2024) (“CCP Political Warfare Hearing III”) (written testimony of Dr. Thayer).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

Dr. Thayer testified, “A major part of knowing your enemy is understanding their ideology. Thus, to understand the nature of the CCP threat, it is critical to understand the role of Communist ideology.”<sup>54</sup> He testified that “in the Communist Worldview, the CCP sees the U.S. as the fundamental enemy to be destroyed.”<sup>55</sup> Dr. Thayer recommended the following:

- Federal agencies should “understand the ideology of Communism,” emphasizing that “[t]he U.S. must have the same familiarity with the PLA’s doctrine and ideology as with Soviet Communism and the Soviet military during the Cold War.”<sup>56</sup>
- All federal agencies should “advance political warfare campaigns that undermine the power and control of the CCP.”<sup>57</sup> Dr. Thayer emphasized that the United States should deploy political warfare tactics, which it effectively used “during much of the Cold War, like the Active Measures Working Group, but has allowed to atrophy in the post-Cold War years.”<sup>58</sup>
- Federal agencies should hold the CCP accountable “for its myriad crimes against humanity and human rights abuses against the Chinese people and those inflicted on the global population . . . by facilitating the spread of pandemics like COVID-19, or by promoting the horrors of drug addiction and millions of American deaths through fentanyl and other narcotics.”<sup>59</sup>
- To expose the corruption of CCP leaders, intelligence agencies should produce an unclassified report “on the wealth and corrupt activities of the leadership of the CCP.”<sup>60</sup>
- The “U.S. national security community, especially within the Department of Defense and the Intelligence Community, must understand the CCP’s priorities for investment research, and force structure development” to effectively counter the CCP’s ambitions.<sup>61</sup>

Ambassador Cella testified about his “experience in this Cold War with the CCP,” and offered initiatives for federal agencies to prevent CCP political warfare.<sup>62</sup> He warned about CCP efforts to co-opt state and local leaders—including through undisclosed attempts at bribery—in an effort to influence decision-making surrounding the opening of a CCP-linked electric vehicle battery plant, Gotion in Michigan.<sup>63</sup> Ambassador Cella stressed the need for a “whole of society and whole of government engagement” in which “all agencies... provide information and

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<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> CCP Political Warfare Hearing III (written testimony of Ambassador Cella).

<sup>63</sup> *Id.*

education to the public at large.”<sup>64</sup> For federal agencies to change course, Ambassador Cella recommended the following:

- The National Security Act of 1947 should be “modernized” through a “top-to-bottom assessment” to “plug[] the gaping holes that exist” so federal agencies can closely work with Congress to address the CCP threat.<sup>65</sup>
- Classify the “United Front Work Group as a national security threat, prohibiting their presence in the U.S. and any affiliated entities.”<sup>66</sup>
- When communicating about the CCP, “devise terminology across the interagency replacing the currently utilized ‘pacing threat’ and ‘near peer competitor’ and instead devise and communicate authentic terminology with moral clarity about the nature of the CCP such as ‘adversary’, ‘hostile force’ or ‘aggressor’.”<sup>67</sup>
- “Require interagency audits of critical sectors such as universities, research labs, financial institutions, healthcare, real estate, and even within federal and state government agencies to ascertain, report on pro-CCP networks within these institutions, [and] perform a national security threat assessment.”<sup>68</sup> Where the audits reveal that “national security is found to be compromised,” the office or entity should be “closed down.”<sup>69</sup>
- To remove CCP access to federal resources and infiltration of “critical sectors with alarming ease,” Ambassador Cella recommends “mandat[ing] an audit across the interagency to assess gaps” in the “Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), the Wolf Amendment, and Section 1286 of the National Defense Authorization Action, which limits Department of Defense funding to PRC Talen Recruitment participants.”<sup>70</sup>
- Prohibit PRC-based companies “from conducting business in the U.S. that is in partnership with a Communist Chinese Military Contractor.”<sup>71</sup>

Dr. Atkinson testified that, “The best way to think about this is as a form of war: China is seeking to defeat the United States on the techno-economic battlefield.”<sup>72</sup> Moreover, he testified that, “The CCP’s leaders do not see this merely as competition; they see it as war. Commercial

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<sup>64</sup> CCP Political Warfare Hearing III (testimony of Ambassador Cella).

<sup>65</sup> *Id.*

<sup>66</sup> CCP Political Warfare Hearing III (written testimony of Ambassador Cella).

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* (emphasis added).

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

war, to be sure, but war, nonetheless.”<sup>73</sup> He explained that U.S. victory in this new “battlefield” is far from guaranteed.<sup>74</sup> Dr. Atkinson emphasized that the CCP places a high value on its domestic industries, while “in the United States... the federal government is indifferent or even dismissive of the risk of steadily losing industrial knowhow.”<sup>75</sup> He warned that the decline of the United States “is fast approaching, if not already here.”<sup>76</sup> According to Dr. Atkinson, “Chinese companies have already pulled ahead in some areas, and in most others they are on track to replace U.S. and Western Industry leaders.”<sup>77</sup>

**Table 1: Chinese advanced industries' relative position and pace of progress on key indicators of innovation**

Industry	Position vs. World Leaders	Pace of Progress
Robotics	● Near	● Rapid
Chemicals	● Lagging	● Rapid
Nuclear Power	● Ahead	● Rapid
Electric Vehicles/Batteries	● At Par	● Rapid
Machine Tools	● Lagging	● Rapid
Biopharmaceuticals	● Lagging	● Rapid
Semiconductors	● Lagging	● Modest
Artificial Intelligence	● Near	● Rapid
Quantum	● Near	● Modest
Display Technology	● Near	● Rapid

Source: CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

The notion of cooperation with the CCP, according to Dr. Atkinson, is a false promise “dangled by the CCP to extract concessions from the United States.”<sup>78</sup> According to Dr. Atkinson, cooperation with the CCP is often futile because the regime is often the perpetrator of the very problems the United States seeks to address. He provided several examples, including limiting export controls in exchange for climate cooperation as well as counterproductive cooperation on illegal narcotics such as fentanyl, human rights, and infectious diseases.<sup>79</sup> Dr. Atkinson highlighted agencies’ failures, saying that “federal agencies have turned a blind eye”<sup>80</sup> to the CCP threat, but commended the Committee for its “important efforts to better understand what U.S. government agencies are doing to understand and respond to the techno-economic

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>79</sup> *Id.*

<sup>80</sup> CCP Political Warfare Hearing III (testimony of Dr. Atkinson)



challenge China presents.”<sup>81</sup> According to Dr. Atkinson, “There is widespread denial of the nature of the China challenge.”<sup>82</sup> To correct course, Dr. Atkinson recommended the following:

- Each agency should create an internal plan and strategy to understand and address the CCP threat in relation to the specific areas they oversee.<sup>83</sup>
- A National Competitiveness Council (NCC) should be created within the White House, and the council should “lead the formation of an all-of-government China strategy wherein each major agency develops an approach to deal with China.”<sup>84</sup> The NCC “would assess Chinese policies designed to erode U.S. advanced-industry leadership” and “identify key sectors needed for U.S. leadership and organize a whole-of-government approach to advance that on the sectoral level (e.g., semiconductors, biopharmaceuticals, aerospace, autonomous systems, AI, etc.).”<sup>85</sup> It “should be staffed not by economists who focus principally on price-mediated markets, but rather by ‘productionists’—analysts who have a deep understanding of firm, industry, and technology dynamics.”<sup>86</sup>
- “Congress needs to take the lead in putting in place a much more robust advanced-industry competitiveness strategy,” and this strategy should be “multifaceted” and include a “more robust R&D tax credit,” among other things.<sup>87</sup>
- “A government-wide training program to help government officials better understand Chinese technology policy.”<sup>88</sup>
- The Department of Justice and Federal Trade Commission “should develop a joint strategy for responding to China’s weaponized antitrust regime.”<sup>89</sup>

When asked whether or not “the average government agency is aware of the threat the CCP poses,”<sup>90</sup> all witnesses agreed that they were not; Mr. Stokes made an exception for national security and intelligence agencies.<sup>91</sup>

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<sup>81</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>82</sup> *Id.*

<sup>83</sup> CCP Political Warfare Hearing III (testimony of Dr. Atkinson) (“I think each agency needs to develop an internal plan and strategy and implementation of how they would see the CCP threat vis a vis the areas they cover as an agency”).

<sup>84</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> CCP Political Warfare Hearing III (statement of Chairman Comer).

<sup>91</sup> CCP Political Warfare Hearing III (testimony of all witnesses).

Mr. Stokes agreed with the majority’s witnesses that the PRC, “particularly under the rule of CCP General Secretary Xi Jinping, poses the most consequential challenge to American interests and values over the coming decades.”<sup>92</sup> In apparent recognition that no strategy currently exists, Mr. Stokes testified “we should forge an economic, financial, and trade strategy that ensures U.S. companies and workers compete in the global economy on a level playing field.”<sup>93</sup>

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<sup>92</sup> CCP Political Warfare Hearing III (written testimony of Mr. Stokes).

<sup>93</sup> *Id.*

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## II. The Impetus for the Committee’s Investigation

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### Federal Agencies Must Understand the CCP and the Political Warfare it is Waging.

The Committee began its investigation in the 118th Congress because of its concern about the CCP’s growing influence in the federal government that has weakened agencies’ resolve, focus, and competence.

Congress alerted federal agencies of CCP unrestricted warfare 25 years ago. In 1999, the U.S. House Select Committee on U.S. National Security and Military/Commercial Concerns with the People’s Republic of China found in what is commonly known as the “Cox Report,” for example, that *in the preceding two decades*, the PRC used a “variety of techniques including espionage, controlled commercial entities, and a network of individuals and organizations that engage in a vast array of contacts with scientists, business people and academics” as part of its warfare operations.<sup>94</sup> Nevertheless, the U.S government has failed to recognize and relay the direness of the CCP threat, so much so that the media ignores the growing examples of political, business, and cultural leaders that have been influenced by the CCP.

Officials responsible for securing and strengthening the many facets of America the CCP has infiltrated must understand what the CCP is, the strategies it employs to wage political warfare, and the key players and proxies used to advance the communist regime’s agenda. Without this foundational understanding—which can be attained without additional authorities or resources—federal agencies will fail Americans in this new cold war.

### America is the CCP’s “Main Enemy,” and it is Already at War with Us.

First, the Committee has sought to confirm that federal officials recognize the CCP’s declared goal: defeat the “main enemy,” which counterintelligence officials have identified as America.<sup>95</sup> Former Secretary of State Mike Pompeo has warned, “America can no longer ignore the fundamental political and ideological differences between our countries, just as the CCP has never ignored them.”<sup>96</sup> He has further explained, “[w]e must start by changing how our people and our partners perceive the Chinese Communist Party,” and “[w]e can’t treat this incarnation of China as a normal country, just like any other.”<sup>97</sup>

In its briefings with agencies and in hearings with witnesses, the Committee has made its expectation clear: those in charge must recognize the critical moment the United States faces. As Captain James Fanell, former Director of Intelligence and Information Operations for the U.S. Pacific Fleet, warned the Committee:

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<sup>94</sup> H.R. Rep. No. 105-851, at xxxiii (1999) (“Cox Report”); *see generally* Menges, China: The Gathering Threat.

<sup>95</sup> *See* CCP Political Warfare Hearing II (written testimony of Captain Fanell).

<sup>96</sup> Anthony S. Cordesman, *From Competition to Confrontation with China: The Major Shift in U.S. Policy*, Ctr. for Strategic and Int’l Studies, at 1 (Aug. 3, 2020) (quoting former Secretary of State Mike Pompeo).

<sup>97</sup> *Id.* (“We must admit a hard truth that should guide us in the years and decades to come, that if we want to have a free 21st century, and not the Chinese century of which Xi Jinping dreams, the old paradigm of blind engagement with China simply won’t get it done.”).

The U.S. is now in a new Cold War. The Sino-American security competition is the great struggle of the 21st century and promises to resolve the dispositive question of the age—whether the world will be free and protected by the U.S. or fall into a totalitarian abyss as sought by the PRC. The answer to this question will impact the lives of every American for generations.<sup>98</sup>

The CCP regularly uses its extensive influence in the global economy for its own purposes, covertly influencing foreign companies and governments toward its own ends. For example, the Belt and Road Initiative, the cornerstone of General Secretary Xi Jinping’s foreign policy and the CCP’s primary mechanism of economic statecraft, has been used by the CCP “to upset internationally established global regulatory and technical standards at the expense of the Western order.”<sup>99</sup> This strategy has ramifications for several federal agencies that are the subject of this investigation.

The false narrative of China’s peaceful rise has persisted since relations between the United States and China thawed in the 1970s—yet federal agencies have not taken responsibility for accepting this false narrative. To this day, the CCP’s propaganda apparatus continues to perpetuate and reinforce the narrative, leveling accusations of wrongdoing at the United States whenever it tries to combat the Party’s malign ambitions.<sup>100</sup> Despite the CCP’s open discussion about and aggressive use of political warfare,<sup>101</sup> it often goes largely undetected or unappreciated by U.S. intelligence.<sup>102</sup>

To confront the challenge, the Committee began its investigation hoping America’s leaders remember the CCP is hostile towards the United States for one reason: The CCP’s Marxist-Leninist ideology steers it on a course which, by design, must confront Western, capitalist states in order to remake the world in its communist image.<sup>103</sup> Even as the CCP has adopted the veneer of capitalism in its private sector, its ultimate goal remains the same: to “[u]phold the dictatorship of the Communist Party and eliminate capitalism to achieve communist society through class struggle and world revolution.”<sup>104</sup> In the words of General Secretary Xi, “capitalism is bound to die out and socialism is bound to win.”<sup>105</sup> Only one agency

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<sup>98</sup> CCP Political Warfare Hearing II (written testimony of Captain Fanell).

<sup>99</sup> Lt. Col. Daniel Lindley, *Assessing China’s Motives: How the Belt and Road Initiative Threatens US Interests*, Journal of Indo-Pacific Affairs, Air Univ. Press (Aug. 1, 2022); see also *infra*, Section III. S. U.S. Department of Transportation.

<sup>100</sup> E.g., *China accuses US of ‘bullying’ with new ‘illegal’ sanctions*, Associated Press (Feb. 27, 2023); Joe McDonald, *China accuses US of trying to block its development and demands that technology curbs be repealed*, Associated Press (Aug. 10, 2023).

<sup>101</sup> See Peter Mattis & Alex Joske, *The Third Magic Weapon: Reforming China’s United Front*, War on the Rocks (June 24, 2019) (“Mattis & Joske, *The Third Magic Weapon*”).

<sup>102</sup> Calder Walton, *China Has Been Waging a Decades-Long, All-Out Spy War*, Foreign Policy (Mar. 28, 2023).

<sup>103</sup> See James E. Fanell & Bradley A. Thayer, *Embracing Communist China, America’s Greatest Strategic Failure*, at 86-87 (2024) (“Fanell & Thayer, *Embracing Communist China, America’s Greatest Strategic Failure*”).

<sup>104</sup> Lianchao Han & Bradley A. Thayer, *Understanding the China Threat*, at 62 (2023) (“Han & Thayer, *Understanding the China Threat*”).

<sup>105</sup> *United States Strategic Approach to the People’s Republic of China*, Exec. Office of the President, at 4 (May 2020) (“2020 Strategic Approach to the PRC”) (last accessed Sept. 16, 2024).

in this investigation—the U.S. Department of Homeland Security (DHS)—expressed concern to the Committee about the dangers of communist ideology that fuel the CCP’s agenda.<sup>106</sup>

## A. Unrestricted and Other Forms of Warfare

### Federal Agencies Should Understand the CCP’s Radical Approach to Warfare.

The CCP engages in non-kinetic warfare that aims to degrade the enemy by any means, legal and illegal, not only to gain an advantage, but to debilitate and destroy the enemy. In essence, “the battlefield will be everywhere.”<sup>107</sup> Two foundational strategies of this kind are unrestricted warfare and disintegration warfare—which are used interchangeably and encompass many forms of warfare. These tactics originate from official sources in China. For example, CCP political warfare—a foundational tactic within the larger strategy of unrestricted/disintegration warfare—has been openly advanced by China’s People’s Liberation Army (PLA) in two publications.

In 1999, two PLA Air Force colonels authored *Unrestricted Warfare*, which has been described as a strategic military vision for the PRC to defeat America through political warfare.<sup>108</sup> However—despite being a central component of the Committee’s initial outreach to the agencies—not one federal agency spoke of *Unrestricted Warfare* (the book or the concept) when briefing the Committee about CCP political warfare. The authors of the book define unrestricted warfare as a “new form of war: Warfare which transcends all boundaries and limits.”<sup>109</sup> The authors state that “the first rule of unrestricted warfare is that there are no rules, with nothing forbidden.”<sup>110</sup> In this strategy, the CCP leaves no area of society untargeted for its manipulation and influence efforts.<sup>111</sup> General Rob Spalding, former Senior Director for Strategic Planning at the National Security Council, characterizes the book as “the main blueprint for China’s efforts to unseat America as the world’s economy, political, and ideological leader,” which “shows exactly how a totalitarian nation set out to dominate the West through a comprehensive, long-term strategy that includes everything from corporate sabotage to cyber warfare to dishonest diplomacy; from violations of international trade law and intellectual property law to calculated abuses of the global financial system.”<sup>112</sup>

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<sup>106</sup> Briefing from U.S. Dep’t of Homeland Sec. officials to Oversight & Accountability Committee staff (Aug. 29, 2024) (emphasizing the importance of understanding the significance of CCP ideology when countering CCP infiltration of U.S. critical infrastructure).

<sup>107</sup> Qiao Liang & Wang Xiangsu, *Unrestricted Warfare: China’s Master Plan to Destroy America*, at 12 (Beijing: PLA Lit. and Arts Pub. House, Feb. 1999) (military colonels describing twenty-four varieties of warfare) (“Liang & Xiangsu, *Unrestricted Warfare: China’s Master Plan to Destroy America*”).

<sup>108</sup> See Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting.”*

<sup>109</sup> Liang & Xiangsu, *Unrestricted Warfare: China’s Master Plan to Destroy America*, at 12.

<sup>110</sup> Précis: *Unrestricted Warfare*, *The Professional Journal of the U.S. Army* (Sept. – Oct. 2019) (quoting an interview translated by the U.S. Foreign Broadcast Information Service).

<sup>111</sup> See Liang & Xiangsu, *Unrestricted Warfare: China’s Master Plan to Destroy America*, at 146.

<sup>112</sup> Spalding, *War Without Rules*, at xii; see also Robert Spalding, *Stealth War*, at 12-13 (2019) (“Spalding, *Stealth War*”) (*Unrestricted Warfare* “should be required reading for all branches of the US government and for business leaders, because it outlines, in no uncertain terms, the strategy behind China’s policies,” including stating that the “new principles of war” are “no longer ‘using armed force to compel the enemy to submit to one’s will,’ but rather are ‘using all means, including armed force or non-armed force, military and non-military, and lethal and non-lethal means to compel the enemy to accept one’s interests.’”).

Kerry Gershaneck, former counterintelligence officer who wrote a book on combatting PRC Political Warfare, has explained that *Unrestricted Warfare* details CCP use of “any methods” where “the boundaries between war and non-war and between military and non-military affairs [have] systemically broken down.”<sup>113</sup> In addition, as academics at Johns Hopkins explain, “the chief characteristic of [unrestricted warfare] is unrestricted use of measures, not unrestricted strategies or objectives. Surprise and deception are often involved, as are integrated attacks to exploit more than one vulnerability of a conventionally stronger opponent.”<sup>114</sup>

In 2010, a PLA publisher issued *Disintegration Warfare* after the PLA International Relations Academy spent six years studying the topic.<sup>115</sup> This strategy—translated literally from Mandarin as “disintegrate the enemy work”—“has always been a key PLA mission and continues to be codified in the PLA’s ‘Political Work Regulations.’”<sup>116</sup> In defining disintegration warfare, Chinese military officials explain that it “consists of degrading the enemy’s resolve and impeding its mobilization capacity by sowing divisions within the enemy camp and wooing critical elements over to one’s own side.”<sup>117</sup>

Unrestricted/disintegration warfare encompass political warfare—a form of warfare that similarly employs non-kinetic tactics.<sup>118</sup> While unrestricted/disintegration warfare encapsulates all non-kinetic strategies and methods employed to destroy the enemy, **political warfare is an alternative to armed conflict, that specifically “seeks to influence emotions, motives, objective reasoning, and behavior of foreign governments, organizations, groups, and individuals in a manner favorable to [the PRC’s] own political-military-economic objectives.”**<sup>119</sup>

A State Department official had to ask the Committee to define political warfare during a briefing about CCP political warfare and the department’s response to it.<sup>120</sup> This incident apparently was not the first. At the Foreign Service Institute in Arlington, when Professor Gershaneck asked State Department officials about how they taught PRC political warfare, “they had no idea what [he] was talking about.”<sup>121</sup> When speaking to a DoD strategic communicator, the official also “was clearly unfamiliar with political warfare as a topic,” and they did not seem interested in pursuing the issue, according to Professor Gershaneck.<sup>122</sup>

Federal officials charged with advancing American interests vis-à-vis China must understand political warfare. It “is the employment of all the means at a nation’s command,

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<sup>113</sup> Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,”* at 16 (quoting Liang & Xiangsu, *Unrestricted Warfare: China’s Master Plan to Destroy America*, at 6-7).

<sup>114</sup> Ronald R. Luman, *Unrestricted Warfare Symposium*, Johns Hopkins University (Mar. 10-11, 2008).

<sup>115</sup> Fumio Ota, *Sun Tzu in Contemporary Chinese Strategy*, Joint Force Quarterly, at 76, 78 (Apr. 2014).

<sup>116</sup> Jacqueline N. Deal, *Disintegrating the Enemy: The PLA’s Info-Messaging*, 50 *The US Army War Coll. Quarterly: Parameters*, at 9 (2020) (quoting Mark Stokes & Russell Hsiao, *The People’s Liberation Army General Political Department: Political Warfare with Chinese Characteristics*, Project 2049 Institute (Oct. 14, 2013)).

<sup>117</sup> *Id.* at 6.

<sup>118</sup> See Newsham, *When China Attacks: A Warning to America*, at 49.

<sup>119</sup> Mark Stokes & Russell Hsiao, *The People’s Liberation Army General Political Department: Political Warfare with Chinese Characteristics*, Project 2049 Institute (Oct. 14, 2013) (emphasis added).

<sup>120</sup> See *infra*, Section III. R. Department of State.

<sup>121</sup> Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,”* at xv-xiv.

<sup>122</sup> *Id.* at xvi.

short of war, to achieve its national objectives.”<sup>123</sup> Historically used as a preface to kinetic action, political warfare “will support strategic deception operations designed to confuse or delay adversaries’ defensive actions until it is too late to effectively respond.”<sup>124</sup> Understanding the nuances of CCP political warfare is essential to defending America from the communist regime.

According to the CCP itself, the foundational forms of warfare are traditionally known as “The Three Warfares,” which form the foundation of PRC political warfare.<sup>125</sup> They “include public opinion/media warfare, psychological warfare, and legal warfare.”<sup>126</sup> The Three Warfares “require[] efforts to unify military and civilian thinking, divide the enemy into factions, weaken the enemy’s combat power, and organize legal offensives.”<sup>127</sup> These concepts should be familiar, if not fully integrated into the thinking of federal officials facing the cold war the CCP is waging against America.

While the Three Warfares are the foundation of PRC political warfare, the CCP wages many forms of warfare against communities across America—relevant to each of the 25 agencies the Committee has investigated thus far. Many of these types of warfare, which fall under unrestricted and disintegration warfare, are as follows:

<b>Military Category</b>	<b>Trans-military Category</b>	<b>Non-military Category</b>
Atomic warfare	Diplomatic warfare	Financial warfare
Conventional warfare	Network warfare	Trade warfare
Bio-chemical warfare	Intelligence warfare	Resources warfare
Ecological warfare	Psychological warfare	Economic aid warfare
Space warfare	Tactical warfare	Regulatory (Legal) warfare
Electronic warfare	Smuggling warfare	Sanction warfare
Guerrilla warfare	Drug warfare	Media warfare
Terrorist warfare	Virtual warfare (deterrence)	Ideological warfare

Source: Colonel Newsham, *When China Attacks: A Warning to America*, at 49 (2023).

These strategies highlight the CCP’s efforts to “undermine, subvert, and demoralize” America without having to actually fight.<sup>128</sup> The Party’s unrestricted warfare consist of “[a]ll measures short of actual violence by [the CCP’s] armed forces.”<sup>129</sup> The CCP combines and uses

<sup>123</sup> U.S. Dep’t of State, *Policy Planning Staff Memorandum* (May 4, 1948) (last accessed Sept. 16, 2024).

<sup>124</sup> Gershaneck, *China’s Second Battlefield*, *supra* note 3, at 159 (emphasis added).

<sup>125</sup> Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,”* at 15.

<sup>126</sup> *Id.*

<sup>127</sup> Elsa Kania, *China Brief: The PLA’s Latest Strategic Thinking on the Three Warfares*, Jamestown Found., at 12 (Aug. 22, 2016).

<sup>128</sup> *Id.* at 49.

<sup>129</sup> *Id.* at 50.

various political warfare strategies to “coerce, threaten, persuade, entice, deceive, embarrass, distract, and upset” America.<sup>130</sup>

### Chinese Companies Are Tools for the Party’s Destructive Ambitions.

While the Committee’s investigation has primarily involved engaging federal agencies about their responses to the CCP threat, any government-wide response to the CCP must include engaging all aspects of American society to resist CCP influence and infiltration. The CCP itself does not delineate between government and private spheres. Given the extent of Chinese influence in the U.S. economy, federal officials responsible for American economic security must recognize the risks of economic engagement with China and the nature of Chinese companies themselves. The U.S. Department of the Treasury (Treasury) admitted to the Committee that economic warfare, further described below as the CCP’s approach to stealing from and destroying America’s economy, is not in the Department’s lexicon.<sup>131</sup>

The federal government—as the Committee also emphasized in letters, briefings, and hearings—must appreciate that, despite the CCP’s efforts to maintain the façade of a free market economy, the opposite is true. As Mary Kissel, former Senior Advisor to Secretary of State Mike Pompeo, testified to the Committee “[t]here are no independent Chinese companies.”<sup>132</sup> As China pivoted away from explicitly state-owned enterprises in its civilian economy, the CCP began to require non-Party owned businesses to establish Party committees within their own ranks. For example, in 2018, the PRC mandated the establishment of Party committees for all companies listed on its domestic stock market.<sup>133</sup> Party organizations are present in over ninety percent of China’s 500 most valuable private companies.<sup>134</sup> Meanwhile, Chinese state-owned enterprises have come under increased Party control and have shifted their objectives towards non-market goals.<sup>135</sup>

The ramifications of these developments are not purely economic but also implicate national security. This is because the danger posed by the CCP is unlike any other past threat.<sup>136</sup> Dr. Atkinson testified to the Committee “[t]he challenge from the Soviet Union was military- and foreign-expansion-related, not techno-economic.”<sup>137</sup> In keeping with the CCP’s policy of subverting the civilian economy to its political ends, several Chinese corporations, both private and state-owned, have established militia units under the command of local PLA garrisons and Party officials from the ranks of their employees.<sup>138</sup> The long arm of the CCP reaches beyond even the Party committees and corporate militias. Under the PRC’s recently amended National Intelligence Law, corporations “whether they are state-owned or not, whether their CEO is a

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<sup>130</sup> *Id.*

<sup>131</sup> *See infra*, Section III. T. U.S. Department of the Treasury.

<sup>132</sup> CCP Political Warfare Hearing II (written testimony of Ms. Kissel) (emphasis added).

<sup>133</sup> Jude Blanchette, *Against Atrophy: Party Organizations in Private Firms*, *Made in China Journal* (Apr. 18, 2019).

<sup>134</sup> Jerome Doyon, *Party penetration deepens in China’s private sector*, *Asia Times* (Aug. 11, 2023).

<sup>135</sup> Wendy Leutert, *CPC Futures: The New Era of Socialism with Chinese Characteristics*, at 138 (Frank N. Pieke & Bert Hofman, eds., 2022).

<sup>136</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>137</sup> *Id.*

<sup>138</sup> Laura He, *Preparing for war, social unrest, or a new pandemic? Chinese companies are raising militias like it’s the 1970’s*, *CNN* (Feb. 21, 2024).



party member or not, or whether they are in the intelligence service or not – are obligated under Chinese law to pass on any and all information they collect to the Chinese government.”<sup>139</sup> These laws are a threat to U.S. national security because, as Dr. Atkinson explained to the Committee, “[m]ost large U.S. companies [] have considerable operations in China[.]”<sup>140</sup> Ambassador Cella explained to the Committee that the CCP’s National Intelligence Laws also apply to Chinese companies doing business in the United States or anywhere in the world, which require PRC nationals “to surveil, collect, and report as directed or voluntarily, and sometimes they [PRC Nationals] are paid for it.”<sup>141</sup> Importantly, Ambassador Cella testified that “there has been a complacency I think, profit making. I think we have been anesthetized. I think Wall Street is engaged, but I think we really need to be nimble, informed, and educated, whole of society, whole of government, and commensurate with the threat.”<sup>142</sup>

The CCP Persecutes its People and the Committee’s Investigation is Aimed at the Persecutor, Not the Chinese People. It is Not Racist to Criticize the CCP.

Having heard from experts about the extent of the CCP’s brutality against the people it comes to control, and its persecution of its own citizens in China—as well as Chinese people outside the PRC’s borders—the Committee has been motivated to move at a pace that is, unfortunately, not matched by the rest of the federal government. After decades of failing to recognize the CCP for what it is, federal leaders must now recognize, as Colonel Newsham, retired U.S. Marine Corps Colonel and former Intelligence and Foreign Service Officer, testified, “[t]he Chinese people are the greatest victims of the CCP’s oppression, both within China’s borders and without.”<sup>143</sup> The CCP’s apparatus permeates every level of Chinese society. From the highest echelons of “private” companies, to religion, and even overseas, the Party seeks to control the Chinese people across the globe.

The CCP has weaponized surveillance for repression and persecution of the Chinese people.<sup>144</sup> In line with the CCP’s attempts to influence the way people think about its power and legitimacy, “[t]he Chinese have spent lavishly to build out a massive surveillance system, that allows China to deploy its sophisticated network of population control [] to eliminate any possibility of an uprising against the regime.”<sup>145</sup> Targeting both urban and rural areas,<sup>146</sup> camera surveillance is only the tip of the iceberg when it comes to the CCP’s methods of surveillance and control. In conjunction with the cameras, the CCP uses “banking data, mobile payment apps, WeChat, Social Credit Score, third-generation national ID card, biometric info, Great Firewall, mobile phones, televisions and other surveillance hardware and software.”<sup>147</sup> The

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<sup>139</sup> Elaine K. Dezenski & David Rader, *The U.S. Must Combat CCP-Sanctioned Overseas Spying by Private Entities*, Found. for Defense of Democracies (Nov. 22, 2023).

<sup>140</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>141</sup> CCP Political Warfare Hearing III (testimony of Ambassador Cella).

<sup>142</sup> *Id.*

<sup>143</sup> CCP Political Warfare Hearing I (written testimony of Colonel Newsham).

<sup>144</sup> Bradley A. Thayer & Lianchao Han, *China’s weapon of mass surveillance is a human rights abuse*, The Hill (May 29, 2019).

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

Party has abolished all privacy for its citizens and stamped out the ability to dissent from or disagree with the CCP.<sup>148</sup>

Religious dissenters are subject to detainment, forced labor, and more abhorrent practices like torture and organ harvesting.<sup>149</sup> The Party is responsible for human rights abuses against the Uyghurs and other Muslims in the Xinjiang region.<sup>150</sup> According to a report from *Amnesty International*:

since early 2017, huge numbers of men and women from predominantly Muslim ethnic minorities in Xinjiang have been arbitrarily detained. They include hundreds of thousands who have been sent to prisons in addition to hundreds of thousands – perhaps even a million or more – who have been sent to internment camps.<sup>151</sup>

Secretary Pompeo declared that China’s “policies on Muslims and ethnic minorities in the western Xinjiang region constitute ‘crimes against humanity’ and a ‘genocide.’”<sup>152</sup> In addition, since 2016, religious organizations in China—particularly those deemed “foreign” by the CCP, like Christianity and Islam—have been subject to greater control by the Party than at any point since the end of the Cultural Revolution.<sup>153</sup> These circumstances should be top of mind for federal officials engaging with CCP officials.

The Committee has striven to make this division between the CCP and the Chinese people clear because the CCP has used the blurring of these concepts to its advantage. All federal officials should appreciate that the Chinese people are the greatest victims of the CCP’s oppression, both within China’s borders and abroad.

To do so, federal agencies must understand what China’s united front operations are. Detailed further below, the united front works on behalf of the Party to co-opt and neutralize sources of potential opposition to the policies and authority of the CCP<sup>154</sup>—and has successfully convinced sectors of the American public and government that speaking out against the Party’s covert influence operations and antagonism toward the United States is racist. In reality, the CCP intentionally targets people of Chinese descent living in the United States and abroad to advance its interests and reinforce its false narrative that the American government is biased against people of Chinese ethnicity.<sup>155</sup> Colonel Newsham testified, “[t]his extended reach of the

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<sup>148</sup> *Id.*

<sup>149</sup> Dezenski & Rader, *supra* note 139; U.S. Comm’n on Int’l Religious Freedom, 2024 Ann. Rep. China Chapter (2024), available at <https://www.uscirf.gov/sites/default/files/2024-05/China.pdf>. (last accessed Sept. 16, 2024).

<sup>150</sup> See Lindsay Maizland & Eleanor Albert, *The Chinese Communist Party*, Council on Foreign Relations (Oct. 6, 2022).

<sup>151</sup> Amnesty Int’l, News, *China: Draconian repression of Muslims in Xinjiang amounts to crimes against humanity*, (June 10, 2021) (“[h]undreds of thousands of Muslim minority men and women subjected to mass internment and torture, [m]illions of Muslims subjected to systematized mass surveillance, and Muslim ethnic groups forced to abandon their religious traditions, cultural practices and local languages.”).

<sup>152</sup> Matthew Lee, *Pompeo says China’s policies on Muslims amount to ‘genocide’*, Associated Press (Jan. 19, 2021).

<sup>153</sup> William Nee, *In China ‘Xi Jinping Thought’ Is the Only Accepted Religion*, The Diplomat (Aug. 17, 2021).

<sup>154</sup> See Alexander Bowe, *China’s Overseas United Front Work: Background and Implications for the United States*, U.S.-China Economic & Security Review Comm’n, at 3 (Aug. 24, 2018).

<sup>155</sup> *Id.*; see also *infra*, Section III. P. Department of Justice.

CCP, and its willingness to use its own people as pawns, is one of the reasons the biggest victims of the Chinese Communist Party are the Chinese people.”<sup>156</sup> In the words of General Rob Spalding, former Senior Director for Strategic Planning at the National Security Council, “[t]he Chinese Communist Party is separate and distinct from China and the Chinese people, and most importantly it represents a grave danger to the American people.”<sup>157</sup>

## B. United Front

### CCP United Front Operations Seek America’s Destruction.

United front work is a strategy through which the CCP seeks to influence the world’s political climate at large, consisting of “interference that aids the CCP’s rise and reduces resistance to its encroachment of sovereignty.”<sup>158</sup> It represents “the CCP’s vast political-influence ecosystem.”<sup>159</sup> The CCP uses united front work to help the Party “claim legitimacy, mobilise its supporters and manage perceived threats.”<sup>160</sup> It advances the CCP’s narrative by stifling criticism, spreading positive opinions about the Party, and incentivizing prominent leaders to influence policies in ways that are favorable to the Party.<sup>161</sup>

United front work has been described by General Secretary Xi as one of the CCP’s “magic weapons,” with the potential to “undermine the sovereignty and integrity of the political system of targeted states.”<sup>162</sup> The united front engages prominent individuals and groups in society to influence foreign and domestic policies, produce propaganda, and facilitate espionage for the communist regime.<sup>163</sup> United front work operations exert influence through Chinese Students and Scholars Associations (CSSAs) in higher education<sup>164</sup> and sister-city relationships at the state and local levels.<sup>165</sup> Ms. Kissel testified to the Committee that united front operations often “seem innocuous, and even friendly,” and are legal under current U.S. law, but warned they are an acceleration of Xi Jinping’s influence operations.<sup>166</sup>

Only one of 23 federal agencies that provided a briefing to the Committee mentioned the united front when briefing the Committee about CCP political warfare—despite the fact that the united front is one of the primary vehicles for these operations, which affect the authorities and purview of the entire federal government. United front work is carried out by a vast network—

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<sup>156</sup> CCP Political Warfare Hearing I (written testimony of Colonel Newsham).

<sup>157</sup> *The Final War: The 100 Year Plot to Defeat America*, at 45:36 (Epoch Times 2022).

<sup>158</sup> Alex Joske, *The party speaks for you: Foreign interference and the Chinese Communist Party’s united front system*, Austl. Strat. Pol’y Inst., at 19 (June 9, 2020) (“Joske, *The party speaks for you*”).

<sup>159</sup> The Editors, *Kathy Hochul’s Chinese Connection*, Nat’l Review (Sept. 5, 2024).

<sup>160</sup> Joske, *The party speaks for you*, *supra* note 158, at 5.

<sup>161</sup> *See* Bowe, *supra* note 154, at 6.

<sup>162</sup> Ann Marie-Brady, *Magic Weapons: China’s political influence activities under Xi Jinping*, Wilson Ctr., at 1 (Sept. 18, 2017) (“In September 2014 Xi Jinping gave a speech on the importance of united front work—political influence activities—calling it one of the CCP’s ‘magic weapons.’ The Chinese government’s foreign influence activities have accelerated under Xi.”).

<sup>163</sup> *See id.* at 3.

<sup>164</sup> *See infra*, Section III. M. U.S. Department of Education.

<sup>165</sup> *See infra*, Section III. R. U.S. Department of State.

<sup>166</sup> CCP Political Warfare Hearing II (testimony of Ms. Kissel).

including through the United Front Work Department (UFWD),<sup>167</sup> and Chinese intelligence services, including the Ministry of Public Security (MPS)<sup>168</sup> and the Ministry of State Security (MSS).<sup>169</sup>

#### Key terminology

The **United Front** (统一战线) is a coalition of groups and individuals working towards the CCP's goals.

**United front work** (统一战线工作) refers to the CCP's efforts to strengthen and expand the United Front by influencing and co-opting targets.

The **United Front Work Department** (中央统一战线工作部) is a ~~CCP~~ Central Committee department that coordinates and carries out united front work.

The **united front system** (统一战线系统 or 统一战线工作系统) is the grouping of agencies, social organisations, businesses, universities, research institutes and individuals carrying out united front work.

Source: Alex Joske, *The party speaks for you: Foreign interference and the Chinese Communist Party's united front system*, Austl. Strat. Pol'y Inst., at 6 (June 9, 2020).

United front work has been a core vehicle for influence since the CCP's inception. The efforts are coordinated by the UFWD,<sup>170</sup> but may be executed by the united front network more broadly and others connected to the CCP. The UFWD is used to build and wield power both at home and abroad. The UFWD oversees “a sprawling infrastructure of Party agencies, and organizations linked to the Party” and united front work “is the responsibility of every Party member.”<sup>171</sup> Professor Gershaneck has explained that “[e]very CCP agency is tasked with engaging in united front activities, as are all PRC government departments and local authorities.”<sup>172</sup> United front work is carried out abroad by a range of CCP military and civilian organizations, who either work for the UFWD or operate under its broader leadership.<sup>173</sup> The united front executes political warfare for the CCP and is expected to support the CCP in the event of war: “PRC-based businesses and foreign businesses affiliated with China’s state-owned enterprises and joint ventures will be engaged to support wartime objectives.”<sup>174</sup> Peter Mattis, President of the Jamestown Foundation and former CIA Counterintelligence Analyst, told the Committee that united front organizations “provide cover to conceal” the political influence

<sup>167</sup> The UFWD is “a CCP Central Committee department that coordinates and carries out united front work.” Joske, *The party speaks for you*, *supra* note 158, at 6.

<sup>168</sup> The Ministry of Public Security is the People’s Liberation Army’s intelligence department. See Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,”* at 120.

<sup>169</sup> The Ministry of State Security is “China’s civilian intelligence agency, [and] is involved in and benefits from united front work.” Joske, *The party speaks for you*, *supra* note 158, at 15.

<sup>170</sup> Bowe, *supra* note 154, at 3.

<sup>171</sup> Clive Hamilton & Mareike Ohlberg, *Hidden Hand: Exposing How the Chinese Communist Party Is Reshaping the World* (Melbourne, AU: Hardie Grant Books, 2020).

<sup>172</sup> Gershaneck, *China’s Second Battlefield*, *supra* note 3, at 153.

<sup>173</sup> Bowe, *supra* note 154, at 8 (“The broad swath of actors involved in [united front work] underlines that while certain organizations like the UFWD and CPPCC [Chinese People’s Political Consultative Conference] are explicitly involved in implementing United Front work, the strategy is a priority for the ‘whole Party.’”).

<sup>174</sup> Gershaneck, *China’s Second Battlefield*, *supra* note 3, at 153 (citing Simon Denyer, *Command and Control: China’s Communist Party Extends Reach into Foreign Companies*, Wash. Post (Jan. 28, 2018)).

work of CCP intelligence officers, and they monitor, mobilize, and control groups and individuals outside of the Party.<sup>175</sup>

In particular, united front work “damages U.S. interests through legal and illegal technology transfer, surveillance of Chinese diaspora communities, promotion of favorable narratives about the PRC through ostensibly independent voices, and the neutralization or harassment of critics of the CCP.”<sup>176</sup> Coined originally by the regime’s first party leader, Mao Zedong,<sup>177</sup> united front work presents a distinct challenge to the United States, as it is not so easily thwarted by traditional diplomacy, counterespionage, or policing. Mr. Mattis, in testifying to the Committee, stated: “[a]s Mao put it, ‘How do we mobilize our friends to isolate and strike at our enemies?’”<sup>178</sup>

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**“As Mao put it, ‘How do we mobilize our friends to isolate and strike at our enemies?’”**  
**– Peter Mattis, President, Jamestown Foundation**

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The united front’s overseas expansion is “an exportation of the CCP’s political system.”<sup>179</sup> The graph below shows the extensive network that the united front targets.

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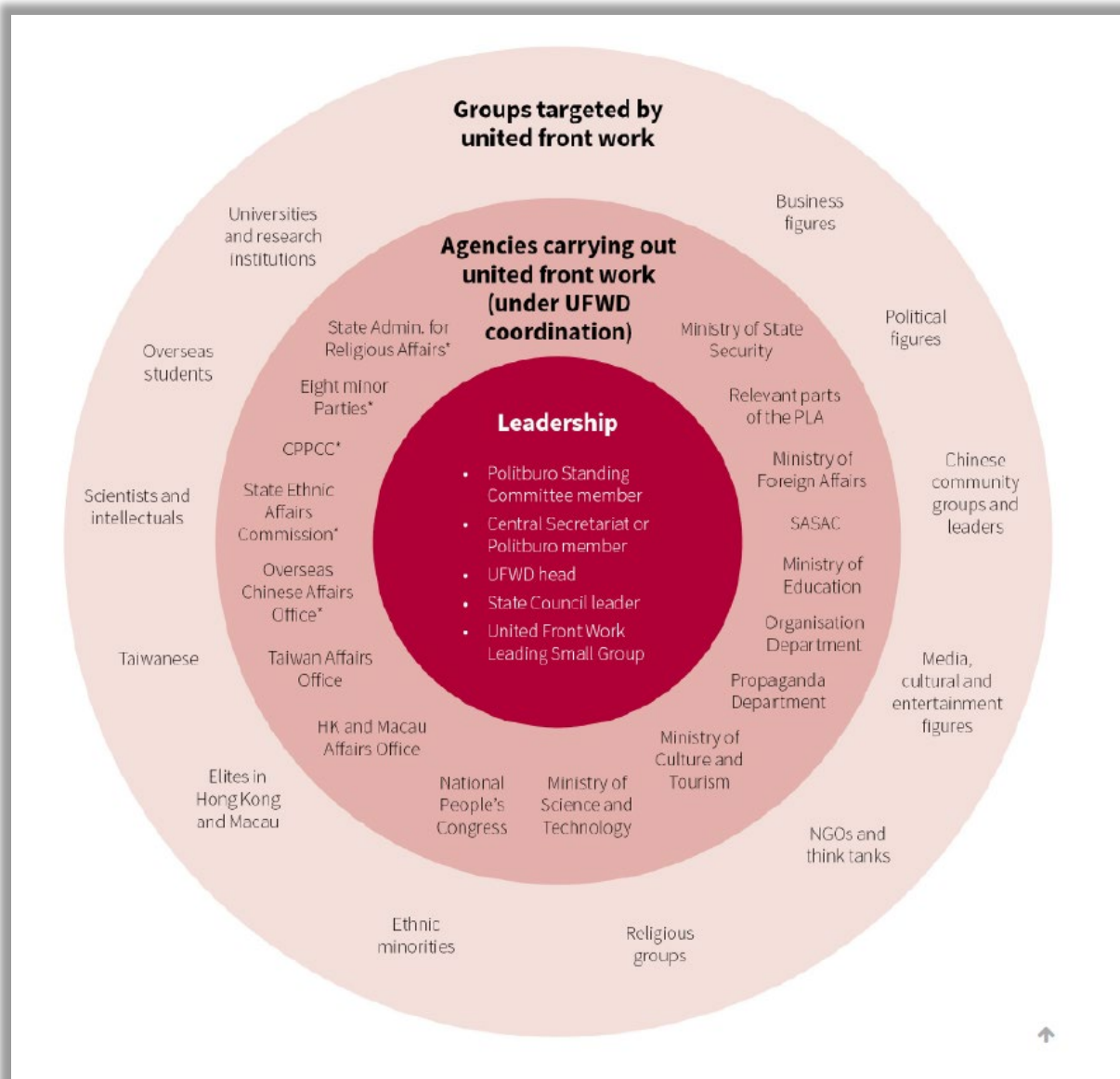
<sup>175</sup> CCP Political Warfare Hearing I (testimony of Mr. Mattis).

<sup>176</sup> H. Sel. Comm. on the Chinese Communist Party, *Memorandum: United Front 101*, at 2 (Nov. 27, 2023).

<sup>177</sup> Mattis & Joske, *The Third Magic Weapon*, *supra* note 101.

<sup>178</sup> CCP Political Warfare Hearing I (testimony of Mr. Mattis).

<sup>179</sup> Joske, *The party speaks for you*, *supra* note 158, at 6.



Source: Alex Joske, *The party speaks for you: Foreign interference and the Chinese Communist Party's united front system*, Austl. Strategic Pol'y Inst., at 9 (June 9, 2020).

General Secretary Xi has reorganized united front work efforts and centralized authority within the CCP to implement “greater coordination and strategic importance.”<sup>180</sup> As discussed throughout this report, united front work extends across all sectors and communities in America, including but not limited to business hubs such as Wall Street and Silicon Valley, think tanks, cultural institutions, state and local governments, and educational systems.

The U.S.-China Economic and Security Review Commission argues that, “[t]o effectively counter CCP influence operations, continued research and investigation is needed to further bring to light the activities of the United Front, its role in the CCP, how it operates, and its links to

<sup>180</sup> Mattis & Joske, *The Third Magic Weapon*, *supra* note 101.

other important CCP organs.”<sup>181</sup> Without a deep understanding of the risks united front work poses to America, federal agencies cannot safeguard the nation from the existential threat posed by the most dangerous foreign adversary, communist China.

## C. Elite Capture

Federal Agencies Must be Alert to CCP Elite Capture Threatening U.S. Leadership, Sovereignty, and Prosperity.

The CCP’s use of elite capture to wage political warfare against America is something federal officials should be particularly alert to—as agencies themselves have fallen prey to it. Elite capture seeks out “anybody of influence in society,” and co-opts these leaders to “do China’s bidding to further [the CCP’s] interests.”<sup>182</sup> General Spalding described elite capture as “the perfect strategy: promise your enemy short-term profits, and enlist them to help make your country the most powerful in the world.”<sup>183</sup> Chinese criminal organizations known as triads employ a “favorite technique” of elite capture, which involves “[p]ublic photographs of Triad figures with politicians.”<sup>184</sup> Further, the united front often executes CCP elite capture to promote the communist regime’s agenda.<sup>185</sup> The CCP recognizes that providing incentives, often monetary, to influential leaders will enhance and support the Party’s ideology on a global scale.

The CCP has long targeted elites to advance its interests and take favorable positions on “what matters most to Beijing.”<sup>186</sup> The CCP overlooks small “dings” on the communist regime, such as adverse comments about the CCP’s human rights abuses, *as long as* other CCP priorities are protected by elites.<sup>187</sup> The CCP wishes to protect priorities such as unfettered access to Western capital markets, unrestricted access to American technology, and little or no restrictions on the CCP’s ability to export goods to the United States.<sup>188</sup> Too many have turned a blind eye to the catastrophic consequences of doing business with the CCP for financial gain. General Spalding has explained that America’s “thirst for profits and [] inability to embrace long-term strategies that strengthen our nation” have simultaneously hurt America and helped the CCP.<sup>189</sup> Elites intertwined with the CCP have made massive profits by aiding the PRC’s rise, which fosters continued engagement with the CCP.<sup>190</sup>

When executing elite capture, the CCP often uses proxies to do the CCP’s bidding for it. The manipulation of proxies is “one of the most important vectors for the party’s influence

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<sup>181</sup> Bowe, *supra* note 154, at 20.

<sup>182</sup> Webinar, *Xi’s United Front: A Damage Assessment on the CCP’s “Elite Capture”*, The Comm. on the Present Danger: China (Aug. 22, 2024) (statement of Sam Faddis) (“Elite Capture Webinar”).

<sup>183</sup> Spalding, *Stealth War*, at 17.

<sup>184</sup> Edward Timperlake & William C. Triplett II, *Year of the Rat: How Bill Clinton Compromised U.S. Security for Chinese Cash*, at 90 (1998) (“Timperlake & Triplett II, *Year of the Rat: How Bill Clinton Compromised U.S. Security for Chinese Cash*”).

<sup>185</sup> *See supra*, Section II. B. United Front.

<sup>186</sup> *Elite Capture Webinar, supra* note 182 (statement of Peter Schweizer).

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> Spalding, *Stealth War*, at 33.

<sup>190</sup> *See* Fanell & Thayer, *Embracing Communist China, America’s Greatest Strategic Failure*, at 71.

abroad.”<sup>191</sup> Ms. Kissel testified to the Committee that elite capture tactics include the “organized activity of CCP directly linked and indirectly linked organizations to capture our elites, to convince them to work on behalf of the Party and the Party’s interests.”<sup>192</sup> CCP warfare is most effective when U.S. citizens, particularly agents of influence, do the work for the communist regime.<sup>193</sup> The CCP uses proxies, as depicted in the image below, to “weaponize the ‘revolving door’ between the public and private sector,” and elevate U.S. actors who are willing to prioritize cooperation with and promotion of the CCP.<sup>194</sup> Dr. Bradley Thayer, Founding Member of the Committee on the Present Danger: China, testified, about the CCP’s “waging [of] the world’s most successful political warfare campaign against the United States by making so many of the American elite partners with the Chinese Communist Party.”<sup>195</sup>

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<sup>191</sup> The U.S.-China Economic and Security Review Comm’n, *Hearing on China’s Global Influence and Interference Activities* (Mar. 23, 2023) (written testimony of Peter Mattis) (“USCC 2023 Hearing on China’s Global Influence”).

<sup>192</sup> CCP Political Warfare Hearing II (testimony of Ms. Kissel).

<sup>193</sup> Newsham, *When China Attacks: A Warning to America*, at 50.

<sup>194</sup> Letter from Rep. Mike Gallagher to Hon. Betsy DeVos, Sec’y, Dep’t of Educ. (Nov. 30, 2020).

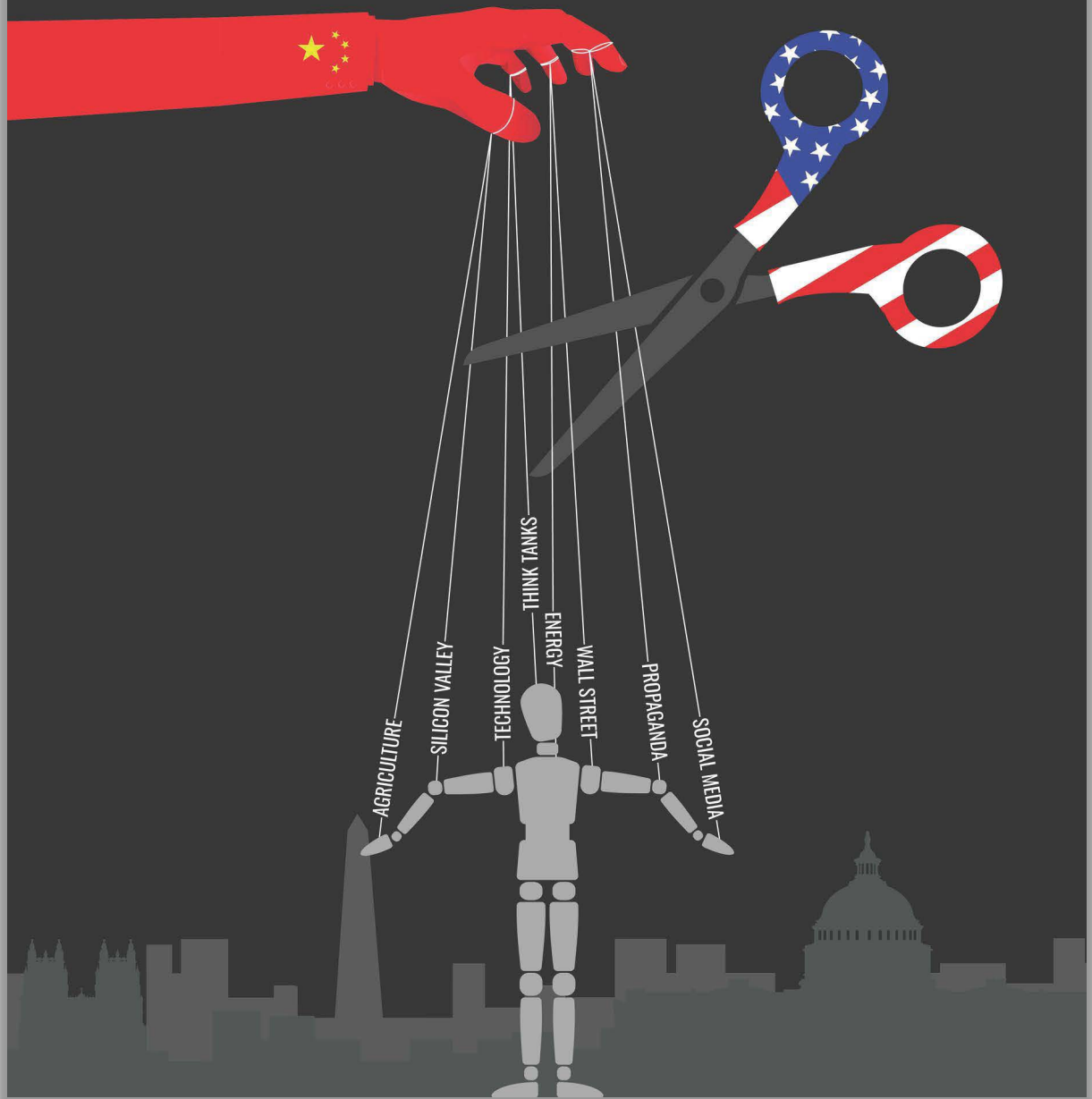
<sup>195</sup> CCP Political Warfare Hearing III (testimony of Dr. Thayer) (emphasis added).





# 'A War Without Weapons'

The CCP's Political Warfare & Influence Operations in the U.S.



The ties between the communist regime and agriculture, Silicon Valley, the tech world, think tanks, energy, Wall Street, the media, and more, need to be cut—the CCP should not have control over *any* American sector. Despite having been warned of this reality decades ago—when the Cox Report revealed that “[t]he PRC uses commercial and political contacts to advance its efforts to obtain U.S. military, as well as commercial, technology”<sup>196</sup>—federal agencies have failed to curb CCP elite capture.

Dr. Atkinson offered testimony to the Committee contrasting the access and influence the CCP has in America to the access and influences offered to the Soviets during the first Cold War. He pointed out that today, “we regularly hear of Chinese spies in various government posts”; CCP propaganda is readily available; and “think tank and university scholars who study China are dependent on access to China.”<sup>197</sup> Dr. Atkinson warns that elite capture fuels the CCP’s techno-economic threat, which is “fundamentally different than past challenges” to the United States.<sup>198</sup> When asked about who the CCP targets, Dr. Atkinson testified: “Pretty much all the elites.”<sup>199</sup>

Often, federal agencies are either unaware or unwilling to address the negative consequences of elite capture. The CCP uses elite capture to infiltrate businesses by using “human assets”—“people within organizations that can be recruited to steal IP, data, or whatever the [CCP] is targeting.”<sup>200</sup> Michael Casey, Director of the National Counterintelligence and Security Center (NCSC), has said he is “stunned by the number of companies that have no concept of their insider threat.”<sup>201</sup> Director Casey specifically said that “[l]eaders need to know what they would do if the worst thing happens.”<sup>202</sup> Federal agencies and CEOs should be sharing information regarding the CCP’s elite capture tactics with the American public and incentivizing little to no engagement with the PRC.

Even more troubling, top officials at federal agencies engage with the CCP in concerning and counterproductive ways. This engagement not only provides the CCP with an opportunity to influence American policy, but it also sends the wrong message to the American people about engaging with the communist regime. For example, the current Secretary of Commerce, Gina Raimondo, attended and spoke at a dinner, hosted in San Francisco by the National Committee on U.S.-China Relations (NCUSCR), in November 2023, which featured General Secretary Xi.<sup>203</sup> At the event, Xi spoke about the PRC’s alleged desire to “be a partner and friend to the United States,”<sup>204</sup> while influential American business executives in attendance honored Xi’s speech with a standing ovation.<sup>205</sup> NCUSCR reportedly charged thousands of dollars for entry

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<sup>196</sup> Cox Report, *supra* note 94, at xxxv.

<sup>197</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>198</sup> *Id.*

<sup>199</sup> CCP Political Warfare Hearing III (testimony of Dr. Atkinson).

<sup>200</sup> Susan Caminiti, *Chinese spies are targeting disgruntled workers within U.S. corporations, warns national counterintelligence head Michael Casey*, Microsoft (June 6, 2024).

<sup>201</sup> *Id.* (Director Casey also said that China is “by far the most prolific actor out there and the one coming after us across the board and in the hardest way possible.”).

<sup>202</sup> *Id.*

<sup>203</sup> See Events, A Reception and Dinner Honoring His Excellency President Xi Jinping, Nat’l Comm. on U.S.-China Relations (Nov. 15, 2023).

<sup>204</sup> Kenneth Rapoza, *In the U.S.’s Fight Against China, We’re at a Distinct Disadvantage*, Discourse (Jan. 3, 2024).

<sup>205</sup> *Id.*; Laura Silva Laughlin, *American CEOs serve China’s Xi a too-rich dessert*, Reuters (Nov. 17, 2023).

and tens of thousands for preferred seating at the event.<sup>206</sup> U.S. leaders sat at Xi’s table, including Secretary Raimondo and Nicholas Burns, U.S. Ambassador to China.<sup>207</sup>

Former Secretary of Commerce Carlos M. Gutierrez stated this year that he thinks China is “one of the most attractive markets in the world, if not the most attractive market in the world.”<sup>208</sup> Too many federal officials, past and present, encourage engagement and business with the communist regime, while even the Department of Justice (DOJ) has acknowledged that “[n]o company with significant business interest in China is immune from the coercive power of the [CCP].”<sup>209</sup> Ms. Kissel explained to the Committee that “[t]here are no independent Chinese companies,” and that the function of China “is to promote, strengthen, and expand the power, influence, and reach of the Chinese Communist Party.”<sup>210</sup>

For example, former Attorney General Loretta Lynch represents Shenzhen DJI Innovation Technology Co., Ltd. (DJI), which has faced serious government pressure and bans amid mounting national security concerns.<sup>211</sup> DJI is capable of collecting intelligence and conducting surveillance, which “poses a profound national security risk potentially providing the CCP with invaluable intelligence on critical American infrastructure.”<sup>212</sup> DJI reportedly controls over 70 percent of the global drone market, “perfectly illustrating the fusion of China’s economic ambitions with its strategic military buildup.”<sup>213</sup> Recent reporting shows that DJI has partnered with other robotics companies to use them as a “passthrough company in an attempt to avoid current and anticipated U.S. restrictions on DJI products.”<sup>214</sup> In 2023, former Attorney General Lynch reportedly asked the DOJ to remove DJI from the Pentagon’s list of Communist Chinese Military Companies (CCMC List).<sup>215</sup>

Federal agencies have important responsibilities to incentivize influential leaders in government, business, academia, and other elite circles to not yield to CCP elite capture efforts, which ultimately serve CCP interests over those of the American people. Many American elites have been complicit in CCP influence operations. In an effort to capitalize on PRC markets and boost business, American corporations “have increasingly supported Beijing’s military

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<sup>206</sup> Rapoza, *supra* note 204.

<sup>207</sup> *Id.*; Kate Plummer, *Full List of Business Leaders Said to Have Spent \$40K To Dine With Xi*, Newsweek (Nov. 16, 2023).

<sup>208</sup> *Former U.S. commerce secretary: Other countries will fill void if U.S. leaves China*, CGTN (Mar. 29, 2024).

<sup>209</sup> Press Release, Office of Public Affairs, U.S. Dep’t of Justice, *China-Based Executive at U.S. Telecommunications Company Charged with Disrupting Video Meetings Commemorating Tiananmen Square Massacre* (Dec. 18, 2020).

<sup>210</sup> CCP Political Warfare Hearing II (testimony of Ms. Kissel).

<sup>211</sup> Bruce Crumley, *DJI details efforts to avert the potential ‘\$116 billion economic impact’ of US blacklisting its drones*, DroneDJ (Mar. 12, 2024).

<sup>212</sup> Craig Singleton, *5 Things to Know About Chinese Drone Company DJI*, Found. for Defense of Democracies (June 12, 2024).

<sup>213</sup> *Id.*

<sup>214</sup> Letter from Rep. John Moolenaar, Chairman, H. Select Comm. on the CCP, to Randall Warnas, Chief Executive Officer, Anzu Robotics (Aug. 20, 2024).

<sup>215</sup> Michael Marina, *Exclusive: Former US official’s work for Chinese client stirs concern over disclosure loopholes*, Reuters (Mar. 11, 2024); *see also infra*, Section III. L. U.S. Department of Defense (describing CCMC List); Section III. Q. U.S. Department of the Navy (describing CCMC List).

modernization, surveillance state, domestic securitization, and attendant human rights violations.”<sup>216</sup>

## D. Narrative Dominance

### Federal Officials Must Expose CCP Narrative Dominance.

The CCP uses the united front, among other vehicles, to wage some of the most pernicious forms of CCP warfare—cognitive, information, and media warfare—all of which seek to advance the Party’s narrative in the cold war that it is waging against America. Cognitive warfare refers to “activities undertaken to manipulate environmental stimuli to control the mental states and behaviors of enemies as well as followers in both hot and cold wars.”<sup>217</sup> The PLA has focused on using cognitive warfare “to shape reality in a way favorable to China by influencing human judgment, changing ideas, and influencing the human mind through selective processing and propagation of information.”<sup>218</sup> To accomplish its goals in the media and public opinion arenas, the CCP uses various forms of cognitive warfare, including information and media warfare, which involve “overt and covert media manipulation to influence perceptions and attitudes.”<sup>219</sup> The CCP engages in information warfare through *narrative dominance*—a tactic by which the CCP coercively seeks to control the narrative surrounding the PRC and the CCP.<sup>220</sup>

Information warfare focuses on controlling the flow of information and includes areas such as intelligence-based warfare, psychological warfare, and cyber warfare,<sup>221</sup> particularly on the avenues through which information is disseminated, such as social media and news media.<sup>222</sup> Through information warfare, the CCP practices narrative dominance, which enables the Party to project a stronger presence on the global stage.<sup>223</sup> Ultimately, the CCP aims to give the world the impression that the PRC is a strong, well-run nation, capable of engaging in and bolstering the global economy and international relations.<sup>224</sup> The CCP seeks to achieve this goal through means such as disrupting foreign journalists’ freedoms and access to or ability to disseminate information in or about China,<sup>225</sup> infiltrating media outlets and social media platforms,<sup>226</sup>

<sup>216</sup> Victims of Communism Memorial Found., *Corporate Complicity Scorecard: An Assessment of U.S. Companies’ Exposure to Military Modernization, Surveillance, and Human Rights Violations in the People’s Republic of China*, Horizon Advisory Project (Feb. 3, 2022).

<sup>217</sup> Tzu-Chieh Hung & Tzu-Wei Hung, *How China’s Cognitive Warfare Works: A Frontline Perspective of Taiwan’s Anti-Disinformation Wars*, 7 J. of Global Sec. Studies 4, at 2 (July 19, 2022).

<sup>218</sup> Iida Masafumi, *China’s Chilling Cognitive Warfare Plans*, The Diplomat (May 5, 2024).

<sup>219</sup> Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,”* at 18.

<sup>220</sup> See Spalding, *Stealth War*, at 50; see also Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,”* at 6.

<sup>221</sup> Hung & Hung, *supra* note 217, at 2.

<sup>222</sup> See *id.*

<sup>223</sup> Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,”* at 17-19; see also U.S.-China Economic and Security Review Comm’n, 2023 Annual Report to Congress, at 233-34 (“USCC 2023 Annual Report”).

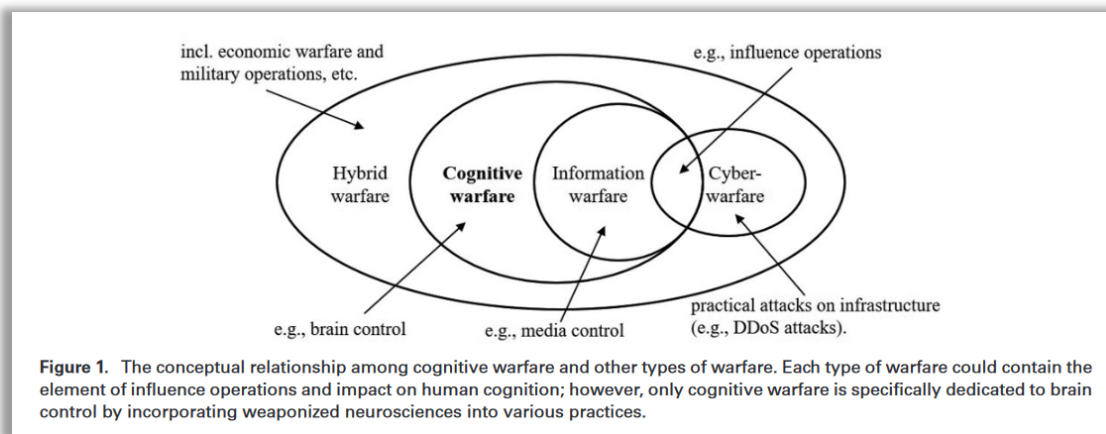
<sup>224</sup> USCC 2023 Annual Report, *supra* note 223, at 233-34; see also Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,”* at 7-8.

<sup>225</sup> Michael Pillsbury, *The Hundred-Year Marathon: China’s Secret Strategy to Replace America as the Global Superpower*, at 129-31 (2016).

<sup>226</sup> See Spalding, *Stealth War*, at 50; see also Joske, *The party speaks for you*, *supra* note 158, at 12 (“Several overseas Chinese-language media outlets are owned or controlled by the UFWD through China News Service,

silencing dissidents and critical voices,<sup>227</sup> and engaging in propaganda campaigns on American soil.<sup>228</sup>

CCP cognitive and psychological warfare executed through narrative dominance, such as propaganda campaigns, have been successful in the United States, including in the U.S. government. Specifically, agencies may acknowledge that China is a threat to the United States, but many agency actions do not have an appreciation for the fact that the China threat is existential, despite overwhelming evidence to the contrary uncovered in the Committee’s investigation and elsewhere. Agencies fail to take proactive measures to combat CCP political warfare when they prioritize, as DOJ has, avoiding race-based criticism over effective enforcement of national security laws,<sup>229</sup> or prioritize, as the U.S. Department of State (State Department) has, diplomacy over honest and aggressive strategic discourse with this authoritarian regime.<sup>230</sup> These examples demonstrate CCP psychological warfare tactics and successes in real time, and these represent just one facet of American life the Party has infiltrated.<sup>231</sup> These successful warfare tactics are widespread and alarming.



Source: Tzu-Chieh Hung & Tzu-Wei Hung, *How China’s Cognitive Warfare Works: A Frontline Perspective of Taiwan’s Anti-Disinformation Wars*, 7 J. of Global Sec. Studies 4, at 3 (July 19, 2022).

including Qiaobao [] in the US . . . At least 26 WeChat accounts run by nine Chinese media outlets are in fact registered to a subsidiary of China News Service.”).

<sup>227</sup> See USCC 2023 Annual Report, *supra* note 223.

<sup>228</sup> See Spalding, *Stealth War*, at 50.

<sup>229</sup> See *generally infra*, Section III. P. U.S. Department of Justice; “Parroting those CCP talking points function to downplay or excuse threats posed by the People’s Republic of China, and to justify inaction, lethargy or compliance in the face of outrageous, inhumane CCP behavior. It’s all part of being conditioned to think the PRC is not a threat or cannot or should not be resisted, as that will only make things worse.” CCP Political Warfare Hearing I (written testimony of Colonel Newsham).

<sup>230</sup> See *generally infra*, Section III. R. U.S. Department of State; *see also* CCP Political Warfare Hearing II (testimony of Ms. Kissel); *see also* CCP Political Warfare Hearing II (written testimony of Captain Fanell) (describing Department of the Navy and defense leaders admonishing Captain Fanell for speaking honestly about the PRC threat: “It was irrelevant that my remarks were fact-based, and had been approved in advance, I had contradicted the unwritten policy of “not provoking” the PRC. Within a few months I was fired.”).

<sup>231</sup> “Psychological warfare is arguably the most important of the political warfare techniques. Chinese psychological warfare seeks to change an opponent’s thinking and behavior in a way that is favorable to PRC interests and objectives. It aims to weaken the opponent’s will and ability to resist through non-kinetic means.” CCP Political Warfare Hearing I (written testimony of Colonel Newsham).

For example, the “peaceful rise of China” narrative has been disseminated by the Ministry of State Security (MSS), the CCP’s intelligence agency focused on political influence operations abroad,<sup>232</sup> to “convince influential foreigners that China would rise peacefully and gradually liberalize” and these technological advances help to further MSS goals through effective influence operations and cognitive warfare.<sup>233</sup> These tactics enable the CCP to manipulate and influence the global understanding of the PRC and CCP, changing the way that people view the Party and its authoritarian regime.

On March 13, 2024, the Committee requested a briefing from the U.S. Agency for Global Media (USAGM) regarding the CCP’s destructive narrative dominance and information warfare tactics.<sup>234</sup> On April 9, 2024, USAGM provided a briefing attended by officials of Voice of America, Radio Free Asia, Open Technology Fund, and other senior agency officials.<sup>235</sup> The Committee sought to understand the ways in which USAGM approaches and confronts the PRC’s global cognitive warfare and narrative dominance tactics, how they are working to combat these tactics, and how they are protecting Americans from this form of global information warfare.<sup>236</sup>

While much of USAGM’s work is focused abroad, all federal agencies have duties to communicate with the American people about CCP narrative dominance schemes that threaten American discourse and security. The CCP controls the flow of information to, from, and within China, including to the global Chinese diaspora.<sup>237</sup> According to Colonel Newsham, “[t]he Chinese communists figured out a long time ago that you can enhance control over what people think by controlling what they read, hear, and learn. They did this in China but have been successful in the United States too.”<sup>238</sup>

USAGM confirmed to the Committee that the Party has managed to find ways to infiltrate both American media and independent, U.S.-based, Chinese-language media outlets.<sup>239</sup> The CCP has been able to do so through the united front; specifically, “[t]he UFWD commands substantial resources for propaganda efforts targeting the Chinese diaspora. It runs China News Service [], one of the CCP’s largest media networks, which has dozens of overseas bureaus.”<sup>240</sup> Even worse, American mainstream media outlets have also partnered with Chinese media and propaganda outlets to run their publications inside American newspapers.<sup>241</sup> However, despite

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<sup>232</sup> Zach Dorfman, *Alex Joske on China's Influence Operations Abroad*, The Brush Pass (Nov. 21, 2022).

<sup>233</sup> See generally Sean Durns, *How Spies Spread the Myth of China's Peaceful Rise*, The Nat'l Interest (Dec. 20, 2022).

<sup>234</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight and Accountability, to Amanda Bennett, Chief Exec. Officer, U.S. Agency for Global Media (Mar. 13, 2024) (“USAGM Letter”).

<sup>235</sup> Briefing from USAGM officials to Oversight & Accountability Committee staff (Apr. 9, 2024) (“USAGM Briefing”).

<sup>236</sup> See generally USAGM Letter.

<sup>237</sup> See 2020 Strategic Approach to the PRC, *supra* note 105.

<sup>238</sup> CCP Political Warfare Hearing I (written testimony of Colonel Newsham).

<sup>239</sup> USAGM Briefing (explaining that the CCP makes high dollar value ad buys in overseas media outlets).

<sup>240</sup> Joske, *The party speaks for you*, *supra* note 158, at 12.

<sup>241</sup> Mark Hemingway, *If Media Don't Want To Be Called Propagandists, They Need To Stop Publishing Chinese and Russian Propaganda*, The Federalist (June 20, 2019) (explaining that publications like the New York Times and The Washington Post allow Chinese media to occasionally include inserts into their newspapers, directly disseminating

American media outlets bolstering CCP propaganda, and that “PRC media entities, journalists, academics, and diplomats are free to operate in the United States, [] Beijing denies reciprocal access to American counterpart institutions and Officials,” disallowing a free exchange of information from the PRC to other areas of the world.<sup>242</sup> The free press in America allows the CCP to work freely and openly in the United States—something the CCP actively exploits, but the world does not have the same benefit in the PRC.

The CCP has also managed to control Chinese-language media in the United States, so the diaspora is not free from CCP propaganda, even on American soil. By purchasing controlling power of Chinese-language media outlets in the United States or placing Party-loyalists in positions of power in these same media groups, the CCP has been able to infiltrate media that directly speaks to the Chinese diaspora in America.<sup>243</sup> Once owned by critics of the authoritarian, communist regime, many of these diaspora-targeted media outlets have reversed course to spread propaganda that bolsters the Party and pro-Beijing sentiment.<sup>244</sup>

The Party also controls Chinese social media apps, such as WeChat and TikTok.<sup>245</sup> The Citizen Lab at the University of Toronto has determined that the CCP regularly engages in surveillance and censorship of both China-based and non-China-based users of the WeChat application.<sup>246</sup> This application is used by over one billion users in mainland China alone, plus the majority of the Chinese diaspora communities around the world, including in the United States.<sup>247</sup> Concerns about WeChat’s influence and censorship tactics are also shared with Tencent’s social media platform TikTok<sup>248</sup> because, regardless of what TikTok corporate leadership says, Chinese companies are never outside the reach of the Party.<sup>249</sup> The CCP uses its control over these apps to influence Chinese-language media accounts on these platforms. These apps also harvest user data while TikTok can also be used to “influence our thoughts and

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the CCP and disseminating their propaganda); *see also* Matt Schrader, *Friends and Enemies: A Framework for Understanding Chinese Political Interference in Democratic Countries*, Alliance for Securing Democracy, at 9 (Apr. 22, 2020) (explaining the roots and efficacy of the CCP’s global narrative dominance tactics).

<sup>242</sup> 2020 Strategic Approach to the PRC, *supra* note 105, at 6.

<sup>243</sup> *See* Alex Joske, *Spies and Lies: How China’s Greatest Covert Operations Fooled the World*, at 194 (2022) (“Joske, Spies and Lies: How China’s Greatest Covert Operations Fooled the World”).

<sup>244</sup> *See id.*

<sup>245</sup> *See e.g.*, Jeffrey Knockel, et al., *We Chat, They Watch: How international users unwittingly build up WeChat’s Chinese censorship apparatus*, The Citizen Lab, at 6 (2020) (Investigations into WeChat have shown that the CCP has a great deal of influence and control over the direction of the platform for both China-registered and non-China-registered accounts because of censorship laws in China.).

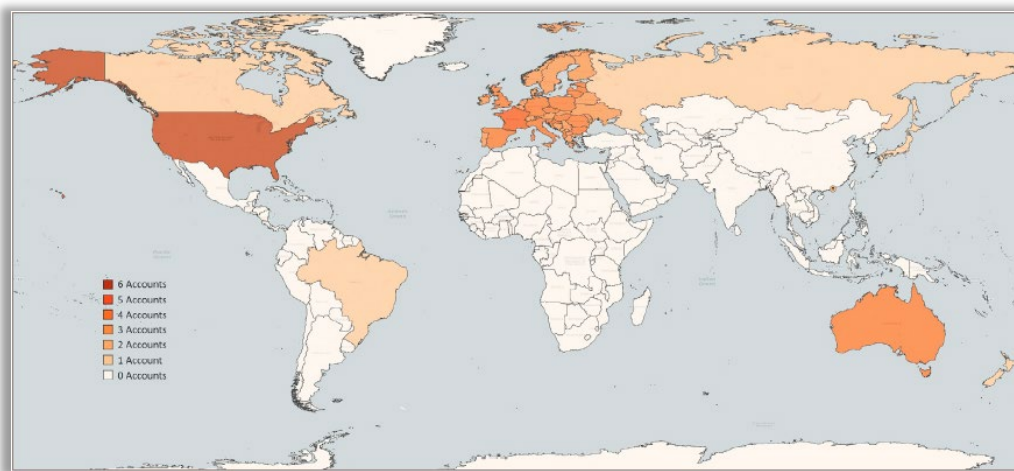
<sup>246</sup> *Id.*; *see also* Newsham, *When China Attacks: A Warning to America*, at 81-83.

<sup>247</sup> Knockel, et al., *supra* note 245, at 7.

<sup>248</sup> Brian Fung, *Analysis: There is now some public evidence that China viewed TikTok data*, CNN Business (June 8, 2023) (A former TikTok employee admitted in a court filing that CCP officials had “god credential” access to bypass privacy protections of TikTok data of Hong Kong protesters using the application.).

<sup>249</sup> In 2020, the Trump Administration released an executive order banning WeChat and TikTok because the U.S. government knew full well that user information could be captured by the applications, passed to the CCP, and used for insidious purposes. Newsham, *When China Attacks: A Warning to America*, at 82-83; *see also* Murray Scot Tanner, *Beijing’s New National Intelligence law: From Defense to Offense*, Lawfare (July 20, 2017) (explaining that Chinese national security laws put platforms like TikTok at risk of CCP infiltration and censorship due to the requirement to share data and information with the CCP).

behaviors by sowing distrust of our political system, encouraging partisanship and indoctrinating our younger generation with a CCP-oriented worldview.”<sup>250</sup>



At least 26 overseas Chinese-language media WeChat accounts are registered to a company that’s ultimately owned by the UFWD.

Source: Alex Joske, *The party speaks for you, Foreign interference and the Chinese Communist Party’s united front system*, Austl. Strat. Pol’y Inst., at 13 (June 9, 2020).

Federal agency leaders have not adequately warned the American people about the CCP’s efforts to impose its narrative dominance and media warfare in the United States through media outlets and social media platforms. This is apparent because the Party has been successful in its efforts to achieve narrative dominance in overseas Chinese communities.<sup>251</sup> These efforts have “proven so successful that the CCP now effectively enjoys a near-monopoly among” Chinese-language outlets abroad, and “it also seeks to control the mainstream media.”<sup>252</sup> It exploits American freedoms to propagandize in the United States, particularly the freedom of speech and a free press, then seeks to restrict with its own authoritarian agenda.<sup>253</sup>

According to USAGM,<sup>254</sup> recognized that the authoritarian CCP regime engages in global disinformation campaigns and narrative dominance tactics.<sup>255</sup> Expressing concern for the way that the communist regime is seeding manipulative content into international media, USAGM told the Committee that it seeks to counter CCP propaganda as the Party works with other adversarial regimes to export authoritarianism, including in the digital sector.<sup>256</sup> USAGM

<sup>250</sup> CCP Political Warfare Hearing I (written testimony of General Spalding).

<sup>251</sup> Gershaneck, *China’s Second Battlefield*, *supra* note 3, at 157-58.

<sup>252</sup> *Id.* at 157 (quoting David A. Gitter and Brock M. Erdahl, *Telling China’s Story Well: An Investigation into Chinese Influence Operations Targeting American Chinese-Language Media Outlets* (Washington, DC: Center for Advanced China Research, 2020), 4–7; and Charon and Vilmer, *Chinese Influence Operations*, 184–85.).

<sup>253</sup> Gershaneck, Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,” at 8-10, 24.

<sup>254</sup> The U.S. Agency for Global Media is a government agency created to “inform, engage, and connect people around the world in support of freedom and democracy.” It is made up of various entities that disseminate information to areas of the world where free and transparent media are at-risk or non-existent. *Mission*, U.S. Agency for Global Media (last accessed Sept. 16, 2024).

<sup>255</sup> USAGM Briefing.

<sup>256</sup> *Id.*



employs journalists focused on China and is working to counteract the aggressive measures the CCP has taken to promote narrative dominance on a global scale.<sup>257</sup>

USAGM told the Committee that it has developed a strategy to inform and engage the global Chinese diaspora by exporting American values in media and by reaching over 420 million people per week on their platforms, specifically to combat the CCP's Great Firewall.<sup>258</sup> The Great Firewall is China's internet censorship apparatus that the MPS launched to censor and surveil its people, giving the Party a foothold in restricting content on the internet, but also helps

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**“The Great Firewall is a dystopian censorship regime designed to advance near-total societal control over the Chinese people. With an army of censors boosted by artificial intelligence and the assistance of cutting-edge technology, it monitors all information and expression within China, enabling the CCP to rapidly stamp out unapproved speech, while referring violations to the police.”**  
– Rep. John Moolenaar

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the Party to identify individuals and their personal information.<sup>259</sup> While USAGM explained that it strives to reach those behind China's Great Firewall through technological advances and efforts,<sup>260</sup> there is more that can be done across the U.S. government and in the media to combat the effects of the totalitarian regime's censorship and warfare tactics.<sup>261</sup>

American legislators have called on General Secretary Xi to “tear down his firewall” and emphasize the importance of transparency about the CCP in America to combat the overflow effects of CCP censorship and their widespread propaganda campaigns.<sup>262</sup>

It is vital that federal officials prioritize truthful and transparent communication about the CCP, its oppression of the Chinese people,

and unrestricted warfare against America. The failure to accurately portray the CCP undercuts America's ability to defend itself in a kinetic warfare situation.<sup>263</sup> Media tends to tamp down reporting about the PRC because of the fear of being seen as racist or xenophobic or angering a country with a large audience subjected to censorship.<sup>264</sup> As Colonel Newsham testified to the Committee: “Indeed, the PRC's psychological warfare against the United States has been much easier and effective because American media – especially corporate houses with interests in China – largely averted their gaze or tried to give the Chinese Communist Party the benefit of the doubt for far too long.”<sup>265</sup>

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<sup>257</sup> *Id.*

<sup>258</sup> *Id.* (this number is the global scale, around 60 million of which are accessing USAGM platforms through VPNs in China, to get around the Great Firewall).

<sup>259</sup> Yaqiu Wang, *In China, the 'Great Firewall' Is Changing a Generation*, Politico (Sept. 1, 2020).

<sup>260</sup> USAGM Briefing.

<sup>261</sup> *Id.*

<sup>262</sup> John Moolenaar, *Mr. Xi, Tear Down This Firewall*, Newsweek (July 22, 2024).

<sup>263</sup> Gershaneck, *Political Warfare: Strategies for Combating China's Plan to “Win without Fighting”*, at 5.

<sup>264</sup> CCP Political Warfare Hearing I (testimony of Colonel Newsham).

<sup>265</sup> CCP Political Warfare Hearing I (written testimony of Colonel Newsham).

Federal officials should expose CCP efforts to infiltrate U.S. media and public discourse so the American people are aware of the origin of such propaganda. Yet, the only federal agency that expressed concern to the Committee about—or mentioned any plans to counter—CCP cognitive, information, and media warfare was USAGM, whose responsibilities largely fall outside of U.S. borders. The entire federal government should be keenly aware of communist China’s concerted plans to influence how Americans and people around the world perceive the CCP *and* America. This understanding should inform a government-wide strategy to counter CCP unrestricted warfare.

## E. Protecting the Chinese Diaspora

### Federal Agencies Must Protect Chinese Diaspora Communities Targeted by the CCP and United Front on American Soil.

The CCP actively targets Chinese diaspora communities around the world. The CCP directs activities “at diaspora communities, [seeking] to co-opt, control and install community leaders, community groups, business associations and media. . . . Combined with the party’s surveillance and censorship of the Chinese social media app WeChat, this has smothered independent Chinese media outlets and community groups.”<sup>266</sup> It is evident that federal officials have insufficiently protected Chinese Americans from CCP targeting despite isolated prosecutions from the DOJ.

The UFWD, the MPS, a CCP intelligence agency focused on counterintelligence and political security,<sup>267</sup> the MSS, a CCP intelligence agency focused on political influence operations abroad,<sup>268</sup> and other CCP government agencies engage in operations against those whom the Party views as belonging to China and, by extension, the CCP.<sup>269</sup> Through its official departments and unofficial united front network, the CCP seeks to co-opt the Chinese diaspora into working on the Party’s behalf—performing tasks in violation of U.S. and international law—and suppresses people who dare to speak out against the Party.<sup>270</sup> Because the CCP considers “increased exposure to foreign ideas” a threat to the Party’s authoritarian rule, the diaspora is a prime target of its propaganda and campaigns of control, enabling the communist regime to rally support and legitimize its rule on foreign soil, while giving it plausible deniability.<sup>271</sup> The scope of united front work is “constantly evolving to reflect the CCP’s global ambitions, assessments of internal threats to its security, and the evolution of Chinese society,” which includes increasing the CCP’s political influence, interference in the Chinese diaspora, suppression of dissident movements, intelligence gathering, investment encouragement in China, and technology transfer.<sup>272</sup>

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<sup>266</sup> Joske, *The party speaks for you*, *supra* note 158, at 20.

<sup>267</sup> Alex Joske, *Secret police: The Ministry of Public Security’s clandestine foreign operations*, Sinopsis (Jan. 25, 2022).

<sup>268</sup> Zach Dorfman, *Alex Joske on China’s Influence Operations Abroad*, Brush Pass (Nov. 21, 2022).

<sup>269</sup> Oscar Almen, *The CCP and the Diaspora*, Indo-Pac. Defense Forum (May 17, 2021) (“China does not recognize dual nationality . . . all foreign nationals with Chinese heritage, regardless of how many generations ago their families left China, can potentially be included in the CCP’s idea of the Chinese nation.”).

<sup>270</sup> *Id.*

<sup>271</sup> Audrye Wong, *The Diaspora and China’s Foreign Influence Activities*, Wilson Cent., at 614, 624-625 (2022).

<sup>272</sup> Joske, *The party speaks for you*, *supra* note 158, at 7.

The CCP’s definition of who qualifies as part of the Chinese diaspora is fluid. Yaqiu Wang, Research Director for China at Freedom House, has explained that who is considered “Chinese” depends on what the Party needs and can acquire from a particular individual.<sup>273</sup> Federal agencies should protect these communities from these tactics. It is critical that federal officials view Chinese Americans as “assets in reaching out to diaspora communities and addressing issues of concern” to avoid sowing ethnic divisions between the diaspora communities and the host country.<sup>274</sup>

As Colonel Newsham testified to the Committee:

[I]t is important to remember that the People’s Republic of China (PRC) doesn’t operate like other countries, including what it expects of its citizens. Beijing expects them to be useful to the state when required, no matter their location. . . . [the] extended reach of the CCP, and its willingness to use its own people as pawns, is one of the reasons the biggest victims of the Chinese Communist Party are the Chinese people.<sup>275</sup>

The CCP is aggressive in its exercise of transnational repression and its claim to the Chinese diaspora on American soil. However, federal agencies and officials can help the diaspora community and mitigate CCP influence operations against them. The CCP attempts to harass Chinese nationals that flee the CCP regime.<sup>276</sup> A dissident told Committee staff that they were aware of a diaspora member who attended an event in the United States, had their picture taken, were put under surveillance, and then approached and told to stop speaking negatively about the CCP. The Party can target family members in China and detain them, or worse.<sup>277</sup> By engaging with members of the diaspora (or others that understand their community) and conducting effective outreach to these communities around the United States, federal officials can encourage the diaspora to report suspicious behavior, while helping ease this community’s fear of law enforcement. It is incumbent upon leadership within federal agencies to find ways to reach these communities and protect them from being targeted by the CCP.

As described above, one of the most pervasive ways the CCP has interfered in America and in American Chinese diaspora communities is through U.S.-based, Chinese-language media outlets.<sup>278</sup> Unfortunately, “[o]ver the course of the last decade, most of the independent Chinese-language media outlets in the United States have been taken over by businessmen sympathetic to

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<sup>273</sup> Yaqiu Wang (@YaqiuWang), X (June 8, 2024, 11:44 PM), <https://x.com/Yaqiu/status/1799648688505295331>.

<sup>274</sup> Wong, *supra* note 271, at 608-09.

<sup>275</sup> CCP Political Warfare Hearing II (written testimony of Colonel Newsham).

<sup>276</sup> See e.g., Greg Fay, *Repression Across Borders: The CCP’s Illegal Harassment and Coercion of Uyghur Americans*, Uyghur Human Rights Project (Aug. 2019) (describing how the oppression of the Uyghurs in China and Turkmenistan flows over into the lives of their relatives and friends in the United States).

<sup>277</sup> *Id.*

<sup>278</sup> See Joske, *The party speaks for you*, *supra* note 158, at 12-13.

the PRC.”<sup>279</sup> It has been reported that Duowei, BackChina, and other U.S.-based, Chinese-language media groups have slowly been purchased and infiltrated by pro-PRC businessmen, changing the once independent reporting to portray the PRC and CCP in a more favorable light.<sup>280</sup> A dissident told the Committee that they could not think of a single Chinese-language newspaper in the United States that had not been infiltrated by the CCP—and that even mainstream media caters to Beijing.

Alex Joske, a Chinese-Australian author, sinologist, open-source intelligence researcher, and risk consultant who investigates the CCP, has made several strong recommendations about how to support and engage Chinese diaspora communities, including protecting independent Chinese-language media and Chinese social media platforms from infiltration by pro-CCP leadership.<sup>281</sup> Federal agencies can combat attempts by pro-CCP players to take over these media outlets, guaranteeing fair and transparent reporting to the Chinese diaspora communities by awarding grants to independent Chinese-language media, placing government notices in these media outlets to provide advertising funding, and establishing scholarships for Chinese students to study journalism.<sup>282</sup> These efforts can be further strengthened by supporting those same local news outlets by publishing articles in U.S.-based, Chinese language newspapers, as well as republishing Hong Kong and Taiwan-based news articles in Mandarin for the U.S.-based diaspora communities.<sup>283</sup>

Mr. Joske notes that one of the most effective ways to combat united front work is for governments to engage ethnic Chinese communities.<sup>284</sup> By doing so, federal agencies can combat the united front’s efforts to subvert the American way of life for Chinese communities in the United States.<sup>285</sup> Mr. Joske argues that “[e]ffective efforts to counter foreign interference are essential to protect genuine participation in politics by ethnic Chinese citizens[,]” thereby protecting three-fold: the diaspora communities, the American political system, and our national security.<sup>286</sup> Implementing related reporting mechanisms will allow law enforcement officers, who should be trained about CCP political warfare tactics, to respond to reports from victims of harassment, stalking, and intimidation in a swift and appropriate manner.<sup>287</sup> These efforts can then be bolstered by public officials amplifying outreach and engagement to these groups within their respective communities.<sup>288</sup>

As the CCP is waging political warfare against the United States—and specifically targeting Chinese Americans—federal agencies should engage and protect Chinese diaspora communities. Whether by protecting freedom of speech on Chinese social media platforms,

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<sup>279</sup> Larry Diamond & Orville Schell, *China’s Influence & America’s Interests: Promoting Constructive Vigilance*, Hoover Institution, at 214 (2019) (“Diamond & Schell, *China’s Influence & America’s Interests: Promoting Constructive Vigilance*”).

<sup>280</sup> *Id.*

<sup>281</sup> Joske, *The party speaks for you*, *supra* note 158, at 32.

<sup>282</sup> *Id.*

<sup>283</sup> *Id.*

<sup>284</sup> *Id.*

<sup>285</sup> *Id.* at 20.

<sup>286</sup> *Id.* at 31.

<sup>287</sup> *Id.* at 32.

<sup>288</sup> *Id.*

independent, Chinese-language media, or through political activism and community engagement, federal officials can encourage these communities to take part in and embrace their American civil rights, obligations, and freedoms.

As detailed in the following assessment of federal agencies surveyed in this government-wide investigation, the Committee has found that no federal agency is sufficiently prepared to counter and defeat CCP unrestricted warfare—in whatever form is manifests.

### Committee Recommendations

- Support and protect independent, Chinese-language media outlets in the United States, allowing truthful and transparent reporting about the PRC and CCP to reach the Chinese diaspora in the United States.<sup>289</sup>
  - “Place government notices in independent Chinese-language media outlets as a way to provide advertising funding to them.”<sup>290</sup>
  - Encourage these outlets to republish articles in Hong Kong and Taiwan in Mandarin.<sup>291</sup>
- Support and protect freedom of speech for Chinese diaspora communities on social media platforms.<sup>292</sup>
- “Impose penalties for transgressions by Chinese officials.”<sup>293</sup> Federal officials should respond publicly when CCP officials, including Chinese diplomats in the United States, intimidate, or otherwise pressure local journalists and commentators.<sup>294</sup> Agencies should “issu[e] public statements of concern or diplomatic rebukes,” or in severe cases, deny visa requests.<sup>295</sup>
- “Increase Chinese-language capacity in federal agencies” as “it has become clear that there is a need for Mandarin language skills, including in key offices handling China-related issues.”<sup>296</sup>
- Engage ethnic Chinese communities and encourage civil engagement in their communities to bolster the voter population.<sup>297</sup>
- Encourage politicians and public officials to amply outreach to these communities in their areas of responsibility, being mindful of distinctions between ethnic Chinese communities, Chinese citizens, and the CCP.<sup>298</sup>

<sup>289</sup> Joske, *The party speaks for you*, *supra* note 158, at 32.

<sup>290</sup> *Id.*

<sup>291</sup> *Id.*

<sup>292</sup> *Id.*

<sup>293</sup> USCC 2023 Hearing on China’s Global Influence, *supra* note 191 (written testimony of Sarah Cook).

<sup>294</sup> *Id.*

<sup>295</sup> *Id.*

<sup>296</sup> *Id.*

<sup>297</sup> Joske, *The party speaks for you*, *supra* note 158, at 32.

<sup>298</sup> *Id.*

- Encourage political activism, community engagement, and the development of Chinese community groups amongst the diaspora communities that are free from interference by the CCP.<sup>299</sup>
- Protect Chinese diaspora communities by creating reporting mechanisms for victims of CCP harassment, stalking, and intimidation.<sup>300</sup>
  - Train local, state, and national law enforcement on CCP warfare tactics and how to combat them in communities.<sup>301</sup>
  - “Security, migration and homeland affairs agencies should hold workshops and produce targeted, multilingual informational materials on interference.”<sup>302</sup>

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<sup>299</sup> *Id.*

<sup>300</sup> *Id.*

<sup>301</sup> *Id.*

<sup>302</sup> *Id.*

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### III. Committee Findings: Performance of Federal Agencies in Protecting Americans from CCP Unrestricted Warfare

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The Committee’s government-wide investigation revealed serious deficiencies in federal agencies’ strategies, depth-of-knowledge, and communication with the American people about the threat that CCP unrestricted and political warfare poses in communities and sectors across the country. There are notable (yet minimal) exceptions. The Committee’s findings are detailed in this section, and each agency has been evaluated based on criteria established by the Committee to assess its readiness and willingness to confront the CCP. The criteria below have been used to assign agencies scores reflecting their response to CCP unrestricted, political, economic or other relevant form of warfare(s).

Nothing in this report should be construed to suggest that federal agencies must expand their authorities or receive additional appropriations from Congress in order to protect Americans from CCP infiltration and influence operations. The federal government already has great power, vast authorities, and significant resources—which, if wielded appropriately and put to proper use—allows it to implement the recommendations made herein.

<b>GRADING CRITERIA</b>			
<b>Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare</b>	<p>The agency has developed and implemented a strong and proactive strategy addressing various facets of CCP's unrestricted and political warfare (or other relevant form(s) of warfare). The strategy includes clear objectives, well-defined metrics, and effective communication plans. The agency's actions have led to significant and measurable outcomes, such as mitigated threats, improved public awareness, and strengthened national security.</p>	<p>The agency has a strategy in place, but it lacks detail or is not comprehensive. Objectives and measures are present, but strategy needs refinement or expansion. The response has led to some positive outcomes but is not fully effective in mitigating threats or addressing all aspects of CCP unrestricted warfare or other relevant form(s) of warfare.</p>	<p>The agency lacks a comprehensive strategy or has an incomplete or poorly defined approach to countering the CCP's unrestricted and political warfare. The response has not produced significant results, and the agency is insufficiently addressing ongoing issues or vulnerabilities that the CCP exploits.</p>
<b>Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare</b>	<p>Exhibits strong expertise and demonstrable knowledge in identifying, countering, and deterring CCP operations. This includes the use of strategic, tactical, and technological solutions. Clear evidence of effective deterrence strategies and actions.</p>	<p>Possesses some knowledge and understanding of how to identify and counter CCP unrestricted warfare but lacks depth or necessary expertise. Knowledge to address some threats, but gaps remain in capacity to identify, counter, and deter the CCP.</p>	<p>Demonstrates little to no expertise in this area. Has not shown the capacity to identify, counter, or deter CCP unrestricted warfare.</p>
<b>Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare</b>	<p>Actively and effectively engages the American public, providing clear, transparent information about the threat posed by CCP unrestricted warfare. The outreach is broad, consistent, and shares information with citizens about how to recognize and respond to CCP influence operations they may encounter in their communities.</p>	<p>Some outreach efforts are made, but they are incomplete, inconsistent or limited in reach. The information may be accessible online, but the public would not know of its existence without searching for it.</p>	<p>Little to no outreach to the American public, or the outreach that is done fails to serve U.S. interests. Neglects to communicate effectively or raise awareness about the threat posed by CCP unrestricted warfare.</p>
<b>Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare</b>	<p>Consistently and effectively collaborates with relevant partners, including federal, state, and local government officials; the Intelligence Community; international allies; and private sector entities. Partnerships are productive and align with strategic objectives.</p>	<p>Some collaboration with relevant partners exists but is limited in scope or effectiveness. May engage with a narrower group of partners or struggle to fully leverage these relationships.</p>	<p>Minimal or no effective collaboration with relevant partners. Fails to engage key stakeholders or neglects opportunities to build strategic alliances.</p>



## A. Consumer Product Safety Commission

### CPSC Must Be Transparent About the Disproportionate Risks Associated With PRC-Made Goods Harmful to Americans.

- Consumer products from China under the Consumer Product Safety Commission’s (CPSC) authority continue to present a disproportionate number of product safety risks to American consumers.
- CPSC officials told the Committee that consumer products from China are disproportionately targeted for inspection because of the reality of unsafe Chinese-made goods and that China is the most significant supplier country for the CPSC for product safety issues.<sup>303</sup>
- CPSC officials warned of significant issues in counterfeit products manufactured in China in addition to instances of corruption involving Chinese buyers and sellers of consumer products ultimately imported to the United States.<sup>304</sup>
- CPSC told the Committee it is granted more access in China than any other agency—yet believes it is not a target of the CCP.
- CPSC’s office in Beijing, which was terminated in 2020 for budgetary reasons, is an unnecessary use of taxpayer dollars without demonstrating the success of the office in improving the behavior of Chinese manufacturers and decreasing the number of unsafe PRC made products reaching American homes.

CPSC’s primary purpose “is to save lives and keep families safe by reducing the unreasonable risk of injuries and deaths associated with consumer products and fulfilling its vision to be the recognized global leader in consumer product safety.”<sup>305</sup> Under CPSC’s umbrella statute, the Consumer Protection Safety Act (CPSA),<sup>306</sup> the independent federal agency has jurisdiction over 15,000 different types of consumer goods excluding foods, drugs, cosmetics, medical devices, firearms and ammunition, boats, motor vehicles, aircraft, or tobacco.<sup>307</sup> CPSC’s duties include: “developing voluntary standards with industry; issuing and enforcing mandatory standards; banning consumer products if no standard would adequately protect the public; obtaining the recall of products and arranging for their repair, replacement, or a refund; conducting research on potential product hazards,” and “informing and educating consumers through the media, state and local governments, private organizations, and by responding to consumer inquiries.”<sup>308</sup> Yet, inexplicably, CPSC has not warned the American

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<sup>303</sup> Briefing from CPSC Officials to Oversight & Accountability Committee staff (June 7, 2024) (“CPSC June 7, 2024 Briefing”).

<sup>304</sup> CPSC June 7, 2024 Briefing.

<sup>305</sup> Consumer Product Safety Comm’n, About CPSC (last accessed Sept. 16, 2024).

<sup>306</sup> 15 U.S.C. §§ 2051–2089.

<sup>307</sup> Consumer Product Safety Comm’n, *Recall Handbook* (Mar. 2012).

<sup>308</sup> Consumer Product Safety Comm’n, Who We Are – What We Do for You (emphasis added) (last accessed Sept. 16, 2024).

people about the disproportionately high number of unsafe products coming from China and how, as a result, Chinese-made goods are disproportionately targeted for inspection.

On May 6, 2024, the Committee requested a briefing from CPSC to understand its work to protect American consumers from the threats posed by the CCP economic warfare involving product recalls, safety hazards, product safety litigation, and the risks presented with Chinese online retailers.<sup>309</sup> On June 7, 2024, CPSC provided the Committee a briefing attended by officials from the CPSC’s Office of Executive Director.<sup>310</sup> Immediately after, the Committee requested a briefing from the CPSC’s Office of International Programs—from which no official attended the June 7 briefing—to address CPSC’s direct engagement with China.<sup>311</sup> The Committee also requested information regarding CPSC Chair Alexander Hoehn-Saric’s recent trip to China, memoranda of understanding (MOUs) related to the CPSC, CPSC’s Regional Product Safety Office in China, and import inspections.<sup>312</sup> On June 26, 2024, CPSC provided the Committee responsive information to its briefing follow-up requests.<sup>313</sup> On July 16, 2024, CPSC provided the Committee a second briefing attended by officials from the CPSC’s Office of International Program.<sup>314</sup>

### PRC-Made Goods Are Disproportionately at Risk of Harming Consumers.

CPSC recognizes that the PRC is the most significant supplier of consumer products to the United States—and is simultaneously a high-risk country regarding consumer goods. When China exports consumer goods to the United States, CPSC coordinates with U.S. Customs and Border Protection (CBP) to “intercept potentially noncompliant, unsafe imported products.”<sup>315</sup> Concerningly, more than 80 percent of examined unsafe shipments come from China.<sup>316</sup> Specifically, CPSC told the Committee that of 75 percent of the shipments it identified as high-risk last year, 83 percent originated in the PRC.<sup>317</sup> CPSC’s failure to engage in frequent and transparent outreach about the disproportionate risks associated with Chinese-made goods demonstrates that CPSC has failed to fulfill its duty to protect Americans.

<sup>309</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Alexander Hoehn-Saric, Chair, U.S. Consumer Product Safety Comm’n (May 6, 2024).

<sup>310</sup> CPSC June 7, 2024 Briefing.

<sup>311</sup> Email Correspondence between Oversight & Accountability Committee staff and CPSC staff (June 7, 2024).

<sup>312</sup> *Id.*

<sup>313</sup> Email Correspondence between CPSC Staff and Oversight & Accountability Committee staff (June 26, 2024).

<sup>314</sup> Briefing from CPSC Officials to Oversight & Accountability Committee staff (July 16, 2024) (“CPSC July 16, 2024 Briefing”).

<sup>315</sup> U.S.-China Economic and Security Review Comm’n, *Hearing on Consumer Products from China: Safety, Regulations, and Supply Chains* (testimony of Jim Joholske, Director Office of Import Surveillance, CPSC) (Mar. 1, 2024) (“USCC 2024 Hearing on Consumer Products from China”).

<sup>316</sup> Pub. L. No. 116-260, Staff Report to Congress Pursuant to Title XX, Section 2001 of the Consolidated Appropriations Act, 2021, Consumer Product Safety Comm’n, at 17 (June 25, 2021).

<sup>317</sup> CPSC June 7, 2024 Briefing; see James Comer, *Here’s what too many federal agencies don’t understand about the Chinese Communist Party*, Fox News (June 26, 2024); Email from Consumer Product Safety Comm’n to Oversight & Accountability Committee staff (July 3, 2024) (CPSC staff sought to clarify the language used by Chairman Comer in his opinion piece. CPSC staff told the Committee that 75 percent of imports targeted for inspection originated in the PRC, and 83 percent of violative products originated in the PRC. CPSC’s clarification only confirmed that it focuses on Chinese-made products because they contain particular or enhanced risks—and are more likely to find a violation.).

Poorly made Chinese goods are not an accident—but are part of an intentional plan organized by the CCP. The “incremental degradation” of consumer goods created in China was part of a “quality fade.”<sup>318</sup> The “increasing occurrence” of quality fade was initially due to the increase in skill level and “tricks of the trade” used by Chinese manufacturers that seek to make cheap counterfeit products look real.<sup>319</sup> According to Colonel Newsham, “[t]he CCP actively works to destroy the U.S. manufacturing and commercial sectors. It tries to lure companies to China, where it is easier to steal technologies, techniques and clients. It focuses on dominating key elements of the global supply chain to make China the world’s center of economic gravity.”<sup>320</sup> To accomplish its goal, the CCP subsidizes Chinese manufacturers so that they can create a product for less than Americans can.<sup>321</sup> Colonel Newsham explained, “the best part (for them) is that they create a dependency and get the Americans hooked on cheap products—to the point they (American importers of the cheap products) lobby the U.S. government to allow the Chinese to keep doing what they are doing for ‘the good of Americans.’”<sup>322</sup>

According to the Council on Foreign Relations, “Beijing’s ultimate goal is to reduce China’s dependence on foreign technology and promote Chinese high-tech manufacturers in the global marketplace.”<sup>323</sup> In 2015, the CCP launched the “Made in China 2025” campaign to catalyze China’s manufacturing base which includes production of semiconductors found in consumer products like mobile phones, digital cameras, televisions, and refrigerators.<sup>324</sup> The CCP’s “Made in China 2025” campaign is “a new name for the idea of milking foreigners of their technology and secrets and replacing them with a Chinese company.”<sup>325</sup>

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<sup>318</sup> Paul Midler, *Poorly Made in China: An Insider's Account of the China Production Game*, at xvii-xviii (2011) (“Midler, *Poorly Made in China: An Insider's Account of the China Production Game*”).

<sup>319</sup> *Id.* at 119.

<sup>320</sup> Newsham, *When China Attacks: A Warning to America*, at 145.

<sup>321</sup> *Id.* at 77.

<sup>322</sup> *Id.*

<sup>323</sup> Jason McBride & Andrew Chatzky, *Is ‘Made in China 2025’ a Threat to Global Trade?*, Council on Foreign Relations (May 13, 2019).

<sup>324</sup> *Id.*; Hitachi High-Tech Corporation, *Semiconductors in everyday life* (last accessed Sept. 16, 2024).

<sup>325</sup> Newsham, *When China Attacks: A Warning to America*, at 150.



Michael Settelen, *'Made in China 2025' And China's Evolving Industrial Policy*, Switzerland Global Enterprise (Jan. 3, 2023).

Within the parameters of its authority, CPSC should work to “dispel a notion promoted by some that doing business in China is like doing business anywhere else in the world.”<sup>326</sup> If CPSC is unwilling to be this transparent, it should at a minimum, candidly communicate to the American people about the fact that CPSC has found that Chinese-made goods may present more risk to American consumers than other countries of origin.<sup>327</sup> Further, CPSC should adopt consumer product safety policies that will protect American consumers from the risk of dangerous products despite the allure of cheap or counterfeit Chinese-made products, which ultimately present risks of preventable injuries to American adults and children.

#### CCP and PRC-Based Manufacturers Seek to Outsmart U.S. Regulators.

The emerging presence of online marketplaces is exacerbating the threat of dangerous Chinese products being shipped to U.S. consumers. CPSC Chairman Hoen-Saric has called for platforms like Amazon, Shein, and Temu to “act as [] responsible gatekeeper[s]” for product safety.”<sup>328</sup> Chinese companies in this space present serious challenges for CPSC and American consumers. The U.S.-China Economic and Security Review Commission recently found “exploitation of trade loopholes,” “concerns about production processes, sourcing relationships, product safety, and use of forced labor,” and “violations of intellectual property rights” associated with these Chinese platforms.<sup>329</sup> Collectively, these “firms serve as a case study of Chinese e-commerce platforms outmaneuvering regulators to grow a dominant U.S. market presence.”<sup>330</sup> On September 3, 2024, CPSC Commissioners Peter Feldman and Douglas Dziak released a public statement calling on CPSC staff to evaluate these online platforms to determine

<sup>326</sup> Midler, *Poorly Made in China: An Insider's Account of the China Production Game*, at xvii.

<sup>327</sup> CPSC June 7, 2024 Briefing.

<sup>328</sup> Consumer Product Safety Comm'n, Remarks of Chair Alexander D. Hoen-Saric International Consumer Product Health and Safety Organization (ICPHSO) 2024 Annual Symposium (Feb. 20, 2024).

<sup>329</sup> U.S.-China Economic and Security Review Comm'n, *Issue Brief, Shein, Temu, and Chinese e-Commerce: Data Risks, Sourcing Violations, and Trade Loopholes*, at 1 (Apr. 14, 2023) (“USCC Issue Brief: Chinese e-Commerce”).

<sup>330</sup> *Id.* at 2.

how these foreign-owned entities are complying with the CPSA, particularly given recent public reporting that “deadly baby and toddler products are easy to find on these platforms.”<sup>331</sup>

For decades, Chinese companies have produced cheaply made counterfeit goods that are quickly bought by American consumers for a discounted price.<sup>332</sup> As of 2021, the Chinese counterfeit market was worth \$600 billion.<sup>333</sup> Daniel Shapiro, Senior Vice President of Brand relationships and Strategic Partnerships at Red Points, a private organization tasked with safeguarding brand reputation by exposing counterfeits, testified before the U.S.-China Economic and Security Review Commission that: “data reveals that in 2022 and 2023, we saw an increase of 26 percent more [counterfeit] infringements compared to the previous two years.”<sup>334</sup>

Not surprisingly, CPSC has reportedly found it increasingly difficult to seek redress from noncompliant Chinese companies. Upon identifying violations, CPSC “asks companies to either stop the sale of the product, correct the defect in future productions or recall the product.”<sup>335</sup> Chinese companies responsible for dangerous products have sought to avoid CPSC accountability by “block[ing] litigation in U.S. courts.”<sup>336</sup> To that end, the U.S.-China Economic and Security Review Commission found that Chinese state-owned companies have claimed immunity from product safety litigation preventing CPSC from exercising its enforcement authority.<sup>337</sup> For example, on multiple occasions, the Chinese government has refused to accept service papers related to dangerous Chinese drywall imports litigation.<sup>338</sup>

Further, Chinese manufacturing companies have exploited the de minimis trade exemption as a tool to bypass U.S. consumer goods protections.<sup>339</sup> De minimis packages—imports valued at less than \$800—are exempt from tariffs and customs inspection, allowing Chinese manufacturing companies “to ship directly to consumers and . . . avoid scrutiny” of labor practices for sourcing materials.<sup>340</sup> According to Kim Glas, President and Chief Executive Officer of the National Council of Textile Organizations, “Chinese companies . . . have taken this loophole and exploded it.”<sup>341</sup> Notably, packages from China account for roughly 60 percent of all de minimis shipments to the United States.<sup>342</sup> On September 13, 2024, the Biden-Harris

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<sup>331</sup> Press Release, Consumer Product Safety Comm’n, Joint Statement of Commissioners Peter A. Feldman and Douglas Dziak Examining the Operations of Foreign E-Commerce Sites (Sept. 3, 2024).

<sup>332</sup> Daxue Consulting, *Chinese counterfeit products dominate the worldwide fakes industry*, Da Xue Consulting (Feb. 9, 2023).

<sup>333</sup> *Id.*

<sup>334</sup> USCC 2024 Hearing on Consumer Products from China, *supra* note 315.

<sup>335</sup> Jill Riepenhoff, et al., *Defective: Dangerous consumer products find their way into America by ship and through online retailers*, Investigative TV (Aug. 28, 2023).

<sup>336</sup> U.S.-China Economic and Security Review Comm’n, *Chinese Product Safety: A Persistent Challenge to U.S. Regulators and Importers*, at 9 (Mar. 23, 2017).

<sup>337</sup> *Id.* at 19.

<sup>338</sup> *Id.* at 12-14.

<sup>339</sup> Katherine Masters, *Focus: Key trade loophole keeps cheap Chinese products flowing to US*, Reuters (Aug. 4, 2023).

<sup>340</sup> USCC Issue Brief: Chinese e-Commerce, *supra* note 329, at 4.

<sup>341</sup> Sheridan Prasso, *Shein’s Cotton Tied to Chinese Region Accused of Forced Labor*, Bloomberg (Nov. 20, 2022).

<sup>342</sup> Kevin Freking, *Packages from China are surging into the United States. Some say \$800 duty-free limit was a mistake*, AP News (June 24, 2023).

Administration announced that it will take executive action to restrict the use of the de minimis trade exemption to curtail exploitation.<sup>343</sup> To further ensure that illegal Chinese-imported goods do not avoid customs inspection, Dr. Atkinson testified to the Committee that “U.S. Border and Customs should have a robust strategy for interdicting and destroying all illegal Chinese imports.”<sup>344</sup>

CPSC states that it will work with its federal partners to “use all available tools to keep consumers safe,” and has taken some steps to hold Chinese companies accountable.<sup>345</sup> On November 17, 2023, CPSC Commissioner Peter A. Feldman announced the first-ever criminal guilty verdicts under the CPSA against a Chinese-owned company for conspiracy and failure to report critical safety information related to “defective dehumidifiers that could catch fire.”<sup>346</sup>

It is clear, though, that CPSC struggles to address Chinese companies subverting its regulatory authorities through litigation or trade strategies. Given these challenges and CPSC’s limitations, it is essential that CPSC conduct proactive outreach to American consumers about the significant, and incomparable threat to safety posed by PRC-manufactured goods.

#### CPSC’s Country Agnostic Outreach Fails to Protect Consumers.

The PRC presents a unique threat to American consumers—but CPSC’s public-facing communications are country agnostic. CPSC acknowledged to the Committee that products from China are disproportionately inspected.<sup>347</sup> Despite this, CPSC outreach focuses on hazardous products and hazardous manufacturers as opposed to the specific countries which tend to have more hazardous products.<sup>348</sup> In fact, CPSC claimed that it would be unfair—without specifying to whom or why—to communicate about a specific country of origin manufacturing consumer goods for America.<sup>349</sup> Instead, CPSC releases unilateral press releases or recalls identifying the country in which the recalled product originated.<sup>350</sup> CPSC is allegedly doing more unilateral press releases when it discovers that companies are producing unsafe products to warn Americans.<sup>351</sup> Notably, in July 2024 alone, CPSC recalled 19 products manufactured in the PRC—and the majority of these items are either labeled for children or are likely to be used by children.<sup>352</sup> However, to ascertain this information, a consumer would have to independently click each recall to determine where the product was manufactured. Without doing so, consumers would have no idea that a particular item was manufactured in China. CPSC does not

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<sup>343</sup> Richard Vanderford, *Biden Takes Aim at China’s Temu and Shein With Trade Crackdown*, Wall St. J. (Sept. 13, 2024).

<sup>344</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>345</sup> Consumer Product Safety Comm’n, Statement of Commissioner Peter A. Feldman on Guilty Verdicts Against Gree Executives (Nov. 17, 2023).

<sup>346</sup> *Id.*

<sup>347</sup> CPSC June 7, 2024 Briefing.

<sup>348</sup> *Id.*

<sup>349</sup> *Id.*

<sup>350</sup> *Id.*

<sup>351</sup> CPSC June 16, 2024 Briefing.

<sup>352</sup> Of 19 recalls: four were labeled as children’s pajamas; one highchair was recalled; two toys were recalled; one costume hat was recalled; one sound machine for children; one stroller; and two scooters were recalled; *see* Consumer Product Safety Comm’n, Recalls (last accessed Sept. 16, 2024).

proactively warn consumers about just how disproportionate the risks of Chinese-made goods are.

CPSC’s outreach appears to be limited to Chinese manufacturers—not American consumers—which should instead be the priority. CPSC seeks to reach manufacturers through import surveillance and international programs in which CPSC educates other governments on American standards.<sup>353</sup> This engagement includes webinars and press releases, which CPSC told the Committee it releases in Mandarin.<sup>354</sup> As part of this translation service, the Official of International Programs summarizes recalls in Mandarin.<sup>355</sup> Concerningly, however, CPSC does not appear to have an effective metric to calculate the success of this outreach. According to CPSC, success is ascertained based on the application of requirements to products and by the amount of time that Chinese manufacturers spend looking at requirements.<sup>356</sup>

While outreach to foreign governments and manufacturers is important, the PRC has not changed its course and continues to manufacture low quality items that present the risk of injury to American consumers. CPSC personnel acknowledged to the Committee that the CCP has never succeeded in living up to the standards they espouse.<sup>357</sup> As such, CPSC should reevaluate expending significant resources “educating” PRC-based manufacturers when it could use resources to speak candidly to American consumers about Chinese manufacturers. American consumers should be adequately warned of the risks associated with goods made in the PRC, so that these consumers can make informed decisions when purchasing goods.

**CPSC Engagement in China has Been Fruitless, as Demonstrated by the Disproportionate Number of Harmful Chinese-Made Products.**

CPSC should focus more on outreach to American consumers—and less on fruitless engagement with Chinese manufacturers. Yet, CPSC has primarily focused on engagement with and outreach to the PRC. For example, in April 2024, Chair Hoen-Saric and other CPSC officials traveled to the PRC for several engagements,<sup>358</sup> including a meeting with Alibaba, a Chinese e-commerce website,<sup>359</sup> and the General Administration of Customs,<sup>360</sup> the border authority within the PRC. Meanwhile, PRC manufactured products continue to harm Americans.

As part of CPSC’s engagement with the PRC, it maintained an office within China until 2020. Until 2020, CPSC maintained a Regional Product Safety Office in Beijing with the stated purpose of “better promot[ing] compliance with U.S. product safety requirements among buyers and exporters and coordinat[ing] more closely with product safety regulators in the East Asia

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<sup>353</sup> CPSC June 7, 2024 Briefing.

<sup>354</sup> *Id.*

<sup>355</sup> *Id.*

<sup>356</sup> CPSC June 7, 2024 Briefing.

<sup>357</sup> CPSC July 16, 2024 Briefing.

<sup>358</sup> Email from Consumer Product Safety Comm’n to Oversight & Accountability Committee staff (June 26, 2024) (“CPSC June 26, 2024 Email”).

<sup>359</sup> *Id.*; Alibaba, *What is Alibaba? Everything You Should Know*, Alibaba.com (last accessed Sept. 16, 2024).

<sup>360</sup> CPSC June 25, 2024 Email; Gen. Admin. of Customs, PRC, Overview of GACC, <http://english.customs.gov.cn/about/mission> (last accessed Sept. 16, 2024).

Pacific region.”<sup>361</sup> CPSC officials were responsible for training PRC exporters on American product safety requirements, answering questions, and liaising with PRC product safety officials.<sup>362</sup> The Beijing office also assisted other countries within Asia, which included briefings and trainings provided to both public and private sector officials and entities in South Korea, Indonesia, Malaysia, Japan, Singapore, and Vietnam.<sup>363</sup> In 2020, the two regional product safety specialists left employment and the agency has not filled these roles since—despite its intention to.<sup>364</sup>

CPSC officials told the Committee that having an office in China allowed for trainings with large turnouts, greater ease in measuring a larger number of unsafe products and a deeper level of collaboration with Chinese suppliers.<sup>365</sup> According to CPSC, the PRC-based office has been successful.<sup>366</sup> CPSC asserted that trainings hosted by the Beijing office for suppliers in China are well-attended, Chinese suppliers ask good questions, and that test labs demonstrated that suppliers are indeed paying attention.<sup>367</sup> Importantly, though, PRC manufactures have not exhibited sufficient signs of change.

For example, CPSC has struggled to address the disproportionate number of Chinese products recalled under CPSC authority. CPSC officials admitted to the Committee that they have been aware of a disproportionate number of recalls coming from the PRC for 17 years.<sup>368</sup> This fact demonstrates that a CPSC office within the PRC is not necessary, because Chinese goods still present a disproportionately significant risk of injury to consumers.

Further, CPSC does not discount PRC officials’ ability to exploit anything the United States does.<sup>369</sup> According to CPSC, the CCP does not view the agency as a high-profile target—and therefore CPSC officials contended that they have not had to deal with CCP exploitation, but remain alert and informed.<sup>370</sup> Further, CPSC officials claimed that PRC intelligence services will not focus on CPSC because the agency is not a threat to China.<sup>371</sup> That is the claim of a naïve player in the CCP’s political warfare scheme. While of course it is in the CCP’s economic interest to placate U.S. regulators such as the CPSC, the CCP has proven that it does not respect the rule of law.<sup>372</sup> Notably, CPSC told the Committee that it is granted more access in China than anyone in the U.S. government.<sup>373</sup> If this assertion is true, the communist regime would not

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<sup>361</sup> Consumer Product Safety Comm’n, *CPSC’s Work With China* (last accessed Sept. 16, 2024); CPSC June 26, 2024 Email.

<sup>362</sup> CPSC June 26, 2024 Email.

<sup>363</sup> *Id.*

<sup>364</sup> *Id.*

<sup>365</sup> CPSC June 7, 2024 Briefing.

<sup>366</sup> CPSC June 16, 2024 Briefing.

<sup>367</sup> *Id.*

<sup>368</sup> *Id.*

<sup>369</sup> *Id.*

<sup>370</sup> *Id.*

<sup>371</sup> *Id.*

<sup>372</sup> Eleanor Albert, *Is China Committed to Rule of Law?*, Council on Foreign Relations (Oct. 28, 2014) (interviewing Elizabeth C. Economy) (“It’s difficult for Westerners to understand what the rule of law means in China, because it doesn’t mean the same thing as it means in the West. It doesn’t mean that the Communist Party itself is subject to the law. In fact, the party stands above the law.”).

<sup>373</sup> *Id.*



grant access at this level without reason. The Party is notorious for seeking to exploit government officials through elite capture to influence policy and further CCP interests.<sup>374</sup>

CPSC must increase awareness of CCP unrestricted warfare and the ramifications of psychological warfare and economic warfare on American consumers. Further, CPSC should adopt consumer product safety policies that will protect American consumers from the risk of dangerous products despite the allure of cheap or counterfeit Chinese-made products, which ultimately present risks of preventable injuries to American adults and children.

### Committee Recommendations

- CPSC should candidly warn American consumers about the disproportionate risk of injury associated with Chinese-manufactured goods.
  - Given the disproportionate number of PRC-manufactured products being targeted for inspection or recalled, it is CPSC’s responsibility to conduct outreach to the American public about product safety.
  
- Despite the CCP apparently granting CPSC more access than any other federal agency, CPSC’s active engagement in China has not produced results for Americans. All engagement must advance American interests and keep consumers safe.
  - CPSC meetings, trainings, and other engagement in China should only continue if they demonstrate success—safe products for consumers.
  
- The CPSC office in the PRC should be permanently closed unless CPSC can establish better metrics to evaluate the success of outreach to PRC manufacturers and sellers.
  - The China office has been closed since 2020 given high costs associated with running the office.<sup>375</sup>
  - CPSC has failed to develop adequate tools to ascertain whether outreach to PRC manufacturers and sellers is resulting in less harmful products being imported into the United States from the PRC.
  - Without developing a superior metric system, CPSC should not attempt to reopen the China office, and should instead place a greater emphasis on outreach to the American people.

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<sup>374</sup> See *supra* Section II. C. Elite Capture.

<sup>375</sup> CPSC June 26, 2024 Email.

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## CONSUMER PRODUCT SAFETY COMMISSION

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

CPSC fails to protect American consumers by neglecting to engage in direct outreach about the disproportionate risk to consumer safety posed by PRC-made goods.

## B. Drug Enforcement Administration

The Drug Enforcement Administration Recognizes Communist China is Behind the Fentanyl Crisis, but it is Unable to Properly Address this Chemical Warfare Due to the Absence of a Whole-of-Government Strategy, Leaving Millions of Americans at Risk.

- The Drug Enforcement Administration (DEA) understands the role the PRC plays in supplying fentanyl precursors to Mexican cartels, which then flood America as part of the CCP's unrestricted warfare campaign.
- The DEA has acknowledged and is countering Chinese Transnational Criminal Organizations' (TCO) money laundering to wage unrestricted warfare—especially chemical and drug warfare—against the United States.
- The DEA's efforts to counter illegal Chinese TCO activity can only be so successful when the broader federal government lacks a consensus or cohesive approach to CCP unrestricted warfare and its relationship with Chinese TCOs.

The Hudson Institute has warned that “[i]t is now beyond doubt that the CCP is engaged in a devastating and ongoing chemical attack on America.”<sup>376</sup> In 2023, 74,702 Americans were killed by fentanyl overdoses.<sup>377</sup> Fentanyl overdose is the leading cause of death for Americans between the ages of 18-45.<sup>378</sup> The CCP, in coordination with Mexican cartels, plays a central role in this crisis, and the DEA is the lead federal entity engaging in what is, right now, a losing battle that is killing Americans across the country.

Chinese TCOs, including triads, are directly linked to the CCP and operate in the United States to launder money, import deadly fentanyl, and facilitate CCP intelligence gathering operations. Tied to both the united front and corporations based in China,<sup>379</sup> triads only “exist with the acquiescence of the [Chinese] security services.”<sup>380</sup>

On March 13, 2024, the Committee requested a briefing from the DEA regarding Chinese TCO fentanyl operations.<sup>381</sup> On April 26, 2024, the DEA provided the Committee a briefing,<sup>382</sup>

<sup>376</sup> John Walters, *The Strategic Importance of Stopping the Fentanyl Slaughter*, Hudson Inst. (Apr. 28, 2024).

<sup>377</sup> Office of Communication, *U.S. Overdose Deaths Decrease in 2023, First Time Since 2018*, DEA (May 15, 2024); see also H.R. Select Comm. on the Strategic Competition Between the U.S. and the Chinese Communist Party, *The CCP's Role in the Fentanyl Crisis*, at 2 (“Select Comm. on the CCP: The CCP's Role in the Fentanyl Crisis”) (Apr. 16, 2024).

<sup>378</sup> Brian Mann, *In 2023 fentanyl overdoses ravaged the U.S. and fueled a new culture war fight*, NPR (Dec. 28, 2023).

<sup>379</sup> See generally Royal Canadian Mounted Police, Project Sidewinder, RCMP (June 24, 1997) (“RCMP: Project Sidewinder”).

<sup>380</sup> Newsham, *When China Attacks: A Warning to America*, at 140; see also Vanda Felbab-Brown, *China's Role in the Fentanyl Crisis*, Brookings (Mar. 31, 2023) (“Felbab-Brown, *China's Role in the Fentanyl Crisis*”).

<sup>381</sup> Letter from Hon. James Comer, Chairman, Comm. on Oversight & Accountability, to Hon. Anne Milgram, Adm'r, Drug Enforcement Administration (Mar. 13, 2024).

<sup>382</sup> Briefing from DEA Officials to Oversight & Accountability Committee staff (Apr. 26, 2024) (“DEA Apr. 26, 2024 Briefing”).

with a follow-up briefing regarding Chinese TCO marijuana and money laundering operations on May 31, 2024.<sup>383</sup> The DEA acknowledges the fentanyl crisis, and stated that ending it is its top operational priority.<sup>384</sup> The DEA is “focusing on the entire network and [fentanyl] supply chain... from China – to Mexico – to Main Street.”<sup>385</sup> The investigation has shown that the DEA is taking seriously the role that Chinese TCOs play in the fentanyl crisis, and the agency is attempting to stop fentanyl production and shipment to the United States.

Notably, the DEA recently closed two of its three offices in the PRC.<sup>386</sup> While it is “unclear exactly why DEA is shutting down its offices in Shanghai and Guangzhou,” the DEA reportedly said “that the move followed a data-driven process intended to maximize the agency’s impact.”<sup>387</sup> The move may suggest that working with the CCP to curb fentanyl precursor production has been a futile effort, and resources and personnel combatting the fentanyl epidemic are better focused outside of the PRC. As Dr. Atkinson testified to the Committee, cooperation with the PRC on this issue is counterproductive: “Others argue we need to cooperate on ‘illegal narcotics.’ Do they mean the fentanyl that the Chinese government allows to be made with Chinese precursor chemicals? There is no cooperation to be had there; only China stopping its destructive actions.”<sup>388</sup>

#### Chinese TCOs Wage Chemical Warfare via Fentanyl.

As Colonel Newsham has explained, the CCP is “channeling the [fentanyl] – in true ‘unrestricted warfare fashion’ – towards [its] number one rival and greatest enemy,” the United States.<sup>389</sup> This warfare leaves “the U.S. homeland . . . flooded with fentanyl, a synthetic opioid drug of Chinese origin that has 50 times the potency of heroin[.]”<sup>390</sup> Derek Maltz, former director of the Special Operations Division of the DEA, has explained that the CCP is “using all the tools of their national power to destroy and destabilize their adversary, America. They’re taking total advantage of the weaknesses in our country [and]the lack of security and policies to keep [fentanyl] out of our country.”<sup>391</sup>

Fentanyl precursors are manufactured in China and shipped to Mexico and Canada.<sup>392</sup> For precursors that arrive in Mexico, Chinese TCOs (including triads) work with Mexican cartels

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<sup>383</sup> Briefing from DEA Officials to Oversight & Accountability Committee staff (May 31, 2024) (“DEA May 31, 2024 Briefing”).

<sup>384</sup> DEA Apr. 26, 2024 Briefing.

<sup>385</sup> *Id.*

<sup>386</sup> Joshua Goodman & Jim Mustian, *DEA shutting down two offices in China even as agency struggles to stem flow of fentanyl chemicals*, Associated Press (Sept. 16, 2024).

<sup>387</sup> *Id.*

<sup>388</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson) (quoting Dave Rank, et al., *A Progressive, Principled, and Pragmatic Approach Toward China Policy*, Center for American Progress (Apr. 2024)).

<sup>389</sup> Newsham, *When China Attacks: A Warning to America*, at 139.

<sup>390</sup> James J. Carafano, et al., *Winning the New Cold War: A Plan for Countering China*, The Heritage Found., at 41 (Mar. 28, 2023).

<sup>391</sup> See *The Cartel Connection: Derek Maltz Sheds Light on the Border & Fentanyl Pandemic*, Federal Newswire (Oct. 26, 2023).

<sup>392</sup> Carafano, et al., *supra* note 390, at 41; David Ovalle & Nick Miroff, *Fentanyl super labs in Canada pose new threat for U.S. opioid epidemic*, Wash. Post (Dec. 24, 2023).

to smuggle and distribute fentanyl in the United States on behalf of the CCP.<sup>393</sup> The DEA confirmed Chinese TCO leaders hold government positions in the CCP and indicated that Chinese TCOs are dedicated to the CCP.<sup>394</sup>



Source: Tim Marrs, *The Wire China*

Fentanyl precursors are made into usable fentanyl in Mexico<sup>395</sup> before cartels from Mexico bring the finished fentanyl across the porous southern border and market and sell the fentanyl to the U.S. population.<sup>396</sup> The DEA reports Chinese fentanyl precursors have also gone through Canada into the United States; Canada is now considered a “nexus to [the] global illegal economy.”<sup>397</sup> Given the sparsely defended Canadian border is the longest international border in the world,<sup>398</sup> the situation is abused by Chinese TCOs smuggling fentanyl into northern states, evidenced by a 600 percent increase in drug smuggling on the northern border since 2021.<sup>399</sup>

Unfortunately, other U.S. government agencies minimize or misrepresent the CCP’s role in the U.S. fentanyl crisis. In an interview, Secretary of State Antony Blinken stated:

Fentanyl, a synthetic opioid, [is] the biggest killer of Americans between the ages of 18 and 45. And the way it’s made is with chemicals, ingredients, the precursors, that get synthesized into this opioid. And those chemicals are often manufactured in China, *for totally appropriate and legal purposes, but then they get diverted to*

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<sup>393</sup> DEA Apr. 26, 2024 Briefing.

<sup>394</sup> DEA May 31, 2024 Briefing.

<sup>395</sup> Newsham, *When China Attacks: A Warning to America*, at 135.

<sup>396</sup> *Id.*

<sup>397</sup> Calvin Chrustie & David Luna, *The Growing Harm of Cross-Border Illicit Trade Vectors and Threat Convergence to Canada’s National Security*, Int’l Coalition Against Illicit Economies (Nov. 27, 2023).

<sup>398</sup> Perimeter Security and Economic Competitiveness, *Considerations for United States – Canada Border Traffic Disruption Management*, Dep’t of Homeland Security (2012).

<sup>399</sup> Chrustie & Luna, *supra* note 397.

*criminal organizations* that turn them into fentanyl and send them into the United States.<sup>400</sup>

Similarly, U.S. Ambassador to China Nicholas Burns stated, “the government here in Beijing is not contributing to [the fentanyl] problem.”<sup>401</sup> Based on DEA’s briefing tracing the flow of fentanyl precursors from the PRC, Secretary Blinken’s summation is incomplete (CCP leadership is well-aware that these precursors will be used for purposes that are *not* “totally appropriate and legal”), and Ambassador Burns’s statement is wrong. During the Committee’s briefing with the State Department, when asked about the State Department’s view on the House Select Committee’s finding that the CCP offers a tax rebate for fentanyl precursor exports,<sup>402</sup> the State Department briefer sought to offer legitimate explanations for the rebate without expressing knowledge of CCP actions that have fueled the fentanyl epidemic.<sup>403</sup>

Moreover, the Biden-Harris Administration has made concessions to the CCP, such as the removal of China’s Institute of Forensic Science from the U.S. Department of Commerce’s (Commerce Department) Entity List, which imposes export restrictions and license requirements on foreign entities, companies, and individuals involved in activities contrary to U.S. national security interests,<sup>404</sup> in 2023, in exchange for purported collaboration against precursor manufacturing in China.<sup>405</sup> The Biden-Harris Administration’s labels its collaboration with China as successful.<sup>406</sup> However, the DEA works with its CCP counterpart, the MPS’s Narcotic Control Bureau.<sup>407</sup> This effort appears to favor CCP interests: “China’s . . . cooperation with U.S. counternarcotics efforts is profoundly hollowed out,”<sup>408</sup> and “China has become a black hole for visibility into internal law enforcement actions,”<sup>409</sup> leaving the DEA with an unclear picture of how the CCP is tackling precursor manufacturing.<sup>410</sup> As “China likes to talk tough and schedule a lot . . . but does not enforce much, abroad especially,”<sup>411</sup> this engagement demonstrates an inadequate strategy. It is unreasonable for federal officials to expect that this kind of collaboration will prompt the CCP to halt Chinese TCOs fueling the fentanyl crisis.

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<sup>400</sup> Tim Hains, *Blinken: “We’ve Seen Real Change” From China Cooperating To Stop Fentanyl Smuggling*, Real Clear Politics (Apr. 28, 2024) (emphasis added).

<sup>401</sup> Timothy Nerozzi, *Chinese Communist Part not ‘contributing’ to US fentanyl crisis, Biden ambassador says*, Fox News (May 5, 2023) (emphasis added).

<sup>402</sup> Select Comm. on the CCP: The CCP’s Role in the Fentanyl Crisis, *supra* note 377, at 2.

<sup>403</sup> Briefing from State Dep’t Officials to Oversight & Accountability Committee staff (June 4, 2024) (“State Dep’t Briefing”).

<sup>404</sup> Bureau of Industry and Security, *Entity list* (last accessed Sept. 16, 2024).

<sup>405</sup> Alexandra Alper & Michael Martina, *Biden removes sanctions from Chinese institute in push for fentanyl help*, Reuters (Nov. 16, 2023); It should be noted the Commerce Department originally added China’s Institute of Forensic Science to the Entity List in 2020 because it was “‘engaging in activities contrary to the foreign policy interests of the United States’ and . . . alleged[ly] abus[ing] . . . Uyghurs and other minority Groups.” Nick Ching, *US Lifts Sanctions on Chinese Institute to Seek Fentanyl Cooperation*, VOA (Nov. 16, 2023).

<sup>406</sup> FACT SHEET: Biden-Harris Administration Continues Progress on Fight Against Global Illicit Drug Trafficking, the White House (Nov. 15, 2023).

<sup>407</sup> DEA Apr. 26, 2024 Briefing.

<sup>408</sup> Felbab-Brown, *China’s role in the Fentanyl Crisis*, *supra* note 380.

<sup>409</sup> *Id.*

<sup>410</sup> Vanda Felbab-Brown, *China and Synthetic Drugs Control*, Brookings Institution, at 33 (Mar. 2022); DEA Apr. 26, 2024 Briefing.

<sup>411</sup> Felbab-Brown, *China and Synthetic Drugs Control*, *supra* note 410, at 33.

The State Department’s remarks encapsulate the Biden-Harris Administration’s approach to CCP’s chemical warfare: unprepared. The CCP’s involvement in and encouragement of the production and exportation of fentanyl precursors to North America was described by Colonel Newsham in his testimony as an “act of war. [The CCP] knows exactly what is going on.”<sup>412</sup> Federal agencies, including the State Department, should hold the CCP accountable for its chemical warfare against the United States, not obfuscate it. The DEA can only be so successful when the root issue, the CCP’s role in fentanyl production, lacks a whole-of-government comprehension and response.

Cooperation with the CCP to counter fentanyl will not succeed because the Party itself plays a role in fentanyl precursor production. In April 2024, the House Select Committee on the CCP released a report highlighting the CCP’s active participation in chemical warfare against the American people.<sup>413</sup> The report details the CCP’s role in:

- “Directly subsidizes the manufacturing and export of illicit fentanyl materials and other synthetic narcotics through tax rebates;”<sup>414</sup>
- “[Giving] monetary grants and awards to companies openly trafficking illicit fentanyl materials and other synthetic narcotics;”<sup>415</sup>
- “[Holding] ownership interest in several CCP companies tied to drug trafficking;”<sup>416</sup>
- “[Allowing] the open sale of fentanyl precursors and other illicit materials on the extensively monitored and controlled CCP internet;”<sup>417</sup> and
- “Strategically and economically [benefiting] from the fentanyl crisis.”<sup>418</sup>

The DEA confirmed that the supply chain for fentanyl starts in China,<sup>419</sup> and Chinese nationals and corporations are manufacturing fentanyl precursors for the *express purpose of shipment to North America to be converted into fentanyl.*<sup>420</sup> While the DEA had not yet made an assessment of the House Select Committee on the CCP’s report at the time it briefed the Committee, the DEA briefers were surprised by the report’s findings and would look into them further.<sup>421</sup>

Given the toll the fentanyl crisis has taken on Americans, it is essential that federal agencies engage in proactive outreach to the public. Colonel Newsham notes “for every

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<sup>412</sup> CCP Political Warfare Hearing I (testimony of Colonel Newsham).

<sup>413</sup> See Select Comm. on the CCP: The CCP’s Role in the Fentanyl Crisis, *supra* note 377, at 2.

<sup>414</sup> *Id.*

<sup>415</sup> *Id.*

<sup>416</sup> *Id.* at 3.

<sup>417</sup> *Id.*

<sup>418</sup> *Id.*

<sup>419</sup> DEA Apr. 26, 2024 Briefing.

<sup>420</sup> *Id.*

<sup>421</sup> *Id.*

[fentanyl] death, there are ten addicts.”<sup>422</sup> American families, communities, hospitals, and social services are all collateral casualties in the CCP’s fentanyl trafficking.<sup>423</sup> The DEA confirmed that it conducts outreach to the American people about the general dangers of fentanyl.<sup>424</sup> The DEA’s “one pill can kill”<sup>425</sup> campaign has been extensive, and it has worked with local and state governments, the NFL, and Rocket League E-Sports tournaments to communicate to young Americans about the dangers of fentanyl.<sup>426</sup>

### CCP Drug Warfare Through Marijuana is Fundamental to CCP Financing of Intelligence and Influence Operations in the United States.

While the CCP is waging chemical warfare by fueling the fentanyl crisis in the United States, it is also engaging in drug warfare through its role in illegal marijuana grow operations (grow-ops) within the United States. The DEA confirmed that illegal Chinese marijuana grow-ops have spread across 24 confirmed states.<sup>427</sup> Chinese TCOs with extensive networks of indoor and outdoor marijuana grow operations run grow-ops, which have been found in rural locations as well as suburban, in tribal lands and near military installations.<sup>428</sup> Maine and Washington alone possess at least 749 marijuana grow-ops with links to transnational crime.<sup>429</sup> The DEA reported that the vast majority of grow-ops are operated by Chinese TCOs.<sup>430</sup> The DEA briefers recounted that approximately 75 percent of their search warrants related to marijuana grow-ops are executed against Chinese nationals.<sup>431</sup>

Maine is a stark example of Chinese TCO grow-ops overtaking a state.<sup>432</sup> By taking advantage of Maine’s decriminalization of adult recreational use of marijuana—and combined with federal law enforcement’s focus on fentanyl—Chinese TCO grow-ops have rapidly spread across the state since 2020.<sup>433</sup> Grow-ops are generally located in residential homes or garages that have been converted for the exclusive use of cultivating marijuana.<sup>434</sup>

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<sup>422</sup> Newsham, *When China Attacks: A Warning to America*, at 141.

<sup>423</sup> Rep. Rick Larsen, *Op-Ed: The opioid epidemic has devastated Northwest Washington*, *Cascadia Daily News* (Jan. 24, 2024).

<sup>424</sup> Anne Milgram, *Justice Department Officials to Announce Arrests and Disruptions of the Fentanyl Precursor Chemical Supply Chain*, DEA (June 23, 2023).

<sup>425</sup> DEA Apr. 26, 2024 Briefing.

<sup>426</sup> *Id.*

<sup>427</sup> DEA May 31, 2024 Briefing.

<sup>428</sup> *Id.*

<sup>429</sup> Jennie Taer, *EXCLUSIVE: Illegal Chinese Marijuana Grow Operations Are Taking Over Blue State, Leaked Memo Say*, *Daily Caller* (Aug. 16, 2023).

<sup>430</sup> DEA May 31, 2024 Briefing.

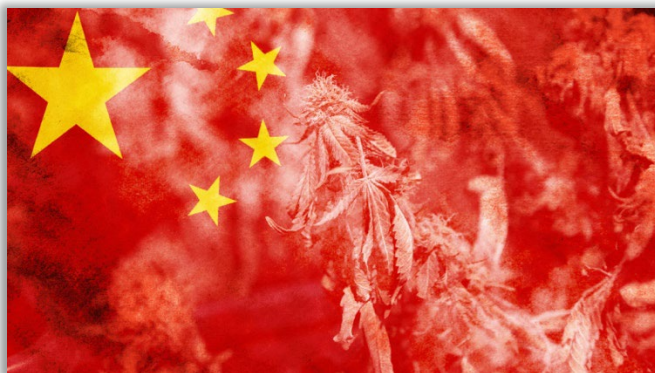
<sup>431</sup> *Id.*

<sup>432</sup> Steve Robinson, *Triad Weed: How Chinese Marijuana Grows Took Over Rural Maine*, *Maine Wire* (Nov. 8, 2023).

<sup>433</sup> *Id.*

<sup>434</sup> *Id.*





Source: Steven Robinson, *The Maine Wire*

To finance the purchase of real estate used for grow-ops in Maine, Chinese TCOs take advantage of the Community Development Financial Institutions (CDFI) Fund offered through the Treasury. Financing through the CDFI Fund, which seeks to promote economic revitalization for underserved people and communities,<sup>435</sup> is being exploited by Chinese TCOs.<sup>436</sup> One CDFI bank, which specifically markets to foreign nationals seeking to purchase real estate in the U.S., loaned money to Chinese nationals to finance the purchase of a property, which the Chinese nationals later used for grow-ops in Maine.<sup>437</sup>

Grow-ops destroy the collateral on CDFI loans (*i.e.*, the homes themselves). Maine Senator Susan Collins has noted “houses where the illegal growing operations are taking place are totally ruined, because they’re full of black mold.”<sup>438</sup> Makeshift HVAC and electrical work also leave homes safety hazards not fit for the real estate market.<sup>439</sup> The dilapidation of homes exacerbates the broader housing crisis in Maine.<sup>440</sup> The DEA asserted that similar situations are occurring across the nation, with Chinese TCO grow-ops purchasing multiple homes in neighborhoods in California and other states and destroying them to cultivate marijuana.<sup>441</sup>

Grow-ops also use illegal Chinese herbicides, pesticides, and other heavy metals in their marijuana production.<sup>442</sup> In a Maine Department of Administrative and Financial Services study examining the contents of medical marijuana, 42 percent of the cannabis tested contained “at least one contaminant that would have failed testing [under] . . . Maine’s Adult Use Cannabis

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<sup>435</sup> U.S. Department of the Treasury, *About us*, <https://www.cdfifund.gov/about> (last accessed Sept. 16, 2024).

<sup>436</sup> Steve Robinson, *Triad Weed: One NYC Bank Financed More Than 50 Illicit Chinese Marijuana Grow Houses in Rural Maine*, *Maine Wire* (Nov. 14, 2023).

<sup>437</sup> *Id.*

<sup>438</sup> Seamus Othot, *Triad Weed: Collins Discusses the Negative Impact of Illegal Chinese Weed Grows on Maine and the U.S.*, *Maine Wire* (Apr. 23, 2024).

<sup>439</sup> Robinson, *Triad Weed: One NYC Bank Financed More Than 50 Illicit Chinese Marijuana Grow Houses in Rural Maine*, *supra* note 436.

<sup>440</sup> *Id.*; see also, Eric Russell, *Pushback on growth is a major barrier even as Maine makes strides to ease housing shortage*, *Press Herald* (Mar. 27, 2024).

<sup>441</sup> DEA May 31, 2024 Briefing.

<sup>442</sup> *Id.*

Program.”<sup>443</sup> Among the contaminants found were lead, arsenic, and cadmium.<sup>444</sup> Another, myclobutanil, was found in 6.7 percent of the tested medical marijuana.<sup>445</sup> Myclobutanil is approved by the Food and Drug Administration (FDA) for consumption, but not for combustion; when it is lit, it creates cyanide gas.<sup>446</sup> When inhaled, the cyanide gas “causes a range of mild to severe effects.”<sup>447</sup> The DEA disclosed Chinese TCOs use illegal and dangerous Chinese pesticides in their grow-ops.<sup>448</sup> Law enforcement officers exposed to illegal Chinese chemicals have been hospitalized.<sup>449</sup> Given Chinese TCO grow-ops are unregulated and unmonitored, their sales of cannabis to consumers constitute a serious health risk to the American population.<sup>450</sup>

Illegal grow-ops are part of larger CCP hybrid-warfare operations in the United States. The DEA noted that Chinese TCOs are dedicated to the CCP, and their leadership holds government positions in the Party.<sup>451</sup> Evidence from Maine further suggests that Chinese triads with strong connections to the CCP are operating and selling from illegal grow-ops.<sup>452</sup> The discovery of a car outside a grow-op with t-shirts featuring language from the Sijiu Association of NYC, “a Chinese national group with ties to the [CCP] consulate in New York and the Chinese Communist Party,” is one example of ties between the grow-ops and the CCP.<sup>453</sup>



Source: Steven Robinson, The Maine Wire

Chinese grow-ops often rely on forced labor. Many individuals apprehended on Chinese TCO grow-op properties speak little English, and the majority are of Chinese descent.<sup>454</sup> They are often paid below-minimum wage and live in squalor with “rat-infested living space[s]... [and] cooking, bathroom, and sleeping areas” in the grow-op buildings themselves.<sup>455</sup> The DEA advised that some grow-ops resemble prisons, with camera systems used from guard towers to monitor the forced laborers cultivating and harvesting the marijuana.<sup>456</sup> The DEA described that the men in the grow-ops are given ketamine to sleep at night, so they will be reinvigorated, and

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<sup>443</sup> Office of Cannabis Policy, *Harmful Contaminants in Maine’s Medical Cannabis Program*, ME Dep’t of Administrative and Financial Services, at 1 (2023).

<sup>444</sup> *Id.* at 6.

<sup>445</sup> *Id.*

<sup>446</sup> *Id.* at 4.

<sup>447</sup> *Id.* at 9.

<sup>448</sup> DEA May 31, 2024 Briefing.

<sup>449</sup> *Id.*

<sup>450</sup> *Id.*

<sup>451</sup> *Id.*

<sup>452</sup> *Id.*

<sup>453</sup> Steve Robinson, *Illicit Marijuana Grow Near U.S. Army Base in Maine Tied to Chinese Communist Party’s NYC Consulate*, Maine Wire (May 15, 2024).

<sup>454</sup> May 31, 2024 DEA Briefing.

<sup>455</sup> *Id.*

<sup>456</sup> *Id.*

the women in the grow-ops are forced into prostitution.<sup>457</sup> The DEA stated that DHS discovered Chinese nationals who had crossed the U.S. border illegally were later found at illegal grow-ops, either as forced laborers or as members of Chinese TCOs.<sup>458</sup>

Chinese TCO grow-ops play a role in CCP economic warfare. Since grow-ops operate below U.S. industry standards, are unlicensed, and use exploitative and sometimes forced labor, they are able to undercut regulated and licensed marijuana growers in the United States.<sup>459</sup> The result has been price undercutting with serious effects on American legal and licensed growers.<sup>460</sup> Attempts to expose the illegal Chinese triad grow-ops have been met with some hostility, with one Maine public official pressuring reporters to not “indicate that these illegal operations are being operated by any certain demographic.”<sup>461</sup> The CCP and its proxies frequently employ this tactic of shutting down efforts to expose, counter, deter, and defeat unrestricted warfare by falsely characterizing legitimate actions to thwart CCP aggression as racially motivated.<sup>462</sup>

### The CCP Plays a Role in Chinese TCOs Laundering Cartel Fentanyl Proceeds.

The DEA reported that Chinese TCO money laundering is by far the biggest threat in the money laundering realm.<sup>463</sup> The DEA further recognizes the role the CCP plays in laundering the proceeds of fentanyl sales in the United States—specifically through their Chinese Underground Banking Systems, which take advantage of the CCP’s strict capital flight laws.<sup>464</sup> According to the DEA, Mexican cartels prefer Chinese money launderers for their rapid movement of money and the one-to-two percent, and sometimes even zero percent, commission rates they charge (when compared to the Colombian or Dominican nine-to-thirteen percent commission).<sup>465</sup>

While their counterparts at FinCEN, discussed below, refused to directly address that the cartels’ fentanyl operation in the United States relies on this laundering network set up by Chinese TCOs, the DEA acknowledges this fact.<sup>466</sup> The DEA has committed one of its three counterthreat teams to monitoring and intercepting laundering transactions as they occur and is pursuing the illicit proceeds of the financing.<sup>467</sup> The DEA engages and arrests their Chinese Underground Banking System brokers utilizing both its counterthreat team dedicated to illicit financing and laundering as well as its Attorney General Exempt Operations (AGEO).<sup>468</sup> The AGEO is designed to utilize and generate funds for the purpose of “participat[ing] in undercover

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<sup>457</sup> *Id.*

<sup>458</sup> *Id.*

<sup>459</sup> *Id.*

<sup>460</sup> *Id.*

<sup>461</sup> Seamus Othot, *Penobscot County Sheriff Troy Morton Tells Fox News’ Laura Ingraham to Hide The Fact That 270+ Illegal Marijuana Grows in Maine Are Run by Chinese Organized Crime [VIDEO]*, *Maine Wire* (Nov. 30, 2023).

<sup>462</sup> *See infra*, Section III. P. U.S. Department of Justice.

<sup>463</sup> DEA May 31, 2024 Briefing.

<sup>464</sup> DEA Apr. 26, 2024 Briefing.

<sup>465</sup> *Id.*

<sup>466</sup> *Id.*

<sup>467</sup> DEA Apr. 26, 2024 Briefing.

<sup>468</sup> DEA May 31, 2024 Briefing.

financial transactions to target, infiltrate, and dismantle drug trafficking and money laundering organizations.”<sup>469</sup> Recently, Li Pei Tan and Chaojie Chen, two Chinese TCO mid-level members, were arrested in operations involving the DEA’s AGEO.<sup>470</sup>

Chinese TCO marijuana operations have been a linchpin in Chinese TCO operations in the United States. The DEA indicated that Chinese TCO marijuana grow-ops make billions of dollars each year—and the funds are used to facilitate other illegal activities.<sup>471</sup> Illicit funds are then used in real estate purchases for Chinese TCOs, to facilitate human trafficking, for illegal weapons purchases, and as a vehicle for CCP intelligence gathering and general influence operations in the United States.<sup>472</sup> The DEA advised that multiple grow-ops were found over underground communication cables near U.S. military installations and bases.<sup>473</sup> Equally concerning was the discovery of excess coaxial cables at these Chinese TCO sites, which are not required for marijuana cultivation, but instead for data transfer.<sup>474</sup> Given the Chinese TCOs are embedded in the CCP through their leadership and are dedicated to the CCP’s causes,<sup>475</sup> the presence of intelligence gathering equipment at sites near or on communication cables connected to U.S. military installations is concerning.

Ultimately, the Biden-Harris Administration’s reliance on hollow promises from General Secretary Xi to curb the production and shipment of fentanyl,<sup>476</sup> combined with this Administration’s blatant open border policy,<sup>477</sup> has allowed the CCP to conduct chemical warfare against the American people, resulting in disastrous outcomes for hundreds of thousands of Americans.

#### Committee Recommendations

- Candidly and publicly expose the CCP’s chemical warfare against the United States.
  - Elevate voices already warning the public about the dangers of fentanyl, especially as it relates to the CCP.<sup>478</sup> The public deserves to know about the CCP’s role in fentanyl production and how the Party is using fentanyl as a chemical weapon to kill Americans. The DEA’s public awareness campaigns

<sup>469</sup> Press Release, U.S. Dep’t of Justice, Office of the Inspector General, DOJ OIG Releases Report of the DEA’s Income-Generating, Undercover Operations (June 17, 2020).

<sup>470</sup> Press Release, Office of Public Affairs, Dep’t of Justice, Two Alleged Members of a Transnational Money Laundering Organization Arrested for Laundering Millions of Dollars in Drug Proceeds (May 22, 2024); DEA May 31, 2024 Briefing.

<sup>471</sup> DEA May 31, 2024 Briefing.

<sup>472</sup> *Id.*

<sup>473</sup> *Id.*

<sup>474</sup> *Id.*

<sup>475</sup> *Id.*

<sup>476</sup> Zeke Miller, *Biden and Xi discuss Taiwan, AI, and fentanyl in a push to return to regular talks*, Associated Press, (Apr. 2, 2024).

<sup>477</sup> Newsham, *When China Attacks: A Warning to America*, at 135; Letter from Hon. James Comer, Chairman, Comm. on Oversight & Accountability, to Hon. Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security (July 18, 2024).

<sup>478</sup> *See e.g.*, Border 911, *Derek Maltz Sr.*, [www.border911.com](http://www.border911.com) (last accessed Sept. 16, 2024).

should blame the CCP as much as the DEA and its partners currently blame the Sinaloa and Jalisco New Generation Cartel.<sup>479</sup>

- Educate international allies about CCP chemical warfare. Encourage them to speak out against Chinese TCOs and stop working with the CCP's Narcotics Control Bureau.
  
- To deter CCP chemical warfare, the DEA must work to remove the supply, stop the financing that facilitates trafficking, and defend the border.
  - The DEA should work with Congress to classify the CCP as a Drug Trafficking Organization,<sup>480</sup> thereby empowering the DEA to engage in criminal forfeiture actions against CCP owned corporations and party members within the United States as well as abroad. This will exert pressure on the CCP to curb fentanyl precursor production in and exportation from the PRC.
  - Make illicit fentanyl and fentanyl precursor trafficking difficult. The DEA, with support from the National Security Agency (NSA), must lawfully use current means of communication and collaboration to intercept CCP, Chinese Underground Banking Systems and Chinese TCO communications, thereby increasing the chances of intercepting fentanyl precursor shipments to North America at U.S. ports of entry.

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<sup>479</sup> Drug Enforcement Admin., *National Drug Threat Assessment 2024*, at 1 (May 2024) (“2024 DEA National Drug Threat Assessment”).

<sup>480</sup> See Walters, *supra* note 376.

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## DRUG ENFORCEMENT ADMINISTRATION

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

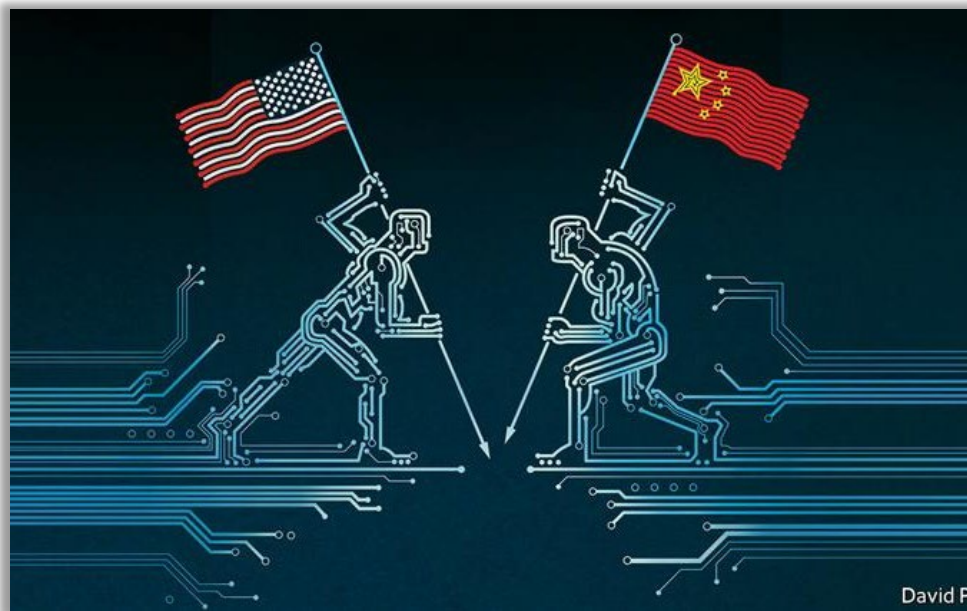
**Comment**

DEA is operating to the best of its ability given the lack of a whole-of-government approach and consensus on what CCP unrestricted warfare is and how to combat it.

## C. Federal Bureau of Investigation

The Federal Bureau of Investigation Must Dedicate Significant Attention to the CCP at this Consequential Time.

- The Federal Bureau of Investigation (FBI or Bureau) acknowledges the threat posed by the CCP, but it repeatedly told the Committee that it has difficulty describing the threat in an unclassified setting,<sup>481</sup> despite the abundance of open-source information revealing CCP infiltration and influence operations targeting communities across America.<sup>482</sup>
- CCP cyber warfare threatens U.S. government, citizens, businesses, and critical infrastructure through tactics that infiltrate and steal America’s hard-earned prosperity.
- The CCP seeks to surpass America on the global and cyber stage without respect for sovereignty, the rule of law, or human rights.



Source: David Parkins, available at Eugenio Lilli, *Cyber-Competition: US, China, and Russia Vie for 1st Place*, EA Worldview (May 3, 2020).

<sup>481</sup> Briefing from FBI Officials to Oversight & Accountability Committee staff (July 17, 2024) (“FBI Briefing”).

<sup>482</sup> See Press Release, H. Comm. on Oversight & Accountability, Comer Presses National Security Council on Developing Plan to Combat CCP Influence (Aug. 20, 2024) (press release providing additional context about the Committee’s government-wide investigation into CCP political warfare and includes links to letters to twenty-five federal agencies).

On May 6, 2024, the Committee requested a briefing from the FBI regarding the Bureau’s strategy to counter CCP unrestricted and cyber warfare.<sup>483</sup> On July 17, 2024, the FBI provided the Committee a briefing, attended by representatives from the Cyber Division, the Counterintelligence Division, and the Foreign Influence Task Force (FITF).<sup>484</sup>

The CCP is a Unique Adversary that Deserves Specialized Understanding and Increased Attention.

During its briefing to the Committee, the FBI acknowledged the threat posed by the PRC is equivalent to the threat posed from all other foreign countries combined, and the Bureau has more resources dedicated to the CCP than any other adversary.<sup>485</sup> The FBI confirmed there are CCP-related investigations in all 56 of its field offices.<sup>486</sup> Yet, the Bureau’s efforts to safeguard America have been muddled with a complacent attitude that fails to recognize that the CCP is waging a cold war against the United States.

The FBI told the Committee that the United States is in its first ever great state competition with an economically intertwined partner—the CCP.<sup>487</sup> Yet, the FBI’s characterization fails to appreciate that America and China are far more than competitors. As Mary Kissel, former Senior Advisor to Secretary of State Mike Pompeo, testified to the Committee: Characterizing the non-reciprocal relationship between the United States and the CCP as competition “implies that [the PRC and the CCP] follow the rules. They don’t. They are not a competitor. They are an enemy.”<sup>488</sup>

The FBI acknowledges that the CCP “considers every sector that makes our society run as fair game in its bid to dominate on the world stage.”<sup>489</sup> This strategy is carried out through expansive efforts to steal, infiltrate, influence, and destroy the American way of life. The CCP wages unrestricted warfare through proxies, partners, the united front,<sup>490</sup> hackers, and companies.<sup>491</sup> The FBI told the Committee that it does not investigate companies just because they are based in China,<sup>492</sup> but this fails to appreciate and consider that “[a]ll activity done by Chinese companies or within the Chinese borders accrues to the power of the [Chinese Communist] Party.”<sup>493</sup> The American people deserve open and honest information from the FBI

<sup>483</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Christopher Wray, Dir., Federal Bureau of Investigation (May 6, 2024).

<sup>484</sup> FBI Briefing; FBI representatives from the Counterintelligence Division and FITF also attended the Committee’s briefing with the Department of Justice on April 22, 2024 (“DOJ Briefing”); *see infra*, Section III. P. U.S. Department of Justice.

<sup>485</sup> DOJ Briefing.

<sup>486</sup> *Id.*

<sup>487</sup> FBI Briefing.

<sup>488</sup> CCP Political Warfare Hearing II (testimony of Ms. Kissel) (emphasis added).

<sup>489</sup> Christopher Wray, FBI Director, *Chinese Government Poses ‘Broad and Unrelenting’ Threat to U.S. Critical Infrastructure*, FBI Director Says, Speech at Vanderbilt Summit on Modern Conflict and Emerging Threats (Apr. 18, 2024) (“Wray, *Chinese Government Poses ‘Broad and Unrelenting’ Threat to U.S. Critical Infrastructure*”).

<sup>490</sup> *See supra*, Section II. B. United Front.

<sup>491</sup> *See* Seth G. Jones, et al., *Competing Without Fighting, China’s Strategy of Political Warfare*, Ctr. for Strategic & Int’l Studies, at 5 (Aug. 2023).

<sup>492</sup> FBI Briefing.

<sup>493</sup> CCP Political Warfare Hearing II (testimony of Ms. Kissel).



regarding the CCP’s illicit economic activity, as well as dedicated investigatory action into the dangers such activity presents. The FBI hamstring its mission to protect the American people<sup>494</sup> by ignoring the fact that PRC companies are indeed arms of the CCP, and that the Party is taking advantage of its unimpeded access to America’s economy.

### The FITF Should Prioritize Combatting CCP Unrestricted Warfare and Elite Capture.

The FBI’s FITF is responsible for countering “the extensive influence operations” of foreign adversaries and seeks to defend against foreign malign influence.<sup>495</sup> FITF considers foreign malign influence as subversive, criminal, undeclared, or coercive activities.<sup>496</sup> When questioned by the Committee, FITF said it could not provide unclassified metrics showing the prevalence of investigations or illegal activity within FITF’s purview that involve the CCP (as opposed to those involving other foreign adversaries).<sup>497</sup> However, a FITF official asserted to the Committee that the majority of their work focuses on China.<sup>498</sup> FITF also acknowledged the CCP threat is unique from all other foreign threats, yet the Bureau operates with a *content agnostic* mindset.<sup>499</sup> Though a FITF official claimed that its main focus is transparency,<sup>500</sup> the Committee is concerned that FITF’s goal of ensuring a “common understanding of the threat and a unified strategy to address it”<sup>501</sup> has involved the suppression or censorship of speech. The “Twitter Files”<sup>502</sup> revelations about the FBI’s and FITF’s involvement in policing the speech of American citizens demonstrates how the Bureau can abuse its power<sup>503</sup> in the name of “keep[ing] the American people safe” from “foreign malign influence operations.”<sup>504</sup> Notably, contrary to these revelations, an FBI official told the Committee that unlike China’s intelligence services, the Bureau does not censor to protect the government.<sup>505</sup> It is essential that FITF’s work, and that of all federal agencies charged with protecting national security, respect the rule of law by which they are bound and which they are supposed to secure.

FITF’s efforts to track and investigate what the Bureau calls foreign malign influence operations extend to subversion at the state and local levels, including law enforcement,

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<sup>494</sup> FBI, *Mission and Priorities* (“FBI Mission and Priorities”) (last accessed Sept. 16, 2024).

<sup>495</sup> Combating Foreign Influence, Federal Bureau of Investigation (“FBI Combating Foreign Influence”) (last accessed Sept. 16, 2024).

<sup>496</sup> FBI Briefing.

<sup>497</sup> *Id.*

<sup>498</sup> *Id.*

<sup>499</sup> *Id.*

<sup>500</sup> *Id.*

<sup>501</sup> FBI Combating Foreign Influence, *supra* note 495.

<sup>502</sup> James Lynch, *FBI to Resume ‘Regular Meetings’ with Social-Media Companies ahead of 2024 Election*, Nat’l Review (July 31, 2024) (“Internal Twitter documents known as the ‘Twitter Files,’ released when Elon Musk purchased the platform in late 2022, demonstrated the extensive correspondence between government officials and the platform leading up to the 2020 election. The FBI’s FITF was heavily involved in the coordination with social-media platforms, paving the way for censorship . . .”).

<sup>503</sup> See @mtaibbi, X (Dec. 16, 2022, 4:00 PM),

<https://x.com/mtaibbi/status/1603857534737072128?s=20&t=X9ArItqnCCr3uFN8bkS8gA> (Part Six of an X thread from Matt Taibbi discussing “TWITTER, THE FBI SUBSIDIARY.”).

<sup>504</sup> *Providing Foreign Malign Influence Threat Information to Social Media Platforms*, Fed. Bureau of Investigation (last accessed Sept. 16, 2024).

<sup>505</sup> FBI Briefing.

politicians, and election officials.<sup>506</sup> In the short term, the CCP seeks to exploit relationships with state and local government officials to exert pressure on the federal government.<sup>507</sup> In the longer term, the CCP views these relationships as “future national leaders to be cultivated so they become favorably predisposed toward China.”<sup>508</sup> In light of the CCP’s prolonged influence strategies, the Committee wrote to FBI Director Christopher Wray on August 16, 2024, raising concerns about Minnesota Governor and Kamala Harris’s vice presidential running mate, Timothy Walz, and his long-standing ties to the PRC and CCP-affiliated entities.<sup>509</sup> Walz’s connections to the communist regime include extensive interactions with CCP-affiliated entities and officials, the organization of student trips to China in the 1990s, partially funded by the Chinese government, and the establishment of a company to continue these trips for over a decade.<sup>510</sup> Additionally, while serving in Congress, Walz held a fellowship at Macau Polytechnic University, a Chinese institution known for its allegiance to the CCP.<sup>511</sup> Walz was also invited to headline a convention alongside the Chinese People’s Association for Friendship with Foreign Countries (CPAFFC), which the State Department has exposed as a CCP organization “tasked with co-opting subnational governments,” that seeks to promote communist ideology by “directly and malignly influenc[ing] state and local leaders.”<sup>512</sup>

There are concerns about Governor Walz’s longstanding relationship with China and the likelihood of the CCP expecting something in return for its “investment in Walz.”<sup>513</sup> The Committee’s government-wide investigation has detailed the national security implications of influence the CCP seeks to exert on America’s government officials.<sup>514</sup> Mr. Joske, a Chinese-Australian author, sinologist, open-source intelligence researcher, and risk consultant, has explained that CCP state and local influence efforts shape foreign perceptions of the communist regime’s ideology, mislead officials about the regime’s intentions, and build friendships with influential individuals or those who might rise into prominence.<sup>515</sup> Mr. Joske warns that this

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<sup>506</sup> FBI Briefing; FBI Combating Foreign Influence, *supra* note 495; Statement of Christopher Wray, Dir. Federal Bureau of Investigation, *Oversight of the Federal Bureau of Investigation, Hearing before the S. Judiciary Comm.* (Aug. 4, 2022) (“[T]he FITF strives to protect democratic institutions, develop a common operating picture, raise adversaries’ costs, and reduce their overall asymmetric advantage.”).

<sup>507</sup> Emily de La Bruyère & Nathan Picarsic, *All Over the Map: The Chinese Communist Party’s Subnational Interests in the United States*, The Found. for Defense of Democracies, at 12 (2021).

<sup>508</sup> *Id.*

<sup>509</sup> Letter from James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Christopher Wray, Dir., Federal Bureau of Investigation (Aug. 16, 2024).

<sup>510</sup> *Id.*; see also Sasha Gong & Bradley A. Thayer, *Ten Things to Know About Tim Walz and His Ties to Communist China*, American Greatness (Aug. 15, 2024) (“It is important to note that operating a business in China requires all kinds of permits—both official and unofficial—from Chinese authorities at the local, provincial, and central levels. . . . For foreigners, the [Ministry of State Security] would certainly have been involved. That is as certain as the sun rising in the east.”).

<sup>511</sup> See Letter from James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Christopher Wray, Dir., Federal Bureau of Investigation (Aug. 16, 2024).

<sup>512</sup> Press Statement, U.S. Dep’t of State, Designation of the National Association for China’s Peaceful Unification (NACPU) as a Foreign Mission of the PRC (Oct. 28, 2020).

<sup>513</sup> Gong & Thayer, *supra* note 510.

<sup>514</sup> See Letter from Hon. James Comer, Chairman, Comm. on Oversight & Accountability, to Hon. Gina Raimondo, Sec’y, U.S. Dep’t of Commerce (May 6, 2024); Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Antony Blinken, Sec’y, U.S. Dep’t of State (May 6, 2024).

<sup>515</sup> See Joske, *Spies and Lies: How China’s Greatest Covert Operations Fooled the World*, at 74.

type of influence “can be just as worthwhile as stealing missile technology.”<sup>516</sup> FITF acknowledged to the Committee that subversive influence operations seek to drive a wedge between state and federal offices and influence politicians.<sup>517</sup>

State and local government officials’ connections to the CCP, like Walz’s, make U.S. government officials vulnerable to the Party’s strategy of elite capture, which seeks to co-opt, manipulate, and influence prominent individuals to shape American discourse and decision-making to the benefit of the communist regime and to the detriment of America.<sup>518</sup> Walz has already made statements suggesting that he does not view China as an adversary,<sup>519</sup> and has expressed his love for the country.<sup>520</sup> The Committee requested that the FBI, including FITF, provide all relevant documents and communications regarding the CCP entities and individuals Walz has engaged or partnered with to ensure that the FBI is adequately monitoring and investigating CCP efforts to target and recruit elected officials in pursuit of its influence operations.<sup>521</sup> To date, the FBI has not provided a substantive update or response to the Committee’s August 16, 2024 inquiry. In light of the FBI’s disregard for Congressional oversight, the Committee sent a follow-up letter on September 12, 2024 to reiterate its requests for information.<sup>522</sup> The FBI’s lack of responsiveness and transparency raises concerns about its efforts to combat CCP political warfare.

Though the FBI has yet to respond to the Committee, additional information has come to the Committee’s attention through a whistleblower, who shared a DHS personnel group chat containing discussions about Walz’s ties to China. On September 30, 2024, the Committee sent a subpoena to DHS for the group chat and related information in DHS’s possession, relevant to CCP influence operations at the state and local levels in Minnesota.<sup>523</sup>

While a whistleblower has been forthcoming on this issue, it is plain that FITF should have similarly scrutinized Walz’s ties to China. FITF’s responsibilities to protect against the CCP’s efforts to influence political sentiment and public discourse<sup>524</sup> plainly encompass close examination of the Party’s efforts at the state and local level.

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<sup>516</sup> *Id.*

<sup>517</sup> FBI Briefing.

<sup>518</sup> See *supra*, Section II. C. Elite Capture; see generally Joske, *The party speaks for you*, *supra* note 158.

<sup>519</sup> Diana Glebova & Ryan King, *Tim Walz has fawned over Communist China: Doesn’t have to be ‘adversarial relationship’*, N.Y. Post (Aug. 6, 2024) (quoting Walz from a 2016 interview with Agri-Pulse).

<sup>520</sup> Gong & Thayer, *supra* note 510 (“In fact, according to Tim Walz himself, he fell in love with China, that is, with the CCP’s form of tyrannical and illegitimate rule over the Chinese people.”).

<sup>521</sup> Letter from James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Christopher Wray, Dir., Federal Bureau of Investigation (Aug. 16, 2024).

<sup>522</sup> Letter from James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Christopher Wray, Dir., Federal Bureau of Investigation (Sept. 12, 2024).

<sup>523</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security (Sept. 30, 2024).

<sup>524</sup> FBI Combating Foreign Influence, *supra* note 495.

## The CCP Engages in a Dangerous Blend of Overt and Covert Activities.

CCP unrestricted warfare activities are, by design, clandestine, “making it difficult to assess what the Chinese government is doing.”<sup>525</sup> The FBI acknowledged to the Committee that CCP political warfare and united front work<sup>526</sup> operations are unique from the activities of any other foreign adversary because the CCP blends overt and covert activities to exert power abroad.<sup>527</sup> The Party uses “non-traditional collection” to gain illicit access to American data and intellectual property (IP).<sup>528</sup> Non-traditional collection methods are dangerous for national security because the CCP uses legitimate businesses to operate within the United States, along with illegitimate tactics to manipulate policy and access sensitive information.<sup>529</sup> The FBI confirmed that the CCP has fostered a capitalistic approach to espionage in America, which leads Chinese citizens and CCP proxies to *know* that conducting economic espionage will lead to financial gain.<sup>530</sup> Given how difficult these infiltration methods are to detect, the FBI should proactively warn the American people about these tactics, which may affect them, their businesses, and their communities. Despite the FBI’s claim that it is difficult to discuss CCP unrestricted warfare in an unclassified setting,<sup>531</sup> such warnings can be done without classified information.

The FBI told the Committee that the CCP conducts transnational repression (TNR)<sup>532</sup> by suppressing intellectual and physical freedoms, which has increased on American soil over the last decade.<sup>533</sup> Specifically, the Chinese diaspora is targeted in the wake of the Party’s efforts to silence criticism, sometimes done through blatant violations of human rights.<sup>534</sup> The Party uses the united front to execute transnational repression, for example by infiltrating police stations in the

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**The FBI confirmed to the Committee that some targets of transnational repression in the United States are also being investigated for money laundering, which has been increasingly tied to organizations operating in the PRC.**

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<sup>525</sup> Jones, et al., *Competing Without Fighting, China’s Strategy of Political Warfare*, *supra* note 491, at 5.

<sup>526</sup> *See supra*, Section II. B. United Front.

<sup>527</sup> FBI Briefing.

<sup>528</sup> *Id.*

<sup>529</sup> *See* Heather Somerville, *Blacklisted Chinese Companies Rebrand as American to Dodge Crackdown*, Wall St. J. (May 29, 2024) (“Chinese firms [are] trying to buffer themselves from Washington’s anti-China policies” by “rebranding and creating U.S.-domiciled businesses.”).

<sup>530</sup> FBI Briefing.

<sup>531</sup> *Id.*

<sup>532</sup> *See infra*, Section III. P. U.S. Department of Justice.

<sup>533</sup> FBI Briefing.

<sup>534</sup> *Congressional-Executive Commission on China Hearing: China’s Global Transnational Repression Campaign* (Sept. 12, 2023) (remarks of Uzra Zeya, Undersecretary, Civilian Security, Democracy, and Human Rights) (“The PRC uses [transnational repression] to harass and threaten Uyghurs, Tibetans, members of other ethnic and religious minority groups, Hong Kongers, and PRC citizens and non-PRC citizens living abroad, who seek only to exercise their human rights and fundamental freedoms.”); Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Merrick B. Garland, Attorney General, Dep’t of Justice (Mar. 13, 2024); *supra*, Section II. E. Protecting the Chinese Diaspora.

United States<sup>535</sup> and pursuing efforts like Operation Fox Hunt.<sup>536</sup> Transnational repression, similar to economic espionage, is pursued with a mixture of overt and covert activities—a blend that is hard to track and calls for increased awareness and efforts to do so. The FBI confirmed that some targets of transnational repression in the United States are also being investigated by the U.S. government for money laundering,<sup>537</sup> which has been increasingly tied to organizations operating in the PRC.<sup>538</sup> The connection between the Party’s transnational repression and money laundering efforts demonstrates the complexity of CCP unrestricted warfare operations.

### The FBI Must Protect America from CCP Cyber Warfare.

The FBI states that one of its major priorities is to “[p]rotect the U.S. against foreign intelligence, espionage, and cyber operations.”<sup>539</sup> The CCP is targeting America’s data and critical infrastructure via cyber warfare,<sup>540</sup> and FBI Director Wray concedes that the efforts to do so are “broad and unrelenting.”<sup>541</sup> The FBI acknowledged that the PRC is the biggest threat to critical infrastructure.<sup>542</sup> Infrastructure is the “underlying foundation that society needs to function,”<sup>543</sup> and because America is heavily reliant on technology to support infrastructure functioning, CCP cyber warfare “represent[s] real world threats to our physical safety.”<sup>544</sup>

Cybersecurity and new technologies are the “defining national and economic security challenges of the 21st century,” which, in turn, increases “the kinds of sensitive information that can be stolen and the complexity of the threat landscape.”<sup>545</sup> Many writers including David Goldman, Deputy Editor for the *Asia Times* and Washington Fellow at the Claremont Institute’s Center for the American Way of Life, have described data as today’s “new oil.”<sup>546</sup> Data powers what has been described as the “Fourth Industrial Revolution,” which is fundamentally changing manufacturing and production based on “[a]rtificial intelligence applied to big data sets.”<sup>547</sup> The Fourth Industrial Revolution is characterized by “increasing automation and the employment of

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<sup>535</sup> See Press Release, Office of Public Affairs, Dep’t of Justice, Two Arrested for Operating Illegal Overseas Police Station of the Chinese Government (Apr. 17, 2023); *Patrol and Persuade: A follow-up investigation to 110 Overseas*, Safeguarding Defenders (Dec. 2022).

<sup>536</sup> See *infra*, Section III. P. U.S. Department of Justice.

<sup>537</sup> FBI Briefing.

<sup>538</sup> See *supra*, Section III. B. Drug Enforcement Administration; *infra*, Section III. E. Financial Crimes Enforcement Network.

<sup>539</sup> FBI Mission and Priorities, *supra* note 494.

<sup>540</sup> See *supra*, Section II. A. Unrestricted and Other Forms of Warfare.

<sup>541</sup> Wray, *Chinese Government Poses ‘Broad and Unrelenting’ Threat to U.S. Critical Infrastructure*, *supra* note 489.

<sup>542</sup> FBI Briefing.

<sup>543</sup> Spalding, *Stealth War*, at 162.

<sup>544</sup> The CCP Cyber Threat to the American Homeland and National Security: Hearing Before H. Select Comm. on the Chinese Communist Party, 118th Cong. (Jan. 31, 2024) (Statement of Christopher Wray, Dir., Fed. Bureau of Invest.).

<sup>545</sup> U.S. House of Representatives, *China Task Force Report*, at 59 (Sept. 30, 2020).

<sup>546</sup> David P. Goldman, How America Can Lose the Fourth Industrial Revolution, Claremont Institute Center for the American Way of Life, at 5-6 (Nov. 11, 2021) (While the control point of the twentieth-century economy was oil, the control point of the twenty-first is data.) (“Goldman, How America Can Lose the Fourth Industrial Revolution”); see also Nisha Talagala, *Data as the New Oil Is Not Enough: Four Principles For Avoiding Data Fires*, *Forbes* (Mar. 2, 2022).

<sup>547</sup> Goldman, How America Can Lose the Fourth Industrial Revolution, at 5-6.

smart machines and smart factories,”<sup>548</sup> and has been described as a “fusion of technologies that is blurring the lines between the physical, digital, and biological spheres.”<sup>549</sup> The CCP’s goal to lead the Fourth Industrial Revolution encompasses a takeover of “not only the sinews of the new industrial age, but scores of spinoff applications that will transform manufacturing, mining, health care, finance, transportation, and retailing—virtually the entirety of economic life.”<sup>550</sup> The CCP’s ambitions to steal data through basic espionage and non-traditional collection threatens America’s ability to take control of the Fourth Industrial Revolution. If the CCP leads this revolution, it could amount to a takeover of every part of the economy.<sup>551</sup> The CCP’s desire to “seize economic development in the areas most critical to tomorrow’s economy”<sup>552</sup> warrants unprecedented resistance and protection from the FBI.

The CCP uses cyber warfare as an offensive weapon to “loot[] U.S. government and private industry networks of strategic data (including biometrics) and sector-dominating secrets.”<sup>553</sup> There are many examples that prove the CCP’s dedicated and intricate strategies to exploit the American way of life and bolster the Party’s global power. The most prominent example is “Volt Typhoon,” which is a PRC state-sponsored cyber group that successfully allowed CCP hackers to pre-position themselves inside U.S. government systems.<sup>554</sup> Volt Typhoon gave the CCP the ability to unleash disruptive and potentially destructive cyber activity within the nation’s critical infrastructure networks at a time of the CCP’s choosing.<sup>555</sup> Another recent example displaying the Party’s cyber-enabled intrusion is Advanced Persistent Threat Group 31 (APT31), a PRC-backed hacking group, allegedly run by the MSS, that “spent approximately 14 years targeting U.S. and foreign critics, businesses, and political officials in furtherance of the PRC’s economic espionage and foreign intelligence objectives.”<sup>556</sup> APT31’s goals included suppressing CCP criticism, compromising U.S. government institutions, and stealing trade secrets.<sup>557</sup>

Recently, the FBI disrupted “Flax Typhoon”—a Chinese hacking operation, which has infected internet-connected devices across the United States.<sup>558</sup> Flax Typhoon hackers have “successfully attacked multiple U.S. and foreign corporations, universities, government agencies, telecommunications providers, and media organizations.”<sup>559</sup> Flax Typhoon attacks “conduct

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<sup>548</sup> See *What is Industry 4.0?*, IBM, available at <https://www.ibm.com/topics/industry-4-0> (last accessed Sept. 16, 2024).

<sup>549</sup> Goldman, *How America Can Lose the Fourth Industrial Revolution*, at 5.

<sup>550</sup> David P. Goldman, *The Chinese Challenge: America has never faced such an adversary*, Claremont Review of Books (Spring 2020).

<sup>551</sup> See *id.*

<sup>552</sup> Wray, *Chinese Government Poses ‘Broad and Unrelenting’ Threat to U.S. Critical Infrastructure*, *supra* note 489.

<sup>553</sup> Newsham, *When China Attacks: A Warning to America*, at 193-94.

<sup>554</sup> Cybersecurity Advisory, Cybersecurity & Infrastructure Security Agency, Alert Code: AA24-038A, *PRC State-Sponsored Actors Compromise and Maintain Persistent Access to U.S. Critical Infrastructure* (Feb. 7, 2024) (“CISA Alert”).

<sup>555</sup> CISA Alert, *supra* note 554.

<sup>556</sup> Press Release, Office of Public Affairs, Dep’t of Justice, *Seven Hackers Associated with Chinese Government Charged with Computer Intrusions Targeting Perceived Critics of China and U.S. Businesses and Politicians* (Mar. 25, 2024).

<sup>557</sup> See *id.*

<sup>558</sup> See Press Release, Dep’t of Justice, *Court-Authorized Operation Disrupts Worldwide Botnet Used by People’s Republic of China State-Sponsored Hackers* (Sept. 18, 2024).

<sup>559</sup> *Id.*

malicious cyber activity disguised as routine internet traffic from the infected consumer devices”—an operation that further reveals the CCP’s sophisticated efforts to hack into U.S. networks to “steal information and hold [America’s] infrastructure at risk.”<sup>560</sup> The FBI has also recently uncovered Salt Typhoon as “the latest in a series of incursions.”<sup>561</sup> Chinese-hackers behind Salt Typhoon burrowed into the networks of America’s internet-service providers, offering the hackers a “powerful position to steal information, redirect internet traffic, install malicious software or pivot to new attacks.”<sup>562</sup> The CCP hackers linked to Salt Typhoon are “penetrating the very heart of America’s digital life,”<sup>563</sup> and “potentially accessing information from the systems the federal government uses for court-authorized network wiretapping requests.”<sup>564</sup> A former CISA executive director said Salt Typhoon is “the most significant [Chinese-hacking operation] in a long string of wake-up calls that show how the PRC has stepped up their cyber game.”<sup>565</sup>

Flax Typhoon and Salt Typhoon are further evidence that the CCP seeks to conduct multi-year hacking operations to collect data and, presumably, learn all facets of how America and its government function, creating national security vulnerabilities that could prove irreparable. CCP cyber warfare is a ballooning threat to national and economic security. The FBI must deter CCP cyber infiltration across America.

FBI’s Public Messaging About CCP Unrestricted Warfare Should be Candid and Backed by a Cohesive China Strategy.

Despite the FBI’s disjointed China strategy, its public messaging about the threats posed by the CCP has been reasonable and gained significant traction under the Trump Administration.<sup>566</sup> One specific way the FBI conducts outreach to the private sector is through a “Citizens Academy,” which hosts representatives from private companies and focuses on foreign threats.<sup>567</sup> Though the academy is not specifically focused on China, the outreach program seeks to prepare Americans and American businesses for cyber-attacks backed by the CCP—and seeks to ensure the private sector that the FBI is a partner in deterring CCP cyber warfare.<sup>568</sup> Bringing awareness to the CCP’s cyber warfare methods and capabilities is critical to assisting local government and private sector efforts to combat CCP warfare operations. Ms. Kissel reminded the Committee in her testimony that the United States took decades to implement an effective strategy against the Soviet Union, and that today, “we don’t have the luxury of time.”<sup>569</sup> Accordingly, the FBI must implement a cohesive strategy, across the U.S. government, to support its recognition of the CCP’s efforts to surpass the United States as a superpower.<sup>570</sup>

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<sup>560</sup> *Id.*

<sup>561</sup> Sarah Krouse, et al., *China-Linked Hackers Breach U.S. Internet Providers in New ‘Salt Typhoon’ Cyberattack*, Wall St. J. (Sept. 26, 2024).

<sup>562</sup> *Id.*

<sup>563</sup> *Id.* (quoting Glenn Gerstell, former general counsel at the National Security Agency).

<sup>564</sup> Sarah Krouse, et al., *U.S. Wiretap Systems Targeted in China-Linked Hack*, Wall St. J. (Oct. 4, 2024).

<sup>565</sup> *Id.*

<sup>566</sup> *See A Guide to the Trump Administration’s Policy Statements*, Hudson Inst. (Aug. 2020).

<sup>567</sup> FBI Briefing.

<sup>568</sup> *Id.*

<sup>569</sup> CCP Political Warfare Hearing II (testimony of Ms. Kissel).

<sup>570</sup> FBI Briefing.

## Committee Recommendations

- The FBI should take a prominent role in developing a government-wide strategy to protect America from CCP unrestricted warfare—one that supports strong public messaging about CCP efforts to infiltrate and influence communities across America.
  - The FBI acknowledged to the Committee that the CCP operations cannot be treated the same as other foreign nations, as the CCP’s influence operations are distinct from other adversaries, such as Russia and Iran.<sup>571</sup> As the principal investigative arm of the DOJ,<sup>572</sup> the FBI should discourage DOJ<sup>573</sup>—which is responsible for the enforcement of federal national security laws—and other federal agencies from grouping the CCP with other foreign adversaries, as it detracts from a concentrated effort to address CCP political warfare.
  - FBI leaders should join other agency leaders in public statements to relay to Americans the pervasiveness of CCP unrestricted, political, and economic warfare seeking to weaken America.
  
- Using existing authorities and partnerships with state and local governments, the FBI should offer incentives for Americans and American businesses to assist the FBI in defending against the CCP.
  - Private companies own a large part of America’s critical infrastructure, which the CCP is attacking through non-kinetic means, such as the hacking operation conducted by Volt Typhoon.<sup>574</sup> The FBI should incentivize cooperation from privately owned American companies and continue programs such as the “Citizens Academy”<sup>575</sup> to raise awareness of CCP cyber warfare and its effects.
  
- Warnings to state and local government actors should not be kept private. A 2019 “official use only” leaked document provided specific counterintelligence warnings about the CCP to the Major Cities Chiefs Association, Major County Sheriffs of America, National Sheriffs’ Association, and International Association of Chiefs of Police.<sup>576</sup> If the FBI has continued similar outreach, it should do so in a public manner, as keeping such information private does not aid public understanding of CCP warfare operations, further threatening America.

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<sup>571</sup> *Id.*

<sup>572</sup> See FBI, *About, Frequently Asked Questions* (last accessed Sept. 16, 2024).

<sup>573</sup> See *infra*, Section III. P. U.S. Department of Justice.

<sup>574</sup> CISA Alert, *supra* note 554 (“Volt Typhoon actors have successfully infiltrated the networks of critical infrastructure organizations in the continental and non-continental United States and its territories. . .”).

<sup>575</sup> FBI Briefing.

<sup>576</sup> Letter from Joan Marie Turchiano, Acting Assistant Dir., Office of Partner Engagement, Federal Bureau of Investigation, to Mr. Art Acevedo, President, Major Cities Chiefs Assoc., et al. (Oct. 22, 2019).







# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## FEDERAL BUREAU OF INVESTIGATION

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

The Federal Bureau of Investigation recognizes the threat of CCP unrestricted warfare and communicates to the public, but needs a consistent and clear strategy to successfully deter unrestricted warfare using law enforcement authorities.

## D. Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission's Mission to Ensure Transmission Reliability Could be Compromised by Chinese Infrastructure.

- The CCP's targeting of the United States' energy grid poses a grave threat to Americans and national security; there are potential gaps in the federal government's efforts to counter, deter, and defeat this threat.
- The federal government's ability to assess PRC meddling in the electrical grid is limited, and existing infrastructure is vulnerable to CCP cyber-attacks.

The Federal Energy Regulatory Commission (FERC) must proactively warn utilities about the vulnerabilities that Chinese-manufactured infrastructure exposes in America's electrical supply. As stipulated by the Federal Power Act, FERC has jurisdiction over the electric power industry and regulates transmission reliability.<sup>577</sup>

On March 13, 2024, the Committee requested a briefing from FERC regarding FERC's efforts to safeguard American energy security from the CCP's destructive aims within the global energy sector.<sup>578</sup> On April 4, 2024, FERC provided the Committee a briefing, attended by the Office of Energy Infrastructure Security, the Office of Energy Reliability, and intelligence research specialists.<sup>579</sup> Unsurprisingly, FERC informed the Committee that agency officials have flagged dozens of China-related threats in the past year related to the supply chain and to cybersecurity.<sup>580</sup>

The PRC is heavily invested in undermining U.S. energy security and exploiting the U.S. electric grid. FERC officials briefed the Committee as part of the Committee's investigation into the threats the PRC poses to America's electric grid.<sup>581</sup> While FERC officials told Committee staff that the agency prepares for a range of attacks on the grid, from acts of terrorism to cyber-attacks,<sup>582</sup> there remain potential gaps in the federal government's plans to secure America's electrical grid.

Lawmakers have begun scrutinizing the growing presence of PRC manufactured batteries in the U.S. energy distribution system.<sup>583</sup> PRC battery suppliers could reveal sensitive information to the CCP about how the U.S. electrical grid operates to serve the CCP's strategic advantage.<sup>584</sup> While FERC cannot address all Chinese-manufactured infrastructure in the grid,

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<sup>577</sup> The Federal Power Act, Pub. L. 113-23 (Aug. 9, 2013).

<sup>578</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Willie L. Phillips, Chairman, Fed. Energy Regulatory Comm'n (Mar. 13, 2024).

<sup>579</sup> Briefing from FERC Officials to Oversight & Accountability Committee staff (Apr. 4, 2024) ("FERC Briefing").

<sup>580</sup> *Id.*

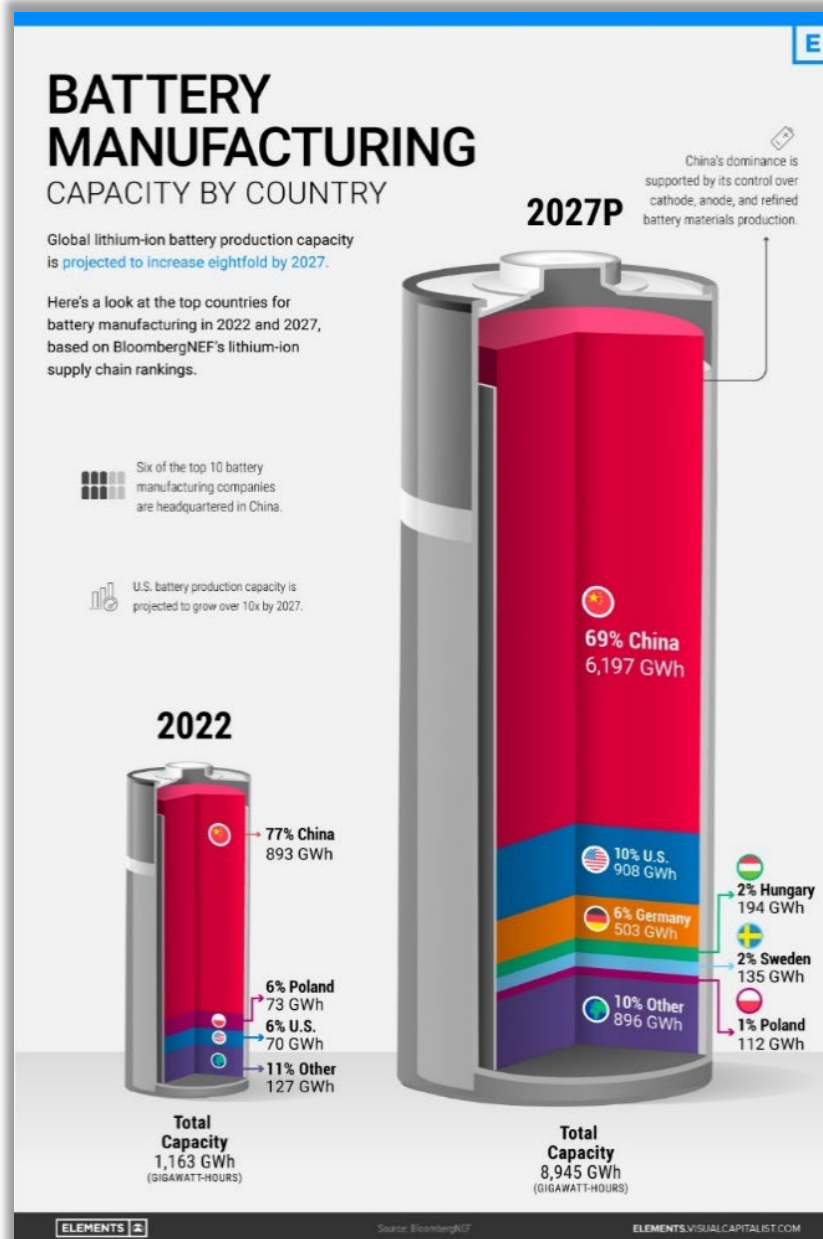
<sup>581</sup> FERC Briefing.

<sup>582</sup> *Id.*

<sup>583</sup> See Press Release, Senator Marco Rubio, Rubio, Colleagues Warn of Communist China-Linked Batteries at U.S. Military Bases (Dec. 1, 2023) ("Rubio Press Release").

<sup>584</sup> *Id.*

the agency should be proactive in warning companies and utilities about the threats posed by PRC-manufactured infrastructure. The PRC controls a large share of global lithium battery production because Chinese firms control access to much of the critical minerals used in lithium batteries.<sup>585</sup> As of 2022, Chinese firms account for 77 percent of the world’s lithium batteries and is projected to control 69 percent by 2027.<sup>586</sup>



Source: Govind Bhutada, *Visualizing China’s Dominance in Battery Manufacturing (2022-2027P)*, Visual Capitalist (Jan. 18, 2023).

<sup>585</sup> Office of the Director of National Intelligence, Annual Threat Assessment of the U.S. Intelligence Community (Feb. 6, 2023) (“2023 ODNI Annual Threat Assessment”).

<sup>586</sup> Govind Bhutada, *Visualizing China’s Dominance in Battery Manufacturing (2022-2027P)*, Visual Capitalist (Jan. 18, 2023).

U.S. intelligence services have concluded with confidence that China is capable of launching large-scale cyber-attacks on the U.S. grid.<sup>587</sup> FERC has issued a series of rules to help address these risks. In January 2023, FERC updated standards for how utilities should monitor networks connected to the internet controlling their electric systems.<sup>588</sup> FERC raised standards in March 2023 that require some systems to disable remote vendor access.<sup>589</sup> This measure will help address supply chain risks for systems already in the grid. Then in April 2023, FERC used its authority to offer financial incentives to encourage utilities to invest in more advanced cybersecurity technology.<sup>590</sup> These are welcome developments.

FERC also has the responsibility to monitor critical infrastructure, share intelligence from the DHS with stakeholders, and educate industrial stakeholders on how to mitigate the risks posed by Chinese cyber-attacks.<sup>591</sup> However, FERC acknowledged that agency standards and rulemaking are not enough to address these issues.<sup>592</sup> According to FERC, its challenge is to inspire utilities to be proactive and the private sector needs to understand who is targeting the infrastructure, what the aggressor's tools are, and what components of infrastructure are most critical.<sup>593</sup> Beyond briefings to utilities, both classified and unclassified, FERC conducts cyber-attack simulations with utilities.<sup>594</sup> These exercises are voluntary and carried out with National Guard cybersecurity experts.<sup>595</sup>

The fact that Chinese-manufactured lithium batteries were connected to a military base's electricity supply underscores how the federal government overlooks threats posed to the American public by China. A utility company in North Carolina disconnected batteries produced by the PRC firm, Contemporary Amperex Technology Co. Limited (CATL).<sup>596</sup> CATL is known to have close ties to the CCP<sup>597</sup> and there are serious concerns that CATL could share

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<sup>587</sup> FERC Briefing.

<sup>588</sup> News Release, FERC Strengthens Reliability Standards for Monitoring Electric Grid Cyber Systems, Fed. Energy Regulatory Comm'n (Jan. 19, 2023).

<sup>589</sup> Anna Ribeiro, *FERC approves Reliability Standard CIP-003-9 covering supply chain risk management of low-impact BES cyber systems*, Industrial Cyber (Mar. 20, 2023).

<sup>590</sup> News Release, FERC Approves Incentive Rate Treatment for Cybersecurity Investments, Fed. Energy Regulatory Comm'n (Apr. 20, 2023).

<sup>591</sup> FERC Briefing.

<sup>592</sup> *Id.*

<sup>593</sup> *Id.*

<sup>594</sup> *Id.*

<sup>595</sup> *Id.*

<sup>596</sup> Press Release, Congressman Greg Murphy, Murphy Meets with Duke Energy on Chinese Batteries Used at Camp Lejeune (Dec. 4, 2023) (According to Congressman Murphy, Duke Energy was invited by the Obama Administration to install batteries manufactured by CATL in a solar facility located at Marine Corps Base Camp Lejeune. Duke Energy took the batteries offline in late 2023.).

<sup>597</sup> Craig Singleton, *Beijing's Power Play*, Found. for Defense of Democracies (Oct. 23, 2023) (CATL was founded by Zeng Yuqun, who is associated with the Chinese People's Political Consultative Conference (CPPCC). CPPCC is "led by a member of China's highest-level decision-making authority, the CCP's Politburo Standing Committee, and serves as the highest-ranking entity overseeing China's United Front system[.]" Zeng has been associated with CPPCC since at least 2013, when he became a member of the Fujian Provincial Committee of the CPPCC as a science and technology delegate. In 2022, Zeng became the vice chairman of the All-China Federation of Industry and Commerce (ACFIC). According to the Foundation for Defense of Democracies, "ACFIC is 'led by' the CCP and responsible for integrating private businesses into the Chinese government's economic strategies and development plans, underscoring that even ostensibly private enterprises are intertwined with the party-state's ambitions and policies.").

information with the CCP that identifies vulnerabilities that could be used in a cyber-attack.<sup>598</sup> As the largest manufacturer of lithium batteries in the world,<sup>599</sup> CATL is in a position to influence supply chain networks in the United States and operates in several states. CATL's size and influence in the market is very similar to threats raised regarding Huawei, which has largely been blocked in the United States due to national security concerns.<sup>600</sup>

FERC serves a supporting role in addressing cyber and physical attacks on the grid. However, the vulnerabilities in U.S. energy infrastructure are concerning. There is no accounting for Chinese-manufactured infrastructure in the grid and much existing infrastructure is ripe for cyber-attacks. Absent aggressive action from federal agencies, these vulnerabilities could cause major disruptions to the electric grid system, threatening the safety of Americans, the economy, and the national defense.

#### Committee Recommendations

- FERC should work with the Department of Energy (Energy Department) to establish coordinated and effective outreach to relevant stakeholders—utilities and regional transmission operators and their suppliers—about the risks of PRC infrastructure in the transmission system. These groups deserve to know the truth about the PRC and the risks it poses to their businesses, our infrastructure, and our national security.
- FERC should work with the Energy Department to establish coordinated and effective outreach to relevant stakeholders—utilities and regional transmission operators and their suppliers—about the risks of PRC infrastructure in the transmission system. These groups deserve to know the truth about the PRC and the risks it poses to their businesses, our infrastructure, and our national security.
  - FERC should work with the Energy Department, DHS, and the Commerce Department, to conduct an assessment on the presence of PRC-affiliated products in U.S. critical infrastructure.
  - FERC should publish and maintain a list of manufacturers that is controlled by, owned by, or subject to influence by the CCP. The list should be proactively shared with utilities, regional transmission operators, and any other relevant stakeholders.
- FERC should work with the Energy Department, DHS, the Commerce Department, and the Intelligence Community (IC) to conduct an assessment on the presence of PRC-affiliated products in U.S. infrastructure.

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<sup>598</sup> Rubio Press Release, *supra* note 583.

<sup>599</sup> Henry Sanderson, *China's Electric Vehicle Battery King*, Time (Sept. 29, 2022).

<sup>600</sup> Diane Bartz & Alexandra Alper, *U.S. bans new Huawei, ZTE equipment sales, citing national security risk*, Reuters (Nov. 30, 2022).





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## FEDERAL ENERGY REGULATORY COMMISSION

Subject	Grade
Acknowledgment and Understanding of CCP Unrestricted Warfare, Infiltration and Influence Operations, and/or Relevant Form of CCP Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

**Comment**

Keeping in mind that FERC's mandate is relatively narrow, the Commission should be proactive in educating utilities about the threats—not just cyberattacks, but also the risks in Chinese-made products that are integrated in U.S. infrastructure. However, FERC is also limited in its ability to account for the scope of the CCP threat given the private sector may choose Chinese-made products, and the fact that FERC does not have authority over imports of CCP infrastructure that end up the energy grid. The example of CATL batteries in the grid in North Carolina demonstrates that more needs to be done in collaboration and outreach.

## E. Financial Crimes Enforcement Network

The Financial Crimes Enforcement Network Fails to Identify, Categorize, or Analyze CCP-Backed TCO Money Laundering that Advances CCP Intelligence and Influence Operations in America.

- Chinese Transnational Criminal Organizations (TCO) are currently conducting the largest money laundering scheme in world history in the United States.
- The Financial Crimes Enforcement Network (FinCEN) refused to acknowledge to or address with the Committee the Chinese TCOs engaging in illicit laundering activity.
- It is within FinCEN’s purview to analyze data it collects—yet FinCEN has not publicly shared any such analysis of data collected on the illicit finance activities of Chinese TCOs operating in the United States.

Unlike the DEA, FinCEN failed to acknowledge to the Committee that Chinese TCOs are the primary organizations conducting money laundering activity in the United States.<sup>601</sup> Chinese illicit financing is occurring on a massive, unprecedented scale in the United States. Yet, FinCEN—whose responsibility it is to “safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence”<sup>602</sup>—was unable to speak to Chinese TCO money laundering with any depth when pressed to do so.<sup>603</sup>

On March 13, 2024, the Committee requested a briefing from FinCEN regarding Chinese TCO laundering operations in the United States.<sup>604</sup> On April 25, 2024, FinCEN provided a briefing.<sup>605</sup> The briefing was attended by FinCEN’s Deputy Chief Counsel and staff from the Policy Division, Management Division, and Research and Analysis Division.<sup>606</sup>

According to John Cassara, a former Treasury investigator, China is “the world’s top ‘exporter of hot money.’”<sup>607</sup> Chinese TCOs operating within the United States are linked to the CCP and are conducting intelligence operations on its behalf.<sup>608</sup> Running the largest money

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<sup>601</sup> See *supra*, Section III. B. Drug Enforcement Administration.

<sup>602</sup> FinCEN, What We Do, [www.FinCEN.gov](http://www.FinCEN.gov) (last accessed Sept. 16, 2024) (“FinCEN: What We Do”).

<sup>603</sup> Briefing from FinCEN Officials to Oversight & Accountability Committee staff (Apr. 25, 2024) (“FinCEN Briefing”).

<sup>604</sup> Letter from Hon. James Comer, Chairman, Comm. on Oversight & Accountability, to Hon. Andrea Gacki, Dir., Financial Crimes Enforcement Network (Mar. 13, 2024).

<sup>605</sup> FinCEN Briefing.

<sup>606</sup> *Id.*

<sup>607</sup> Sebastian Rotella & Kirsten Berg, *How a Chinese American Gangster Transformed Money Laundering for Drug Cartels*, ProPublica (Oct. 11, 2022) (quoting John Cassara).

<sup>608</sup> See U.S. Dep’t of Treasury, *Treasury Sanctions Corrupt Actors in Africa and Asia*, [www.home.treasury.gov](http://www.home.treasury.gov) (last accessed Sept. 16, 2024); RCMP Project Sidewinder, *supra* note 379, at iv; Timperlake & Triplett II, Year of the Rat: How Bill Clinton Compromised U.S. Security for Chinese Cash, at 90-91; Ina Mitchell & Scott McGregor, *The Mosaic Effect: How the Chinese Communist Party Started a Hybrid War in America’s Backyard* (Nov. 30, 2023)

laundering campaign in U.S. history, Chinese TCOs launder funds obtained by Mexican cartels selling fentanyl-laced substances.<sup>609</sup> The CCP is laundering money using an efficient and effective method known as mirror transactions.<sup>610</sup> These operations serve the CCP’s overarching political warfare against the United States by facilitating domestic criminal enterprises, drugs, and illicit money—thereby weakening the United States from within.<sup>611</sup>

Chinese TCO Money Laundering Facilitates CCP Unrestricted Warfare—Particularly Drug and Chemical Warfare.

FinCEN should prioritize uncovering Chinese TCO money laundering given that this illicit activity fuels CCP unrestricted warfare against America. The DEA has explained,

Money processors who work for Chinese Underground Banking System brokers collect cash from transnational drug traffickers operating in the United States. They use the cash collected from drug traffickers to benefit the China-based clients of the Chinese Underground Banking System broker who are attempting to circumvent China’s capital flight laws.<sup>612</sup>

Moreover, “Chinese and other Asian drug trafficking organizations collect millions of dollars in illicit drug proceeds from cultivating and trafficking marijuana and the money is used to fund other criminal activities, to include trafficking in other drugs, money laundering, and human trafficking.”<sup>613</sup> The DEA confirmed the Chinese TCOs engaged in real estate purchases for illicit marijuana production are the same TCOs engaged in money laundering activities.<sup>614</sup> Yet, when pressed for answers on Chinese TCO money laundering activity, FinCEN briefers were unable to address them.<sup>615</sup>

Reportedly, Chinese money launderers have “emerged as the ‘No. 1 underwriter’ of drug trafficking in the Western Hemisphere.”<sup>616</sup> Chinese TCOs launder money for drug trafficking organizations that traffic methamphetamines, synthetic opioids (fentanyl), and precursor chemicals to America.<sup>617</sup> CCP money laundering operations exacerbate the fentanyl crisis occurring within our borders, providing Chinese criminal organizations with the funds needed to expand the CCP’s broader political warfare and influence operations across America.<sup>618</sup> Triads,

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(“Mitchell & McGregor, The Mosaic Effect: How the Chinese Communist Party Started a Hybrid War in America’s Backyard); Sebastian Rotella et. al., *A Diplomat’s Visits to Oklahoma Highlight Contacts Between Chinese Officials and Community Leaders Accused of Crimes*, ProPublica and The Frontier (Mar. 22, 2024).

<sup>609</sup> See David Asher, *How to fight the Mexican and Chinese fentanyl cartels driving biggest money laundering scheme in history*, N.Y. Post (Aug. 19, 2022) (emphasis added).

<sup>610</sup> Newsham, *When China Attacks: A Warning to America*, at 139-140.

<sup>611</sup> *Id.*

<sup>612</sup> 2024 DEA National Drug Threat Assessment, *supra* note 479, at 47.

<sup>613</sup> *Id.* at 40.

<sup>614</sup> See *supra*, Section III. B. Drug Enforcement Administration.

<sup>615</sup> *Id.*

<sup>616</sup> Rotella & Berg, *supra* note 607 (quoting Admiral Craig Faller).

<sup>617</sup> John Langdale, *Chinese Money Laundering in North America*, The European Review of Organized Crime, at 11 (2021).

<sup>618</sup> Rotella & Berg, *supra* note 607.



which are Chinese TCOs tied to the CCP,<sup>619</sup> and their corporate fronts work with distributors in Canada and Mexico to smuggle fentanyl into the United States.<sup>620</sup> Triads only “exist with the acquiescence of the [Chinese] security services.”<sup>621</sup> Colonel Grant Newsham, retired U.S. Marine Corps Colonel and former Intelligence and Foreign Service Officer, further explained that “[t]he CCP police can do whatever they want . . . . The fact that the Chinese regime doesn’t ban fentanyl entirely – much less go after producers the way it goes after Uighurs, Christians, Falun Gong, or Hong Kongers – suggests the CCP is glad America is awash in fentanyl.”<sup>622</sup>

Chinese triads in the United States receive Mexican cartel money gained from the sale of fentanyl in the United States and transfer those same dollars to Chinese nationals, whose currency is locked within the PRC due to export controls.<sup>623</sup> Chinese nationals, in exchange for the U.S. dollars, transfer the equivalent amount from their own bank accounts in the PRC to triad bank accounts in the PRC through what are known as “mirror transactions.”<sup>624</sup> The Chinese nationals then take the illicit funds and purchase real estate and/or gamble within the U.S.<sup>625</sup> The laundering cycle is completed by Mexican businesses that look to triads for Chinese currency to buy goods in China—and who pay Chinese TCOs for Chinese yuan with Mexican pesos.<sup>626</sup> According to the State Department, an estimated “\$154 billion in illicit funds passes through China.”<sup>627</sup>

#### FinCEN Appears Unaware that the CCP Backs Chinese TCOs Laundering Money that Aids Intelligence and Influence Operations in America.

The CCP supports Chinese TCO illicit finance operations.<sup>628</sup> Triads use CCP-owned banking institutions in this laundering scheme.<sup>629</sup> The CCP, which has access to and monitors the transactions passing through its banks, ignores triad bank transfers.<sup>630</sup> The CCP’s aiding and abetting of triad activity in the United States is a form of unrestricted warfare, as laundering activities support and embolden Mexican cartel actions in the United States while enabling the CCP to conduct intelligence and influence operations.<sup>631</sup> Moreover, given that Chinese TCO leadership is embedded in CCP government positions,<sup>632</sup> the CCP is aware of TCO activity occurring within its own borders.

<sup>619</sup> See U.S. Dep’t of Treasury, *Treasury Sanctions Corrupt Actors in Africa and Asia*, *supra* note 608; RCMP Project Sidewinder, *supra* note 379, at iv; Timperlake & Triplett II, *Year of the Rat: How Bill Clinton Compromised U.S. Security for Chinese Cash*, at 90-91; *see also* Mitchell & McGregor, *The Mosaic Effect: How the Chinese Communist Party Started a Hybrid War in America’s Backyard*; Sebastian Rotella et. al, *supra* note 608.

<sup>620</sup> Chrustie & Luna, *supra* note 397.

<sup>621</sup> Newsham, *When China Attacks: A Warning to America*, at 140.

<sup>622</sup> *Id.* at 138, 140.

<sup>623</sup> Langdale, *supra* note 617, at 11. (“Chinese capital flight represents a massive illicit outflow of money from China that violates overseas capital transfer restrictions imposed by the China government on its citizens (U.S. \$50,000 per annum).”).

<sup>624</sup> Rotella & Berg, *supra* note 607.

<sup>625</sup> *Id.*

<sup>626</sup> *Id.*

<sup>627</sup> *Id.*

<sup>628</sup> *Id.*

<sup>629</sup> *Id.*

<sup>630</sup> *Id.*

<sup>631</sup> *See generally* Spalding, *War Without Rules*.

<sup>632</sup> DEA May 31, 2024 Briefing.



Source: James O'Brien, *Pacific Gambit: Inside the Chinese Communist Party and Triad Push into Palau*, OCCRP (Dec. 12, 2022).

Chinese TCOs use certain banks with warm CCP relations to commit mortgage fraud and launder funds within the United States. Banks will occasionally issue cashier's checks in exchange for large sums of cash brought in by the Chinese nationals and Chinese TCOs.<sup>633</sup> Additionally, a bank with ties to the PRC was found to have moved "vast sums of dirty money after paying [a] record laundering fine," with the bank's "highly profitable branch in Hong Kong play[ing] a key role in keeping the dirty money flowing" including hundreds of millions of funds owned by the "notorious Sinaloa cartel and other Mexican drug gangs."<sup>634</sup>

TCO laundering activities are used to advance CCP intelligence and influence operations. Chinese TCOs use the Chinese Underground Banking systems to finance their operations in the United States, which includes human trafficking, purchasing weapons, and acquiring real estate for marijuana cultivation and intelligence operations.<sup>635</sup> The purchase of marijuana grow operations and building infrastructure near highly sensitive military installations and over underground optical cable systems in the United States is further evidence of CCP intelligence gathering operations.<sup>636</sup> The DEA confirmed Chinese TCOs have been establishing marijuana grow operations on top of underground communication cables, often connected to and just outside of U.S. military installations.<sup>637</sup> Moreover, the DEA found coaxial cables on these Chinese TCO properties—which have no application for marijuana cultivation and are used for

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<sup>633</sup> DEA May 31, 2024 Briefing.

<sup>634</sup> Spencer Woodman, *HSBC moved vast sums of dirty money after paying record laundering fine*, Int'l Consortium of Investigative Journalists (Sept. 21, 2020).

<sup>635</sup> DEA May 31, 2024 Briefing.

<sup>636</sup> *Id.*

<sup>637</sup> *Id.*

data transfer.<sup>638</sup> The DEA expects that the Chinese TCOs will eventually dig down and splice into the underground communication cables for unfettered access to U.S. military data and communications.<sup>639</sup>

FinCEN has attempted to counter Chinese TCO activity in the real estate market. Real estate transactions are one of the few Chinese TCO laundering transactions that FinCEN flags from the data it collects.<sup>640</sup> Because many of the Chinese TCO laundering transactions do not go through the American banking system,<sup>641</sup> and since FinCEN collects data covered under the Banking Secrecy Act, FinCEN can only analyze data on Chinese nationals using laundered dollars in U.S. markets that is reported under this act.<sup>642</sup> To intercept some of these transactions, FinCEN issues Geographic Targeting Orders (GTOs) to title insurance companies, specifically designed to flag real estate transactions conducted without financing in certain counties and cities over specific monetary thresholds.<sup>643</sup> FinCEN stated the locations of these GTOs are generally chosen based on requests from federal and local law enforcement.<sup>644</sup>

FinCEN’s willingness to monitor Chinese nationals participating in TCO and cartel laundering activities is insufficient given the circumstances surrounding these illicit transactions.<sup>645</sup> When pressed by the Committee, FinCEN officials downplayed certain suspicious financial activity and did not express concern that such activity raised red flags of illicit conduct.<sup>646</sup> FinCEN briefers emphasized that Chinese nationals can lawfully purchase real estate and gamble at casinos—stating that Chinese nationals are the victims of the CCP’s strict currency export control.<sup>647</sup> While many Chinese nationals are victims of the CCP regime, these Chinese nationals are only able to participate in lawful activities due to money they have acquired through illicit financing that supports CCP influence operations.<sup>648</sup>

The DEA has repeatedly stated—both in its briefings to the Committee and publicly in its National Drug Threat Assessment of 2024—that Chinese TCOs have taken over the illegal money laundering market. This takeover is due to the speed of Chinese TCO transactions and their low-cost (zero-to-two percent) commissions compared to those of the Dominican or Colombian cartels.<sup>649</sup> Furthermore, the DEA Administrator Anne Milgram explained that “the cartels utilize *Chinese Money Laundering Organizations* to move their profits from the United States Back to Mexico. Drug trafficking organizations based in Mexico . . . are increasingly

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<sup>638</sup> *Id.*

<sup>639</sup> *Id.*

<sup>640</sup> FinCEN Briefing. Because most of the Chinese TCO financial transactions occurring that FinCEN could flag as mirror transactions are outside the United States’ jurisdiction, FinCEN’s tool for identifying and flagging these laundering operations are limited to going after the Chinese nationals that purchase real estate or goods as well as gamble in the United States with the proceeds of Fentanyl.

<sup>641</sup> See Rotella & Berg, *supra* note 607.

<sup>642</sup> See FinCEN, *What is the BSA Data?*, www.fincen.gov (last accessed Sept. 16, 2024); *see id.*

<sup>643</sup> FinCEN Briefing.

<sup>644</sup> *Id.*

<sup>645</sup> *Id.*

<sup>646</sup> *Id.*

<sup>647</sup> *Id.*

<sup>648</sup> See also, Rotella & Berg, *supra* note 607.

<sup>649</sup> DEA Apr. 26, 2024 Briefing; *see also* Rotella & Berg, *supra* note 607; 2024 DEA National Drug Threat Assessment, *supra* note 479, at 47.

utilizing [Chinese Underground Banking Systems] as their primary money laundering mechanisms.”<sup>650</sup>

### FinCEN has Neglected to Publicly Share Much-Needed Analyses of Chinese TCO Activity.

However, when Committee staff asked FinCEN which organization leads in fentanyl-related money laundering, FinCEN officials asserted that they did not want to make an assessment, despite seeing significant Criminal Money Laundering Organization activity.<sup>651</sup> FinCEN, both in its 2021 Anti-Money Laundering and Countering the Financing of Terrorism National Priorities and in the briefing it provided to the Committee, ignored what the DEA<sup>652</sup> and media reports<sup>653</sup> have made clear: Chinese TCOs play a significant role in cartel laundering activity.<sup>654</sup> When asked about the role Chinese TCOs play in money laundering, FinCEN officials responded that while they look at such activities, they do not classify such activities by nationality or group.<sup>655</sup>

FinCEN creates two to three financial trend analyses each year.<sup>656</sup> While FinCEN has failed to acknowledge Chinese TCOs’ roles in money laundering, in 2021 it noted that Chinese nationals were laundering fentanyl proceeds—as demonstrated by their mention in FinCEN’s Anti-money Laundering and Countering the Financing of Terrorism National Priorities.<sup>657</sup> Despite apparent awareness of the illicit finance activities that Chinese nationals engage in, FinCEN has not publicly shared a financial trend analysis related to Chinese TCO involvement with laundering operations.<sup>658</sup> Instead, FinCEN focused on other topics for its financial trend analyses, such as wildlife trafficking and Russian oligarchs.<sup>659</sup>

FinCEN officials repeatedly told the Committee that they are stewards of the data,<sup>660</sup> suggesting that FinCEN does not fully recognize its responsibilities to analyze and properly disseminate data based on their analyses.<sup>661</sup> Importantly, however, FinCEN’s website states that “Congress has given FinCEN certain duties and responsibilities and other related data in support of government and financial industry partners at the Federal, State, local, and international levels.”<sup>662</sup> As a result, FinCEN is tasked with managing “the collection, processing, storage, dissemination, and protection of data filed under FinCEN’s reporting requirements,” and “synthesiz[ing] data to recommend internal and external allocation of resources to areas of greatest financial crime risk[.]”<sup>663</sup> The Committee’s investigation uncovered a concerning gap between what FinCEN appears to be doing to support investigations into Chinese money

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<sup>650</sup> 2024 DEA National Drug Threat Assessment, *supra* note 479, at 2.

<sup>651</sup> FinCEN Briefing (emphasis added).

<sup>652</sup> See 2024 DEA National Drug Threat Assessment, *supra* note 479, at 47.

<sup>653</sup> See Rotella & Berg, *supra* note 607.

<sup>654</sup> See 2024 DEA National Drug Threat Assessment, *supra* note 479, at 47.

<sup>655</sup> FinCEN Briefing.

<sup>656</sup> FinCEN, *Financial Trend Analyses*, www.fincen.gov (last accessed Sept. 16, 2024).

<sup>657</sup> FinCEN, Anti-Money Laundering and Countering the Financing of Terrorism National Priorities (June 30, 2021).

<sup>658</sup> *Id.*

<sup>659</sup> *Id.*

<sup>660</sup> FinCEN Briefing.

<sup>661</sup> *Id.*

<sup>662</sup> FinCEN: What We Do, *supra* note 602.

<sup>663</sup> *Id.*

laundering in America and its public pronouncement that the agency “carries out its mission by . . . analyzing and disseminating [ ] data for law enforcement purposes.”<sup>664</sup>

FinCEN personnel must possess a solid understanding of the information they analyze so they can disseminate data to the appropriate agency and engage in counter-illicit finance operations. FinCEN’s financial trend analyses demonstrate the agency’s full capability of investigating, identifying, and quantifying financial crime trends present in the data they receive. Yet, FinCEN was unable to provide statistics or data regarding the extent of Chinese TCO involvement in laundering illicit funds in the United States.<sup>665</sup> FinCEN’s inability to demonstrate to the Committee any data trends or analyses on Chinese TCO activity suggests either a failure to conduct necessary analytical work, or the possibility that FinCEN is purposefully ignoring Chinese TCOs. In any event, FinCEN appears unwilling to acknowledge the role the CCP and Chinese TCOs play in laundering illicit funds in the United States to finance CCP unrestricted warfare against America.

Several months after FinCEN’s briefing, Director Andrea Gacki shared with the Committee FinCEN’s response to the Government Accountability Office’s (GAO) report titled *ANTI-MONEY LAUNDERING: Better Information Needed on Effectiveness of Federal Efforts*.<sup>666</sup> Notably, FinCEN’s response, which was shared with the Committee as responsive to its letter and briefing request pertaining to Chinese money laundering and TCOs operating in the United States—made no mention of these topics, further revealing that FinCEN is not taking serious steps to support investigations into this illicit activity.<sup>667</sup>

## Committee Recommendations

FinCEN should identify and disclose to the American public the CCP’s money laundering operations in the United States and conduct financial trend analyses to determine how CCP intelligence and influence operations rely on this money laundering. It has failed to do so. To remedy this failure, FinCEN should do the following:

- Despite its assertion that it is simply a steward of data, FinCEN should recognize its role in collecting, analyzing, and disseminating data<sup>668</sup> to law enforcement and the public to better protect America from Chinese TCO money laundering that aids CCP influence operations.
  - FinCEN officials gave the Committee the impression that they are unprepared to fulfill this role in financial crimes investigation into Chinese TCO money

<sup>664</sup> FinCEN Briefing; FinCEN: What We Do, *supra* note 602.

<sup>665</sup> FinCEN Briefing.

<sup>666</sup> Letter from Hon. Andrea Gacki, Director, Financial Crimes Enforcement Network to Hon. James Comer, Chairman, Comm. on Oversight & Accountability (Sept. 9, 2024).

<sup>667</sup> *Id.*

<sup>668</sup> FinCEN, *The Bank Secrecy Act*, available at <https://www.fincen.gov/resources/statutes-and-regulations/bank-secrecy-act> (last accessed Sept. 16, 2024) (“The BSA authorizes the Department of the Treasury to impose reporting and other requirements on financial institutions and other businesses to help detect and prevent money laundering. Specifically, the regulations implementing the BSA require financial institutions to, among other things, keep records of cash purchases of negotiable instruments, file reports of cash transactions exceeding \$10,000 (daily aggregate amount), and to report suspicious activity that might signify money laundering, tax evasion, or other criminal activities.”); *see also* 31 U.S.C. § 310(b)(C).

laundering. It is imperative that FinCEN proactively engages in the collection and analysis of data on Chinese TCOs to share such data with appropriate law enforcement.

- FinCEN was unwilling to comment or share what data sets or trends FinCEN has seen regarding Chinese TCOs laundering activity in the United States. FinCEN should conduct trend analyses into Chinese TCO activity, publicize the trends it observes, verify the claims of the DEA, and publicly recognize the CCP's role in facilitating Chinese TCO laundering operations.
  - FinCEN should work with the Treasury Department's Office of Foreign Assets Control (OFAC) to support efforts to identify and sanction individuals and institutions playing a role in Chinese TCO laundering.
- FinCEN should train its personnel to detect and prevent Chinese TCO money laundering.
- Using existing authorities, FinCEN should train its personnel to identify, evaluate, and report Chinese TCO mirror transactions.
  - FinCEN should foster PRC experts to track Chinese TCO monetary activity and disseminate such information to law enforcement.<sup>669</sup>

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<sup>669</sup> See 31 U.S.C. § 310(b)(C)(i); see also FinCEN: What We Do, *supra* note 602 (This is particularly important given that FinCEN is tasked with supporting government partners at the Federal, state, local, and international levels, and “law enforcement investigations and prosecutions.”).

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## FINANCIAL CRIMES ENFORCEMENT NETWORK

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	●
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●

**Comment**

FinCEN is not adequately addressing the significant money laundering activities conducted by Chinese Transnational Criminal Organizations, which are fueling the CCP's unrestricted warfare against America.

## F. National Aeronautics and Space Administration

### Strong Public Messaging and Actions are Essential for NASA to Win the Space Race with China.

- According to the Office of Director of National Intelligence (ODNI), China’s space activities seek to increase the PRC’s global power and seek to “erode U.S. influence” in military, technological, economic, and diplomatic sectors.<sup>670</sup>
- National Aeronautics and Space Administration (NASA) Administrator Bill Nelson has publicly stated that the United States is in a space race with the PRC<sup>671</sup>—yet he has given dangerously mixed messaging on the subject, and the agency he leads refused to acknowledge the space race in an unclassified setting to the Committee.
- The PRC views space as a sector of its military, the PLA, and the “glue of the modern integrated battlefield[.]”<sup>672</sup> It has even built a space nuclear reactor.<sup>673</sup>
- Although the Wolf Amendment limits the use of NASA funds for projects with the PRC and Chinese-owned companies in most scenarios,<sup>674</sup> NASA is increasingly relying on and delegating work to the private sector, which is not bound by the same restrictions.<sup>675</sup>

On March 13, 2024, the Committee requested a briefing with NASA regarding what NASA is doing to protect its employees, scientists, and the commercial space industry from the threats posed by the CCP to American IP, data, and technology.<sup>676</sup> On April 24, 2024, NASA provided the Committee a briefing attended by the Office of Protective Services, the Office of Procurement, a security specialist, and NASA’s Senior Agency Information Security Officer and Chief Information Security Offer for Cybersecurity and Privacy.<sup>677</sup> Following an initial briefing that neglected to address the central focus of the Chairman’s letter, NASA provided two additional briefings to the Committee. NASA provided the Committee with an unclassified briefing on NASA’s Artemis missions and its Moon to Mars program—which seek to establish

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<sup>670</sup> 2023 ODNI Annual Threat Assessment, *supra* note 585, at 8.

<sup>671</sup> Edward Helmore, ‘We’re in a space race’: Nasa sounds alarm at Chinese designs on moon, *The Guardian* (Jan. 2, 2023).

<sup>672</sup> Ashley Lin, *The Chinese military’s skyrocketing influence in space*, *RealClear World* (Nov. 11, 2023).

<sup>673</sup> Andrew Jones, *Chinese megawatt-level space nuclear reactor passes review*, *Space News* (Aug. 31, 2022).

<sup>674</sup> Dennis Normile, *NASA opens door to cooperation with China on Moon rock research*, *ScienceInsider* (Dec. 7, 2023); Department of Defense and Full-Year Continuing Appropriations Act, Pub. L. No. 112-10, tit. III, §1340, 125 Stat. 38, 123 (2011).

<sup>675</sup> See Matthew Weinzierl & Mehak Sarang, *The Commercial Space Age Is Here*, *Harvard Business Review* (Feb. 12, 2021).

<sup>676</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Bill Nelson, Adm’r, Nat’l Aeronautics and Space Admin. (Mar. 13, 2024) (“NASA Letter”).

<sup>677</sup> Briefing from NASA officials to Oversight & Accountability Committee staff (Apr. 24, 2024) (“NASA Unclassified Briefing”).



the United States’ “long-term presence at the Moon”<sup>678</sup>—on May 10, 2024, and a classified briefing at NASA headquarters on May 22, 2024.<sup>679</sup>

### The CCP Has Militaristic Ambitions in Space.

The Committee’s investigation has made clear that the PRC intends to dominate in space and replace the United States as a leading global power. According to Richard Fisher Jr., a senior fellow with the International Assessment and Strategy Center, China “[s]eeks [g]alactic [h]egemony,” and that, “[b]y 1992 or thereabouts, the CCP appears to have also decided that hegemony on Earth was insufficient; it had to achieve hegemony over the heavens as well.”<sup>680</sup> Over the last several years, ODNI has recognized the CCP’s space ambitions. In 2021, ODNI concluded that “Beijing is working to match or exceed US capabilities in space to gain the military, economic, and prestige benefits that Washington has accrued from space leadership.”<sup>681</sup> By 2023, ODNI shared a more nuanced vision of the PRC’s space ambitions:

China is steadily progressing toward its goal of becoming a world-class space leader, with the intent to match or surpass the United States by 2045. Even by 2030, China probably will achieve world-class status in all but a few space technology areas. China’s space activities are designed to advance its global standing and strengthen its attempts to erode U.S. influence across military, technological, economic, and diplomatic spheres.<sup>682</sup>



Source: Office of the Dir. of Nat’l Intelligence, *Annual Threat Assessment of the U.S. Intelligence Community*, at 8 (Feb. 6, 2023).

<sup>678</sup> Nat’l Aeronautics and Space Admin., Destinations (last accessed Sept. 16, 2024).

<sup>679</sup> Briefing from NASA officials to Oversight & Accountability Committee staff (May 10, 2024) (“NASA Artemis Briefing”); Briefing from NASA officials to Oversight & Accountability Committee staff (May 22, 2024) (“NASA Classified Briefing”).

<sup>680</sup> Richard Fisher, Jr., *In Space, China Seeks Galactic Hegemony*, Center for Security Policy (Mar. 25, 2021).

<sup>681</sup> Office of the Dir. of Nat’l Intelligence, *Annual Threat Assessment of the U.S. Intelligence Community*, at 10 (Apr. 9, 2021).

<sup>682</sup> 2023 ODNI Annual Threat Assessment, *supra* note 585, at 8 (emphasis in original).

The PLA views space as “inseparable from the outcome of war,” and has stated that space is the “glue of the modern integrated battlefield,” and “the glue of the modern military power system.”<sup>683</sup> As a result, the PRC views space as a sector of the PLA.<sup>684</sup> The Committee remains very concerned that research and data derived from U.S.-China collaboration in space may therefore help strengthen the PRC’s military capabilities.

NASA’s increasing collaboration with the commercial space industry may increase the opportunity for CCP theft of innovation and technology for the purpose of strengthening the PRC’s militaristic ambitions in space. While there are significant and appropriate limits to U.S.-China space collaboration due to the Wolf Amendment, which prohibits most of the use of NASA funds for projects with the PRC and Chinese-owned entities,<sup>685</sup> the commercial space industry is not bound by the same restrictions. As a result, the commercial space industry actively engages with the PRC.<sup>686</sup> While some commercial space engagement with the PRC may be appropriate, NASA told the Committee it does not consider itself as having any responsibility to warn the commercial space industry about the dangers of partnership with the PRC. According to NASA, “[i]n general, it is not NASA’s role or assigned mission to educate the commercial space industry about foreign threats or actors. We are not the lead Federal agency when it comes to overseeing and regulating commercial space activities, nor do we have a direct Federal role in collecting and disseminating [counterintelligence/counterterrorism] information.”<sup>687</sup>

However, the commercial space industry does not operate in a vacuum—and NASA is increasingly collaborating with the private sector on space initiatives.<sup>688</sup> Wolf Amendment prohibitions do not extend to NASA’s contractors and suppliers; and offerors in all new solicitations or awards excluding commercial and non-development items seeking to submit a proposal are required to represent their compliance.<sup>689</sup> Importantly, however, current law assumes that government contract offerors will make honest representations that the offeror is not the PRC or a Chinese-owned entity.<sup>690</sup>

Also, despite the Wolf Amendment’s prohibitions and the obvious pitfalls of scientific engagement with an adversarial, militaristic regime, NASA has encouraged NASA-funded

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<sup>683</sup> Lin, *supra* note 672.

<sup>684</sup> See USCC 2023 Annual Report, *supra* note 223, at 2-3 (“China continues to pour resources into its unprecedented military buildup. The PLA places particular emphasis on achieving technological breakthroughs in missiles, space, under-sea warfare, and artificial intelligence, among other areas, in hopes that these might enable it to deter or defeat the forces of the United States and its allies.”).

<sup>685</sup> Normile, *supra* note 674; Department of Defense and Full-Year Continuing Appropriations Act, Pub. L. No. 112-10, tit. III, §1340, 125 Stat. 38, 123 (2011).

<sup>686</sup> See Marcin Frackiewicz, *The Relationship Between SpaceX and China’s Space Program*, TechnoSpace2 (Mar. 8, 2023).

<sup>687</sup> Email from Nat’l Aeronautics and Space Admin. to Oversight & Accountability Committee staff (Apr. 12, 2024).

<sup>688</sup> See Weinzierl & Sarang, *supra* note 675; Jim Cawley, *Boeing’s Starliner Makes Progress Ahead of Flight Test with Astronauts*, NASA (Aug. 28, 2020); Press Release, Blue Origin, *NASA Selects Blue Origin National Team to Return Humans to the Moon* (Apr. 30, 2020); Jeff Foust, *Virgin Galactic prepares to transition to operations*, SpaceNews (Nov. 5, 2020).

<sup>689</sup> Email from Nat’l Aeronautics and Space Admin. to Oversight & Accountability Committee staff (June 10, 2024).

<sup>690</sup> See NFS Clauses 1852.225-71 and 1852.225-72(c), Restriction on Funding Activity with China.

scientists to apply to China’s space agency to access lunar soil acquired by China in 2020.<sup>691</sup> This collaboration is generally prohibited given the Wolf Amendment, however, NASA may enter into limited engagements when it certifies to Congress that there is no risk of the transfer of technology or data, and that relevant studies do not include Chinese officials participating in human rights violations.<sup>692</sup> According to public reporting, NASA told scientists that it made these certifications to Congress.<sup>693</sup> Nonetheless, NASA’s encouragement invites CCP exploitation of NASA-funded scientists and their vital work. The Wolf Amendment has played an instrumental role in safeguarding American research and innovation from CCP espionage and theft, but NASA leadership must effectively ensure that the agency, through contractors and other collaborators, does not provide the PRC with opportunities, technology, or scientific research that may fuel the CCP’s unrestricted warfare and militarization of space.

ODNI acknowledges that the PRC is using space to erode U.S. global influence and become a “world-class space leader.”<sup>694</sup> To achieve these objectives, the PRC is attempting to establish a legal framework in space favorable to the CCP.<sup>695</sup> The PRC is rapidly increasing its presence in space and outpacing other countries. In 2022, China led the world in military launches by sending forty-five defense-related satellites into orbit.<sup>696</sup> According to ODNI, “[t]he PLA will continue to integrate space services . . . into its weapons and command-and-control systems to erode the U.S. military’s information advantage.”<sup>697</sup> Additionally, the PRC is rapidly expanding in other areas, including the expected launch of a lunar research station, and the PLA’s aspiration to land Chinese astronauts on the moon.<sup>698</sup>

By establishing the U.S. Space Force (Space Force), the Trump Administration recognized that “[s]pace is the world’s newest warfighting domain.”<sup>699</sup> In 2020, NASA and the Space Force signed an MOU to “affirm a strong interest in continuing their longstanding partnership for mutually beneficial collaborative activities in furtherance of space exploration, scientific discovery, and security.”<sup>700</sup> Today, the U.S. Air Force and the Space Force are collaborating with the National Reconnaissance Office (NRO)<sup>701</sup> to create “a dedicated constellation of sensor satellites specifically designed for Ground Moving Target Indication (GMTI),” to “replace the large radar surveillance aircraft like JSTARS previously used by the Air

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<sup>691</sup> Normile, *supra* note 674; Department of Defense and Full-Year Continuing Appropriations Act, Pub. L. No. 112-10, tit. III, §1340, 125 Stat. 38, 123 (2011).

<sup>692</sup> Normile, *supra* note 674.

<sup>693</sup> *Id.*

<sup>694</sup> 2023 ODNI Annual Threat Assessment, *supra* note 585; Office of the Director of Nat’l Intelligence, Annual Threat Assessment (2024) (“2024 ODNI Annual Threat Assessment”).

<sup>695</sup> Dean Cheng, *China and Space: The Next Frontier of Lawfare*, U.S. Inst. of Peace (Aug. 2, 2023).

<sup>696</sup> Lin, *supra* note 672.

<sup>697</sup> Office of the Dir. of Nat’l Intelligence, *Annual Threat Assessment of the U.S. Intelligence Community*, at 8 (Mar. 8, 2022).

<sup>698</sup> Helmore, *supra* note 671.

<sup>699</sup> Jim Garamone, *Trump Signs Law Establishing U.S. Space Force*, DOD News (Dec. 20, 2019).

<sup>700</sup> Nat’l Aeronautics and Space Admin., Memorandum of Understanding Between the Nat’l Aeronautics and Space Admin. and the United States Space Force (Sept. 2020) (last accessed Sept. 16, 2024).

<sup>701</sup> Nat’l Reconnaissance Off., NRO Overview (last accessed Sept. 16, 2024) (The NRO is a classified agency within the Department of Defense (DOD) that provides “overhead intelligence, surveillance and reconnaissance to more than 500,000 government users—including every member of the Intelligence Community, two dozen domestic agencies, our nation’s military, lawmakers, and decision makers.”).

Force to track the movement of troops and vehicles on the ground.”<sup>702</sup> At the same time, commercial remote sensing satellites are providing improved imaging capabilities, leading some to suggest that a hybrid approach utilizing both commercial and military systems could be the solution.<sup>703</sup>

The commercial space industry can play an important role in combatting the CCP’s activities in space.<sup>704</sup> As an example, the commercial space industry is collaborating with the NRO.<sup>705</sup> As of March 2024, SpaceX’s Starshield unit is developing a satellite network under a classified \$1.8 billion contract with the NRO.<sup>706</sup> Additionally, SpaceX’s satellite internet service, Starlink, has proved useful in allowing militaries, power plants, and medical workers to maintain online connections during infrastructural failures in emergencies.<sup>707</sup> Private industry participation does not, however, outsource or minimize the role that NASA can and should hold in protecting scientific innovation and information from the PRC.

In a letter from NASA’s Associate Administrator for Legislative and Intergovernmental Affairs to Chairman Comer, NASA asserted it “recognizes that the very nature of our mission, and the extremely important technical and intellectual capital produced makes the Agency’s information a valuable target. Therefore, protecting NASA’s people, its infrastructure, and our missions remains a top Agency priority.”<sup>708</sup> It is clear, however, that NASA will not win the space race that it only occasionally acknowledges the United States is in if NASA is not clear and transparent with the American people about the existence of this new space race, why it matters to the country, and what needs to be done to lead the United States and its allies to victory. As former President John F. Kennedy remarked in 1962 regarding space exploration:

[w]e set sail on this new sea because there is new knowledge to be gained, and new rights to be won, and they must be won and used for the progress of all people... Whether it will be a force for good or ill depends on man, and only if the United States occupies a

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<sup>702</sup> Sandra Erwin, *Private satellite operators make case for helping military track ground targets*, SpaceNews (Mar. 23, 2024).

<sup>703</sup> *Id.*

<sup>704</sup> See Greg Autry & Peter Navarro, *Red Moon Rising: How America Will Beat China on the Final Frontier*, at 141 (2024) (“It is a widely held opinion that as NASA has aged, it has become increasingly risk averse. The agency feared failure in a way that was increasing complexity, driving up costs, and delaying schedules. Perfect had become the enemy of good enough.”) (“Autry & Navarro, *Red Moon Rising: How America Will Beat China on the Final Frontier*”); *Id.* at 158-159 (In contrast, “China is intimidated by the efficiency of American private space enterprises. As Xi cracks down on private markets and independent thought, America must reimbrace those strengths in space. History has shown that China will copy everything America does, and we must be relentless innovators to prosper.”).

<sup>705</sup> Joey Roulette & Marisa Taylor, *Exclusive: Musk’s Space X is building spy satellite network for US intelligence agency, sources say*, Reuters (Mar. 16, 2024).

<sup>706</sup> Meaghan Tobin & John Liu, *Why Taiwan Is Building a Satellite Network Without Elon Musk*, N.Y. Times (Mar. 14, 2024).

<sup>707</sup> *Id.*

<sup>708</sup> Letter from Alicia Brown, Associate Administrator for Legislative and Intergovernmental Affairs, to Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability (Apr. 12, 2024).

*position of pre-eminence can we help decide whether this new ocean will be a sea of peace or a new terrifying theater of war.*<sup>709</sup>

## NASA was Unprepared to Address CCP Political Warfare at the Committee Briefing on CCP Political Warfare.

NASA’s understanding and recognition of the CCP’s nefarious ambitions in space is inadequate. At a briefing to the Committee, NASA personnel admitted that the briefers were prepared to discuss neither Administrator Nelson’s views on the PRC nor the space race with China.<sup>710</sup> Instead, briefers were only prepared to address physical security, cybersecurity, and procurement related to the PRC.<sup>711</sup>

Although NASA personnel admitted that there is regular cyber activity from the PRC, NASA briefers refused to say that China is the top threat.<sup>712</sup> NASA’s statement contradicts ODNI’s assessment that “China remains the most active and persistent cyber threat to U.S. Government, private-sector, and critical infrastructure networks.”<sup>713</sup> It is unclear whether NASA disagrees with ODNI’s assessment or is uninformed about the extent of the CCP’s destructive cyber activity—in either case, NASA should be able to identify and explain what it perceives to be the leading threat to NASA’s cybersecurity.

In fact, a recent indictment of a PRC national for a multi-year “spear-phishing” campaign demonstrates that NASA is indeed a target of CCP cyber warfare—illustrating the severity of the threat.<sup>714</sup> The PRC national, employed as an engineer at Aviation Industry Corporation of China, “a Chinese state-owned aerospace and defense conglomerate,” and “one of the largest defense contractors in the world,” allegedly targeted individuals employed by the U.S. government, including NASA, the U.S. Air Force, Navy, and Army, and the Federal Aviation Administration.<sup>715</sup> This individual reportedly sought to “fraudulently obtain computer software and source code” created by NASA.<sup>716</sup> It is essential that NASA recognize the severity of the cybersecurity threat posed by the CCP and the risks associated with a PRC-based aerospace and defense entity illicitly obtaining NASA’s IP.

NASA does, however, provide certain country-specific trainings to NASA personnel traveling internationally. NASA provides briefings for foreign travelers before and after travel.<sup>717</sup> These briefings are dependent on where travelers are visiting, and countries of interest receive more in-depth trainings.<sup>718</sup>

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<sup>709</sup> President John F. Kennedy, Address at Rice University on the Nation’s Space Effort (Sept. 12, 1962) (emphasis added).

<sup>710</sup> NASA Unclassified Briefing.

<sup>711</sup> *Id.*

<sup>712</sup> *Id.*

<sup>713</sup> 2024 ODNI Annual Threat Assessment, *supra* note 694, at 11 (emphasis in original).

<sup>714</sup> Press Release, U.S. Dep’t of Justice, Chinese National Charged for Multi-Year “Spear-Phishing” Campaign (Sept. 16, 2024).

<sup>715</sup> *Id.*

<sup>716</sup> *Id.*

<sup>717</sup> NASA Unclassified Briefing.

<sup>718</sup> *Id.*

Additionally, NASA implements physical security measures that treat the PRC as a unique threat.<sup>719</sup> Visitors from the PRC fall under foreign national access management protocol and are treated differently than individuals from non-designated country lists.<sup>720</sup> This is, in part, due to former Congressman Frank Wolf’s work and the Wolf Amendment.<sup>721</sup> Around the time the Wolf Amendment was passed, NASA went under foreign national access program review after the arrest of a Chinese national working at a NASA building.<sup>722</sup> This review, in addition to reviews by the Office of the Inspector General (OIG) and the GAO helped shape a modern program.<sup>723</sup> As a result, visitors from the PRC are now escorted 1:1 on NASA property, and NASA personnel who escort these individuals receive annual training and briefings.<sup>724</sup> NASA personnel described the Wolf Amendment as streamlining existing restrictions to foreign visitor access.<sup>725</sup> Importantly, according to NASA, between May 1, 2019, and May 2, 2024, five sponsored visitor applications from the PRC were rejected, not for derogatory reasons, but for reasons such as: no appropriate business justification, failure to complete necessary paperwork by a deadline, or access was automatically denied due to work that was non-mission critical during the COVID-19 pandemic.<sup>726</sup> Despite these measures, NASA still refused to acknowledge to the Committee or demonstrate any heightened concern regarding the risks posed by CCP access to IP, data, or other innovation created by NASA or its partners.

Yet even federal acquisition regulations recognize the importance of restricting access to PRC-made products. During the briefing, NASA personnel referenced §889 of the 2019 National Defense Authorization Act (NDAA), which prohibits the use of certain telecommunications and video surveillance services or equipment from Chinese companies.<sup>727</sup> To comply, contractors are required to acknowledge that federal dollars are not being used to purchase things from China—or to disclose if using a prohibited item.<sup>728</sup> This NDAA provision recognizes the inherent danger of PRC-made goods being used in contracting agreements with the U.S. government—and this should signal to NASA that additional actions are necessary to protect against CCP unrestricted warfare.

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<sup>719</sup> *Id.*

<sup>720</sup> *Id.*

<sup>721</sup> *Id.*; Email from Nat’l Aeronautics and Space Admin. to Oversight & Accountability Committee staff (May 22, 2024) (“NASA May 22, 2024 Email”).

<sup>722</sup> NASA Unclassified Briefing; NASA May 22, 2024 Email (NASA shared with the Committee that this individual was arrested based on the concern that this individual was sharing NASA data with the PRC government. Then-NASA Administrator Charles F. Bolden then issued restrictions while certain reviews and investigations could occur. NASA then hired the National Academy of Public Administration (NAPA) to conduct a review of NASA’s Foreign National Access Management program and to offer recommendations to improve security measures.).

<sup>723</sup> NASA Unclassified Briefing.

<sup>724</sup> *Id.* (Ability to escort foreign nationals is revoked if the annual training course is not completed.).

<sup>725</sup> NASA Unclassified Briefing (According to NASA briefers, NASA transitioned from a federated approach to an enterprise approach in 2013.).

<sup>726</sup> NASA May 22, 2024 Email.

<sup>727</sup> NASA Unclassified Briefing; John S. McCain National Defense Authorization Act For Fiscal Year 2019, Pub. L. No. 115-232, § 889 (Aug. 13, 2018) (“2019 NDAA § 889”); Gen. Serv. Admin., Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (Section 889) (July 30, 2020) (The U.S. Government was prohibited from obtaining, via contract or other agreement, certain equipment or services produced by: Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company).

<sup>728</sup> NASA Unclassified Briefing; Pub. L. No. 115-232, § 889, *supra* note 727.

NASA's inadequate concern for CCP unrestricted warfare appears to be due, in part, to a lack of China-specific expertise. NASA briefers told the Committee that the Office of International and Interagency Relations (OIIR) Science Division manages NASA-wide interests in Asia, Africa, South Asia, the Middle East, and Latin America.<sup>729</sup> According to NASA, OIIR has four experts focused on Asia based at NASA headquarters and a NASA Attache at the U.S. Embassy in Tokyo.<sup>730</sup> Notably, however, there appears to be no individual employed by NASA whose focus is solely on the PRC and the CCP's the ambitions in space.

### NASA's "Plan" to Counter CCP Ambitions in Space Appears to be the Commercial Space Industry and Artemis.

While NASA did not detail to the Committee any plan or strategy to counter the CCP's militaristic ambitions in space, it appears the agency's answer to the CCP's plan relies on the Artemis project. The Artemis project, known as the Moon to Mars campaign, is NASA's roadmap towards "leading a campaign of human exploration, science, and discovery that begins in lunar space and journeys on to Mars."<sup>731</sup> Following NASA's initial, largely unresponsive briefing to the Committee, staff pressed NASA officials for a briefing about how the agency views and is approaching China in space. When asked if it was NASA's position that it could not offer an unclassified briefing on NASA's view of China's approach to space, including its public messaging on the issue,<sup>732</sup> NASA responded that it had no additional information to offer the Committee on an unclassified level and believed that the Administrator's public remarks stand for themselves.<sup>733</sup> NASA did, however, provide two additional briefings: a classified briefing and an unclassified presentation on Artemis. Responsive information provided during the classified briefing held on May 22, 2024, was almost entirely available in open-source information, so it is unclear why a classified briefing was necessary.<sup>734</sup> Following the classified briefing, it was apparent to Committee staff that a classified briefing was not necessary to discuss the Chairman's letter, which exclusively cited open-source reports and articles detailing communist China's militaristic ambitions in space.<sup>735</sup> The Committee is concerned that NASA, like many federal agencies do, used the classified briefing as a way to avoid candid discussion about issues important to the American people.

During NASA's presentation on Artemis on May 10, 2024, it was apparent that NASA considers the Artemis Accords an agreement about values—particularly the norms and standards that govern space.<sup>736</sup> The CCP opposed the Artemis Accords, which seek to create a "principles, guidelines, and best practices in carrying out activities in outer space," to "increase the safety of operations, reduce uncertainty, and promote the sustainable and beneficial use of space for all

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<sup>729</sup> Email from Nat'l Aeronautics and Space Admin. to Oversight & Accountability Committee staff (May 14, 2024).

<sup>730</sup> *Id.*

<sup>731</sup> Nat'l Aeronautics and Space Admin., Moon to Mars Architecture Executive Overview, at 1 (2023).

<sup>732</sup> Email from Oversight & Accountability Committee staff to Nat'l Aeronautics and Space Admin. staff (May 2, 2024).

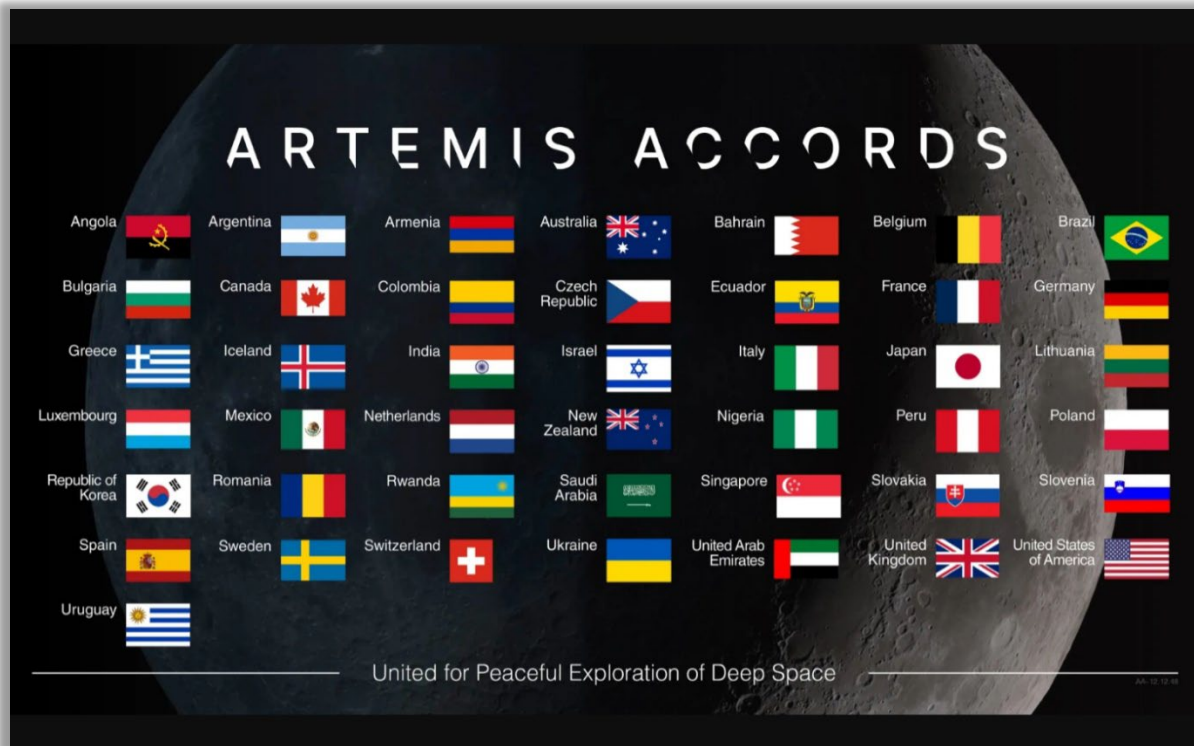
<sup>733</sup> *Id.*

<sup>734</sup> NASA Classified Briefing.

<sup>735</sup> NASA Letter.

<sup>736</sup> NASA Artemis Briefing.

humankind.”<sup>737</sup> CCP propaganda framed “the agreement as an attempt by the United States to unilaterally set ground rules for lunar behavior and arguing that the United States is attempting to foment a new space race.”<sup>738</sup> According to ODNI, “[i]n early 2023, China’s Manned Space Agency announced its intention to land astronauts on the Moon around 2030 and is engaging countries to join its lunar research station effort as part of its broader attempt to develop an alternative bloc to the U.S.-led Artemis Accords.”<sup>739</sup>



Source: Nat’l Aeronautics and Space Admin., The Artemis Accords: Principles for a Safe, Peaceful, and Prosperous Future. Provided by NASA to Committee staff.

**NASA Presents Mixed Messaging About the Space Race with China.**

Throughout his tenure, NASA Administrator Nelson has expressed both concern about the pace of the PRC’s progress in space, particularly activity related to the moon and Mars, and praise for the CCP’s space breakthroughs. NASA’s inconsistent messaging regarding China’s ambitions in space undermines the United States’ ability to counter the CCP in this realm.

NASA Administrator Nelson has acknowledged the United States needs to proactively engage in space innovation to maintain space dominance. In 2021, Administrator Nelson referenced reports that the China National Space Administration intends to launch astronauts to land on the moon during this decade and admitted, “[i]n other words, they’re going to be landing

<sup>737</sup> Principles for the Cooperation in the Civil Exploration and Use of the Moon, Mars, Comets, and Asteroids for Peaceful Purposes, Austl.-Can.-It.-Japan-Lux.-U.A.E.-U.K.-U.S. (Oct. 13, 2020).

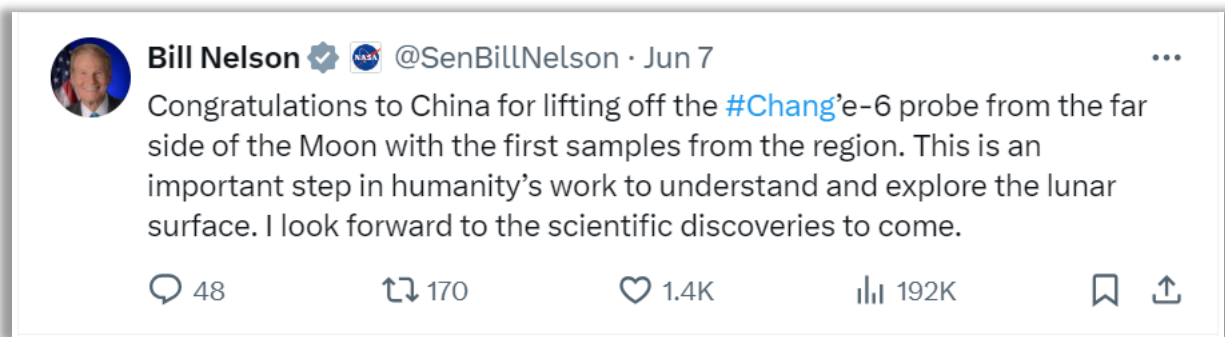
<sup>738</sup> See USCC 2023 Annual Report, *supra* note 223, at 198.

<sup>739</sup> 2024 ODNI Annual Threat Assessment, *supra* note 694, at 11.



humans on the moon. That should tell us something about our need to get off our duff and get our human landing system going vigorously.<sup>740</sup> In 2022, Administrator Nelson stated, “As a détente with China . . . there is nothing thus far to indicate that China is in any way willing to be less secretive about their space program and the military aspects of their space program.”<sup>741</sup> Given this reality, maintaining the upper hand in space must be a priority for the United States and its allies. It appears that NASA’s program, Moon to Mars, is the program that NASA is prioritizing to maintain space dominance and beat the PRC.<sup>742</sup> Also in 2022, Administrator Nelson said that the PRC would not beat the United States back to the moon “[n]ot if I have anything to say about it, and not if Joe Biden has anything to say about it.”<sup>743</sup> Administrator Nelson similarly cautioned that “we better watch out that they don’t get to a place on the moon under the guise of scientific research. And it is not beyond the realm of possibility that they say, ‘keep out, we’re here, this is our territory.’”<sup>744</sup>

Yet in June 2024, Administrator Nelson congratulated the PRC for its successful retrieval of the first samples from the far side of the moon, describing it as “an important step in humanity’s work to understand and explore the lunar surface.”<sup>745</sup>



Source: Bill Nelson (@SenBillNelson), X (June 7, 2024, 10:01 AM).

Administrator Nelson congratulated the PRC mere weeks after recognizing that the PRC has not signed on to the Artemis Accords<sup>746</sup>—unlike approximately forty other nations.<sup>747</sup> Such accolades by NASA leadership send reckless mixed messaging to the PRC and confuse the

<sup>740</sup> Elizabeth Howell, *Bill Nelson pledges action on Artemis, Mars and China in 1<sup>st</sup> hearing as NASA chief*, Space.com (May 19, 2021) (emphasis added).

<sup>741</sup> Jeffrey Kluger, *NASA Boss Bill Nelson On a Space Race With China, the Future of the Space Station, and More*, Time (Jan. 5, 2022).

<sup>742</sup> NASA Artemis Briefing.

<sup>743</sup> Kluger, *supra* note 741.

<sup>744</sup> Bryan Bender, *'We better watch out': NASA boss sounds alarm on Chinese moon ambitions*, Politico (Jan. 1, 2023).

<sup>745</sup> Bill Nelson (@SenBillNelson), X (June 7, 2024, 10:01 AM),

<https://x.com/senbillnelson/status/1799079111882629553?s=46&t=dnJWkaZb5nDyNI8OPV60yg>.

<sup>746</sup> Scott Detrow, et al., *NASA's chief is worried about China getting back to the moon first. Here's why*, NPR (May 6, 2024).

<sup>747</sup> Nat'l Aeronautics and Space Admin., *The Artemis Accords: Principles for a Safe, Peaceful, and Prosperous Future* (The Committee notes that the list of Artemis signatories is growing.).

American public about the country’s role in the space race they are in, but about which federal agencies do not speak candidly.

In May 2024, Administrator Nelson said, “I don’t give a lot of speeches about China, but people ask a lot of questions about China.”<sup>748</sup> This statement exemplifies NASA’s defensive approach towards CCP unrestricted warfare. NASA’s current and future administrators should engage in frequent public dialogue about the PRC’s space activities and the risks those activities present to U.S. security. NASA leadership should conduct proactive outreach about the CCP’s space initiatives—given that the CCP is the top threat to American security and is seeking to use space as a vessel for military opportunity.

As stated by the Biden-Harris Administration, “[s]pace underpins our national security and ability to respond decisively to crises around the world.”<sup>749</sup> Moreover, “Chinese space accomplishments threaten to detour the world away from Western ideals and toward an ideology that is antithetical to all we value. Whether by use in war, or as a proxy for world leadership, space will play a leading role in this contest.”<sup>750</sup> The Committee’s investigation has revealed significant gaps between the mixed messaging from the Administration, including Administrator Nelson, and the actions that NASA is undertaking. To prevail in the space race with China, NASA leadership must lead. It must speak to the American public about CCP militaristic ambitions and equip NASA employees, scientists, and researchers to prioritize and safeguard American innovation, research, and data from CCP interference.

#### Committee Recommendations

- NASA should openly and consistently acknowledge that the United States is in a space race with the PRC.
  - NASA’s administrator and leadership should engage in public outreach to members of the American public and the scientific community with current information about the CCP’s nefarious intentions in space and the importance of American leadership in space exploration.
- NASA must strengthen outreach to relevant communities.
  - NASA should increase outreach to scientists and engineers, who may not be aware of the PRC’s militant view of space and the threats posed by the PLA to intellectual property.
  - NASA should increase outreach to the commercial space industry regarding the CCP’s intentions in space, and the threat posed to intellectual property and trade secrets.
- NASA should not abdicate its responsibilities to lead the world in space exploration and beat China in the space race to other agencies, including the Space Force, that

<sup>748</sup> Detrow, et al., *supra* note 746.

<sup>749</sup> Press Release, United States Space Priorities Framework (Dec. 1, 2021) (last accessed Sept. 16, 2024).

<sup>750</sup> Autry & Navarro, *Red Moon Rising: How America Will Beat China on the Final Frontier*, at xxii.

have their own duties to fulfill. NASA was, after all, created in response to the Space Race with the Soviet Union.

- NASA must strengthen agency culture to focus on American strength, sovereignty, ambition, and leadership.
  - It is very concerning that NASA gives mixed messages about the space race with the PRC—especially when China’s space program is properly understood as an arm of its military—and fosters a “science knows no borders” mentality that, in this instance, is devoid of purpose and mission.
  - With existing resources, NASA must foster personnel in the cybersecurity realm with country-specific expertise, particularly individuals with China-focused expertise given that ODNI has determined that the PRC presents the most significant cyber-security threat.





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

**Comment**

NASA fails to articulate a strong, consistent, and inspirational plan to win the Space Race with the militaristic CCP.

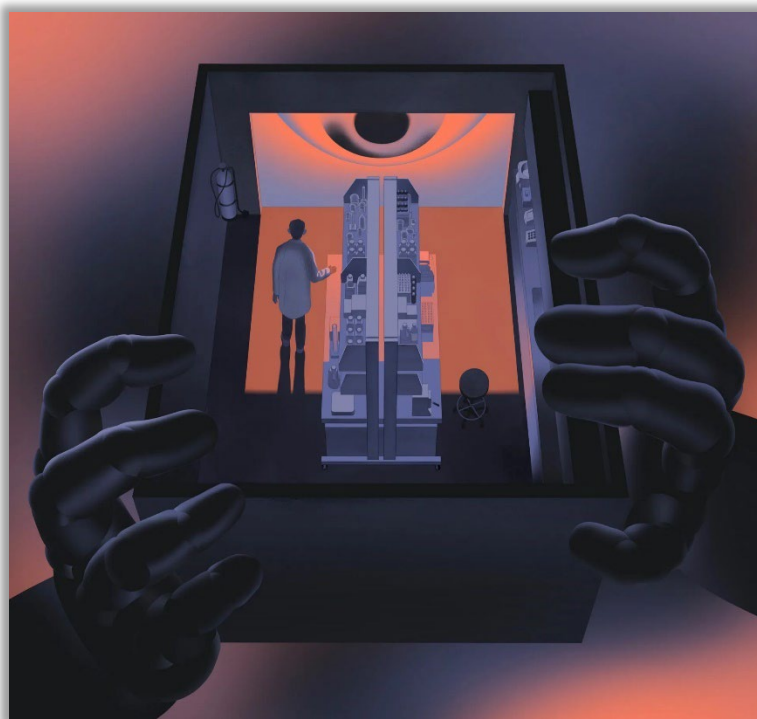
## G. National Institutes of Health

The National Institutes of Health Acknowledged the PRC is Responsible for the Majority of Foreign Intellectual Property Theft Cases, Yet the Agency has Failed to Conduct Oversight of Grantees to Protect Valuable Scientific Research and Taxpayer Dollars.

- The National Institutes of Health (NIH) has abdicated its oversight responsibilities by allowing the CCP to conduct aggressive economic warfare targeting cutting-edge and life-saving research at U.S. universities at the direct expense of the American taxpayer.
- Although NIH told the Committee that the PRC presents the greatest threat to federally funded research, NIH has ignored and outsourced its oversight duties, requiring grantees to police themselves and act as a check on waste, fraud, and abuse of taxpayer dollars.

NIH is charged with leading the United States in fostering “fundamental creative discoveries, innovative research strategies, and their applications as a basis for ultimately protecting human health.”<sup>751</sup> In addition to this important mission, NIH is tasked with developing and maintaining “human and physical resources that will ensure the Nation’s capability to prevent disease.”<sup>752</sup> As the federal agency responsible for ensuring that the nation remains a leader in scientific discovery that will promote human health and well-being, NIH must do all it can to protect the U.S. research and medical discovery field from the CCP’s political and economic warfare.

On May 6, 2024, the Committee requested a briefing from NIH about the agency’s efforts to protect Americans from the threat posed by the CCP to federally funded research.<sup>753</sup> On June 18, 2024, NIH provided the Committee a briefing attended by subject matter experts (SMEs) from NIH’s Office of



Source: Gideon Lewis-Kraus, *Have Chinese Spies Infiltrated American Campuses?*, *The New Yorker* (Mar. 14, 2022).

<sup>751</sup> National Institutes of Health, *Mission and Goals* (July 27, 2017) (last accessed Sept. 16, 2024).

<sup>752</sup> *Id.*

<sup>753</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Monica M. Bertagnolli, Dir., Nat’l Insts. of Health (May 6, 2024).

Extramural Research and Extramural Research Integrity.<sup>754</sup> There is a disconnect between NIH’s statements about the serious threats posed by the CCP and the agency’s actions to address these threats.<sup>755</sup> The Committee’s investigation into the infiltration and influence mission of the CCP has included an examination of the steps NIH is taking to combat the CCP’s nefarious operations designed to undermine America’s scientific and research sector and deprive the United States of valuable taxpayer-funded research and intellectual property.

### NIH Must Protect Taxpayer-Funded Research from the CCP.

NIH is the “largest public funder of biomedical research in the world” and, in fiscal year 2022, NIH “invested most of its \$45 billion appropriations in research seeking to enhance life, and to reduce illness and disability.”<sup>756</sup> NIH consists of 27 institutes and centers, each with a specific agenda.<sup>757</sup> Ordinarily, institutes and centers award more than 80 percent of NIH’s total budget to researchers and investigators at more than 2,500 universities.<sup>758</sup> In distributing billions of taxpayer dollars to fund U.S. research and discovery, it is imperative that NIH safeguard this funding and protect taxpayer-funded research from Chinese intellectual property theft and technology transfer.

The CCP is committed to gaining a global advantage in the fields of science, technology, engineering, and mathematics (STEM) and has demonstrated it is willing to dedicate substantial resources to achieve this goal. Academics and policy experts broadly agree the PRC is engaged in political and economic warfare and that the PRC is committed to ensuring it is the world leader in science and technology by 2050.<sup>759</sup> To this end, the CCP has actively worked to implement various tactics, such as talent recruitment programs, including the Thousand Talents Program (TTP) and the recently rebranded talent recruitment program known as Qiming,<sup>760</sup> intended to provide the PRC with a competitive edge in STEM fields while undermining and stealing U.S. IP and taxpayer-funded research. China’s use of TTP to engage in economic warfare against American universities represents a clear and present danger to the United States. In 2020, FBI Director Wray explained the grave threat to academia by the CCP’s TTP, stating, “[t]o put it bluntly, this means American taxpayers are effectively footing the bill for China’s own technological development. China then leverages its ill-gotten gains to undercut U.S.

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<sup>754</sup> Briefing from NIH Officials to Oversight & Accountability Committee staff (June 18, 2024) (“NIH Briefing”); Email from Nat’l Insts. of Health to Oversight & Accountability Committee staff (June 18, 2024) (“NIH Email”).

<sup>755</sup> *Id.*

<sup>756</sup> Nat’l Insts. of Health, *Grants & Funding* (last accessed Sept. 16, 2024).

<sup>757</sup> Nat’l Insts. of Health, *Institutes at NIH* (last accessed Sept. 16, 2024).

<sup>758</sup> Nat’l Insts. of Health, Budget, *Research for the People* (last accessed Sept. 16, 2024).

<sup>759</sup> Staff of S. Comm. on Homeland Sec’y and Governmental Affairs, Perm. Subcomm. on Investigations, *Threats to the U.S. Research Enterprise: China’s Talent Recruitment Plans*, 116th Cong., at 1 (Nov. 18, 2019) (“Staff Report: China’s Talent Recruitment Programs”).

<sup>760</sup> Julie Zhu, et al., *Insight: China quietly recruits overseas chip talent as US tightens curbs*, Reuters (Aug. 24, 2023) (“The primary replacement for TTP is a program called Qiming overseen by the Ministry of Information and Technology” and “The race to attract tech talent comes as President Xi Jinping emphasizes China’s need to achieve self-reliance in semiconductors in the face of U.S. export curbs.”).

research institutions and companies, blunting our nation’s advancement and costing American jobs.”<sup>761</sup>

Multiple government agencies, including the FBI<sup>762</sup> and the GAO, have recognized the threat posed by the CCP to American intellectual property and technology transfer.<sup>763</sup> In a 2018 FBI report, the Bureau noted that “the Chinese government has historically supported economic espionage” and emphasized that “China is the world’s principal infringer of intellectual property.”<sup>764</sup> According to the same report from the FBI, the annual cost to the U.S. economy of “counterfeit goods, pirated software, and theft of trade secrets is between \$225 billion and \$600 billion.”<sup>765</sup> Despite these warnings, NIH has historically failed to conduct oversight of its grantees, who are considered to be high-value targets of CCP infiltration and influence operations.<sup>766</sup>

NIH leadership acknowledged the direct threat posed by the CCP to federally funded research.<sup>767</sup> In its briefing with the Committee, NIH stated the majority of the agency’s foreign intellectual property theft cases originate in China and are facilitated through the CCP’s talent programs, which primarily target ethnic Chinese individuals.<sup>768</sup> Despite clearly identifying the PRC as a threat to valuable American research, NIH has outsourced its oversight responsibilities by requiring grantees to police themselves.<sup>769</sup> At the same time, NIH touts its Division of Grants Compliance and Oversight (DGCO), which, according to the agency’s website, is designed to assist the extramural community in [] “ensuring NIH-funded projects are conducted in accordance with the approved application and budget and the terms and conditions of award and informing the NIH of any problems or concerns regarding compliance.”<sup>770</sup> However, NIH has been scrutinized by the Department of Health and Human Services OIG for its oversight failures.<sup>771</sup> Ironically, NIH has received additional federal funding to increase its oversight of “grant programs and operations, including the effectiveness of NIH’s efforts to protect intellectual property derived from NIH-supported research.”<sup>772</sup> Despite the receipt of additional

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<sup>761</sup> Christopher Wray, Dir., Fed. Bureau of Investigation, Hudson Inst., Video Event: China’s Attempt to Influence U.S. Institutions, The Threat Posed by the Chinese Government and the Chinese Communist Party to the Economic Security of the United States (July 7, 2020).

<sup>762</sup> Fed. Bureau of Invest., *China: The Risk to Academia* (2019) (“FBI, China: The Risk to Academia”).

<sup>763</sup> U.S. Gov’t Accountability Off., GAO-23-106119, Federal Research: NIH Could Take Additional Actions to Manage Risks Involving Foreign Subrecipients (June 2023).

<sup>764</sup> FBI, China: The Risk to Academia, *supra* note 762, at 2.

<sup>765</sup> *Id.*

<sup>766</sup> NIH Briefing.

<sup>767</sup> *Id.*

<sup>768</sup> *Id.*; NIH Email.

<sup>769</sup> NIH Briefing.

<sup>770</sup> Nat’l Insts. of Health, *Grants & Funding, NIH Central Resource for Grants and Funding Information, Grants Compliance & Oversight* (“NIH Grants Compliance & Oversight”) (last accessed Sept. 16, 2024).

<sup>771</sup> U.S. Dep’t. of Health & Hum. Servs., Off. of Inspector Gen., Report OEI-01-19-00160, *Vetting Peer Reviewers at NIH’s Center for Scientific Review: Strengths and Limitations* (Sept. 2019) (“HHS OIG Vetting Peer Reviewers”); U.S. Dep’t. of Health & Hum. Servs., Off. of Inspector Gen., Report OEI-04-21-00160, *NIH Did Not Consistently Meet Federal Single Audit Requirements for Extramural Grants* (Dec. 2023) (“HHS OIG NIH Single Audit Requirements”).

<sup>772</sup> HHS OIG Vetting Peer Reviewers, *supra* note 771 (“Congress, NIH, and Federal intelligence agencies have raised concerns about foreign threats to the integrity of U.S. medical research” and “in 2018 Congress provided OIG with \$5 million for oversight of NIH grant programs and operations. . .”).

federal funds, it is unclear whether DGCO conducts any proactive oversight or takes the steps necessary to protect critical American scientific research and taxpayer dollars from waste, fraud, and abuse by the CCP.<sup>773</sup>

NIH describes DGCO as “the focal point to advance external compliance with policy and legislative mandates and enhance compliance oversight by recipient institutions.”<sup>774</sup> However, NIH’s website acknowledges that no real oversight exists. Specifically, the website states, “[t]he relationship between NIH and its recipients is predicated on trust.”<sup>775</sup> Former national security officials and foreign policy experts have warned that “blindly engaging” with the PRC is a direct threat to America.<sup>776</sup> According to former Secretary of State Mike Pompeo, “Washington should adopt ‘distrust and verify’ as a mantra when dealing with Beijing.”<sup>777</sup> Unfortunately, NIH has taken the opposite approach by trusting grantees to ensure they are free of CCP influence. NIH confirmed to the Committee it does not conduct investigations; rather, universities and other grantees are required to self-disclose and self-report conflicts of interest<sup>778</sup> and conduct their own investigations and audits, which are then submitted to the NIH for review.<sup>779</sup> NIH’s oversight lapses were confirmed by the Select Subcommittee on the Coronavirus Pandemic, which concluded, “[i]f not for the actions of the Trump Administration, this grantee [EcoHealth] and grant may have been allowed to continue without proper oversight.”<sup>780</sup>

NIH’s reactive posture is troubling given that universities have historically opposed bipartisan efforts by Congress to increase federal scrutiny of their foreign dealings with China.<sup>781</sup> This is even more alarming since many of the CCP’s talent programs are designed with the specific intent to infiltrate American universities and steal cutting-edge biomedical research and intellectual property.<sup>782</sup> Individuals accepted to the CCP’s TTP must sign detailed employment contracts with the following language: “[t]he laboratory in the United States will be gradually

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<sup>773</sup> NIH Grants Compliance & Oversight, *supra* note 770 (“NIH and its recipient institutions share responsibility for compliance and oversight to ensure good stewardship of Federal funds.”).

<sup>774</sup> *Id.* (“NIH and its recipient institutions share responsibility for compliance and oversight to ensure good stewardship of Federal funds.”).

<sup>775</sup> *Id.* (“Recipients are expected to properly administer sponsored activities and comply with applicable regulations and policies.”) (emphasis added).

<sup>776</sup> Alex Fang & Ken Moriya Su, *Distrust and verify: Pompeo refits Cold War slogan for China*, Nikkei Asia (July 24, 2020) (“The U.S. must not return to blindly engaging with Beijing on the latter’s terms, Pompeo warned, ‘if we want to have a free 21st century, and not the Chinese century of which [President] Xi Jinping dreams.’”).

<sup>777</sup> *Id.*

<sup>778</sup> NIH Briefing.

<sup>779</sup> HHS OIG Single Audit Requirements, *supra* note 771.

<sup>780</sup> Interim Staff Rep., H. Sel. Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight & Accountability, AN EVALUATION OF THE EVIDENCE SURROUNDING ECOHEALTH ALLIANCE, INC’S RESEARCH ACTIVITIES, at 37 (May 1, 2024) (“EcoHealth’s actions were often enabled by the incompetency of the National Institutes of Health and National Institute of Allergy and Infectious Diseases. It is this contempt and incompetence that necessitates both Congressional and Administrative action.”); Benjamin Mueller & Sheryl Gay Stolberg, *N.I.H. Did Not Properly Track a Group Studying Coronaviruses*, *Report Finds*, N.Y. Times (Jan. 25, 2023) (The Health and Human Services Department’s Office of Inspector General found “‘N.I.H. did not adequately monitor EcoHealth’s grant awards in accordance with its policies and procedures and other federal requirements,’ the report said. The watchdog chided the N.I.H. for, among other things, failing to demand a progress report that was two years late and that health officials later said contained evidence of viral growth in experiments that was supposed to have been reported immediately.”).

<sup>781</sup> Michael Stratford, *Universities fight scrutiny of foreign funding in Senate China bill*, Politico (May 27, 2021).

<sup>782</sup> NIH Briefing.



*moved back to China to rebuild.* . . .<sup>783</sup> NIH told the Committee that the monetary compensation for the TTP can be worth millions of dollars as participants receive annual payments that rival corporate executive salaries, including free lab equipment and personnel, housing allowances and even \$150,000 signing bonuses.<sup>784</sup> Recent reporting has uncovered that Qiming, the rebranded TTP put in place by the PRC to target the American semiconductor industry<sup>785</sup> is even more lucrative, with “perks including home-purchase subsidies and typical signing bonuses of [] \$420,000 to \$700,000.”<sup>786</sup>

NIH’s disregard for its duties requires strict scrutiny. For example, NIH acknowledges that China expects TTP participants to publish papers in prestigious scientific journals that list their affiliation with the Chinese institution first and the American institution second.<sup>787</sup> When questioned by the Committee as to why these publication affiliations were not a red flag to NIH that an investigation or oversight of its grantees was warranted, the agency admitted that these publication affiliations amounted to the CCP hiding in plain sight and acknowledged the agency did not take any investigative steps because the affiliations are in small print at the bottom of the page.<sup>788</sup> Further, NIH’s statement to the Committee that universities would not have allowed the CCP’s talent programs to continue if they were aware of the TTP contracts<sup>789</sup> is directly contradicted by a high-profile CCP technology theft case at Harvard University. NIH’s briefing to the Committee revealed that Harvard leadership was reluctant to act on serious information about Chinese infiltration of the University for five years.<sup>790</sup> Then in 2019, when Harvard informed NIH it did not intend to act on clear evidence of CCP influence and infiltration, NIH closed its investigation, only to reopen it in 2020 when Harvard reconsidered its position.<sup>791</sup> NIH’s willingness to allow its grantees to dictate the oversight to which they are subject has resulted in waste, fraud, and abuse of taxpayer dollars and the transfer of valuable American research to CCP entities.

Although NIH is willing to discuss and acknowledge the CCP openly targets and infiltrates its grantees, the agency is unwilling to take proactive steps to prevent and stop CCP infiltration before it starts. Further, when the agency is presented with serious allegations of CCP infiltration at one of its grantee institutions, the agency outsources its investigative responsibilities to outside entities. As a result, even when a university acts to root out nefarious

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<sup>783</sup> *Id.*; NIH Email.

<sup>784</sup> NIH Briefing; NIH Email; Major Shawna A. Matthys, *China’s Hidden Talent: The Thousand Talent Plan*, Air University (Oct. 26, 2023) (“Once accepted, the individual will get a contract that ranges from three to five years working at or with a Chinese university with benefits that may include a \$150,000 starting bonus, potential for additional research funds, accommodation subsidies, meal allowances, relocation compensation, paid-for visits home, and subsidized education costs.”).

<sup>785</sup> Zhu, et al., *supra* note 760.

<sup>786</sup> *Id.*

<sup>787</sup> NIH Briefing; NIH Email.

<sup>788</sup> *Id.* (In the case of Dr. Lieber and Harvard University, Dr. Lieber published in scientific journals as early as 2013, which clearly identified his affiliation with the Wuhan University of Technology, located in Wuhan, China.).

<sup>789</sup> NIH Briefing.

<sup>790</sup> *Id.*; NIH Email (“It was not until January 2015 that Harvard first caught wind of the ‘WUT-Harvard’ joint lab. When confronted by the Dean of Science, [Professor] Lieber feigned ignorance.” In early January 2019, Harvard wrote to NIH, backing up Professor Lieber. Harvard wrote, “Dr. Lieber has represented that he is not and has never been a participant in China’s Thousand People Plan.”).

<sup>791</sup> NIH Briefing; NIH Email.

CCP influence activities, it is often years too late and efforts to uncover what led to the initial infiltration lack a coordinated response.<sup>792</sup> NIH’s presentation to the Committee highlighted a 2019 internal investigation by the University of South Florida’s Moffitt Cancer Center (Moffitt Center) into CCP infiltration.<sup>793</sup> In the wake of Moffitt Center’s internal review, “[s]everal top executives stepped down [] including President and CEO Alan List—following concerns about Chinese interference in research [].”<sup>794</sup> According to Moffitt Center officials “the resignations came after Moffitt ‘initiated an internal review of team members’ collaborations with research institutions in China.”<sup>795</sup> Despite significant CCP infiltration at the highest levels, which involved the misuse of both state and federal tax dollars as well as potential theft of intellectual property and corruption, NIH took minimal action, relying instead on other entities to conduct investigations and protect American research and state and federal tax dollars from the PRC.<sup>796</sup> For example, the Florida legislature launched a select committee to investigate “Chinese meddling in taxpayer-funded research”<sup>797</sup> and U.S. Senator Rick Scott sent letters to Florida’s 12 university presidents.<sup>798</sup> NIH’s lapses were confirmed when the Committee asked the agency to identify specific examples of proactive outreach to its grantees about the threat posed by the CCP. In response, an NIH official told the Committee that he once had a Zoom call with a university president.<sup>799</sup> This is illustrative of NIH’s shortcomings regarding its duties to the scientific community and American taxpayers.

NIH’s abdication of its oversight and investigative responsibilities has caused Congress to step in to protect the nation’s valuable research. The Creating Helpful Incentives to Produce Semiconductors and Science Act of 2022 (CHIPS and Science Act) prohibits participation in any foreign talent recruitment program by personnel of Federal research agencies and prohibits participation in a malign foreign talent recruitment by covered individuals involved with research and development awards from those agencies.<sup>800</sup> Regulations adopted by the Commerce Department to implement the CHIPS and Science Act restrict U.S. citizens and permanent residents from supporting the development and production of advanced chips in China.<sup>801</sup> While

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<sup>792</sup> David Armstrong, et al., *The Trump Administration Drove Him Back to China, Where He Invented a Fast Coronavirus Test*, ProPublica (Mar. 18, 2020) (“Tan [] provided documentation that his department chairman at Florida was ‘supportive’ of his research in China as recently as 2015.”).

<sup>793</sup> NIH Email.

<sup>794</sup> Tina Reed, *Top exec, researchers resign from Moffitt Cancer Center over concern of IP theft by China*, Fierce Healthcare (Jan. 6, 2020).

<sup>795</sup> *Id.*

<sup>796</sup> John Haughey, *Florida House to probe Chinese infiltration of state-funded cancer research center*, The Ctr. Square (Jan. 4, 2020).

<sup>797</sup> *Id.*

<sup>798</sup> Senator Rick Scott sent letters to Florida’s 12 university presidents, requesting “information on the specific steps you have taken at your university to safeguard our technology and our intellectual property from foreign [Communist China] influence.” Justine Griffin, *University of Florida also a target in foreign research scandal*, Tampa Bay Times (Jan. 13, 2020); Letter from Senator Rick Scott, Member, Senate Comm. on Homeland Sec., to Florida Univ. Presidents (Dec. 3, 2019); Press Release, Senator Rick Scott Urges Florida Universities to Submit Responses on Plan to Combat Threat of Chinese Influence (Jan. 14, 2020).

<sup>799</sup> NIH Briefing.

<sup>800</sup> 42 U.S.C. §§ 19231 -19232.

<sup>801</sup> U.S. Dep’t of Com., Bureau of Indus. Sec., Interim Final Rules, “Implementation of Additional Export Controls: Certain Advanced Computing Items; Supercomputer and Semiconductor End Use; Updates and Corrections; and Export Controls on Semiconductor Manufacturing Items; Corrections and Clarifications,” 89 Fed. Reg. 23876-23905 (Apr. 4, 2024).

these actions represent important developments that are intended to combat CCP economic warfare against America, without proactive oversight and outreach by NIH, the PRC's nefarious activities will continue to go undetected.

### NIH Must Prioritize STEM Grant Programs to Better Compete with China.

NIH administers several grant programs aimed at promoting educational opportunities in STEM for American students at various levels. NIH is charged with advancing medical research throughout the United States with the goal of promoting health and preventing disease, and as such, its mission must be intricately linked to the promotion of STEM studies in America's education system.

A troubling trend has emerged within the past decade where the PRC is outpacing the United States in the number of PhD STEM field graduates it produces each year. As previously noted, the CCP is committed to becoming the world leader in science and technology by 2050.<sup>802</sup> A study from Georgetown University's Center for Security and Emerging Technology found that U.S. universities awarded twice as many doctorates in STEM fields (18,289) as compared to China (9,038) in 2000.<sup>803</sup> However, in 2019 Chinese universities produced 49,498 PhD graduates in the STEM field, compared to the 33,759 graduates that American universities produced.<sup>804</sup> The same report examined current enrollment trends and also predicted that, by 2025, China will produce approximately double the number of STEM PhD graduates as compared to the United States.<sup>805</sup> The U.S. decline in STEM field PhD graduates as compared to the PRC is concerning given the PRC's desire to undermine U.S. intellectual property and become the dominant science and technology power on the global stage.

It is well-known that the CCP is openly stealing cutting-edge and life-saving taxpayer funded research intended for the benefit of the American people by aggressively targeting and infiltrating the nation's universities, yet NIH continues to look the other way, refusing to conduct proactive oversight of grantees by requiring these entities to audit and investigate themselves, resulting in waste, fraud, and abuse of taxpayer dollars.

### Committee Recommendations

- NIH must take serious action to deter CCP economic warfare from threatening American research.
- NIH should implement more stringent reporting requirements for grant applicants that will identify any sources of income and/or employment from foreign entities.

<sup>802</sup> Staff Report: China's Talent Recruitment Programs, *supra* note 759.

<sup>803</sup> Michael T. Nietzel, *U.S. Universities Fall Further Behind China in Production of STEM PhDs*, Forbes (Aug. 7, 2021).

<sup>804</sup> *Id.*

<sup>805</sup> *Id.*

- NIH should incorporate a national security or IC review into the grant making process for grants that involve, in any way, in the PRC.
- NIH should perform a holistic evaluation of the security surrounding NIH grant funding and evaluate what security threats are posed by the CCP's political and economic warfare.
- NIH should establish clear oversight and investigative responsibilities for NIH and ensure the agency follows through with these mandates.
- NIH should implement guardrails around the NIH peer review process to prevent CCP influence at the front end of the grant process.
- NIH should conduct proactive outreach to agency grantees about CCP economic warfare targeting federally funded research, including in-person site visits.
- NIH should oversee and direct investigations of grantees pertaining to CCP infiltration and influence.
- NIH should take a proactive and lead role in all local, state and federal investigations into CCP infiltration and influence of agency grantees.
- NIH should account for how the agency has spent the money allocated by Congress for its Division of Grants Compliance and Oversight.
- NIH should establish a China expert within the agency, dedicated to CCP infiltration and influence activities of agency grantees.

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## NATIONAL INSTITUTES OF HEALTH

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	●
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●

### Comment

Although the National Institutes of Health is aware the PRC presents the greatest threat to federally funded research, the agency has abdicated its oversight and investigative responsibilities, requiring grantees to police themselves and act as a check on waste, fraud, and abuse of taxpayer dollars. Further, when NIH is presented with clear evidence of CCP infiltration at one of its grantees, the agency continues to rely on outside entities to conduct investigations and determine the root cause of CCP infiltration.

## H. National Science Foundation

The National Science Foundation Recognizes the PRC is Responsible for the Majority of Research Theft but Lacks Necessary China-Focused Strategies to Secure Valuable Taxpayer-Funded Research.

- Though the National Science Foundation (NSF) created a new position, the Chief of Research Security Strategy and Policy (CRSSP), in 2020 to advise the NSF director on all aspects of research security, challenges remain in addressing how research institutions understand and address PRC threats to research security.
- NSF recently implemented a one-of-its-kind tool in the federal government to connect grantees with foreign talent recruitment programs and undisclosed affiliations<sup>806</sup>—yet this tool neglects to factor in the unique strategies the PRC uses to hijack American research.
- NSF’s strategies to protect American research security are country agnostic despite that NSF admitted to the Committee that 90 percent of research security concerns for all federally funded research involve the PRC.<sup>807</sup>
- Despite the pervasiveness of CCP targeting of American research, the IC did not alert NSF of these risks until 2017.<sup>808</sup>

While NSF is taking positive steps to shore up research security, NSF fails to communicate about the threat of the PRC and use China-focused strategies necessary to deter and defeat this threat to American research. The PRC exploits the open, collaborative nature of U.S. research through theft and influence operations targeting U.S.-supported research through talent recruitment programs.<sup>809</sup> Talent recruitment programs are designed by foreign governments to recruit researchers in other countries to advance the foreign nation’s economic development or national security.<sup>810</sup> The PRC is the most common sponsor of talent recruitment programs, and a high number of breaches in NSF’s research security are undisclosed affiliations between the researcher and a PRC or CCP entity.<sup>811</sup>

On March 13, 2024, the Committee requested a briefing from NSF about what the agency is doing to protect taxpayer-funded research from CCP influence and infiltration operations.<sup>812</sup> On March 21, 2024, NSF provided a briefing to the Committee, attended by the CRSSP.<sup>813</sup> During the briefing, NSF’s CRSSP warned that 90 percent of issues related to research security

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<sup>806</sup> Briefing from NSF Officials to Oversight & Accountability Committee staff (Mar. 21, 2024) (“NSF Briefing”).

<sup>807</sup> *Id.*

<sup>808</sup> *Id.*

<sup>809</sup> See Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, to Hon. Sethuraman Panchanathan, Director, National Science Foundation (Mar. 13, 2024) (“NSF Letter”).

<sup>810</sup> See Chinese Talent Plans, FBI.gov (last accessed Sept. 16, 2024).

<sup>811</sup> NSF Briefing; *id.*

<sup>812</sup> NSF Letter.

<sup>813</sup> NSF Briefing.

for all federally-funded research involve the PRC.<sup>814</sup> While NSF acknowledged to the Committee that the PRC accounts for the majority of risks to research security, NSF hinders its ability to address these risks by solely categorizing such risks by “countries of concern,” without consideration of the unique strategies the CCP employs to create the singular threat that the regime poses to American research.<sup>815</sup>

Despite the CCP’s decades-long unrestricted warfare against the U.S. research enterprise,<sup>816</sup> the IC did not approach NSF about these issues until 2017.<sup>817</sup> In response to these increasing concerns, NSF asked the independent science and national security advisory group, JASON, to conduct an assessment on U.S. research security, which was published in 2019.<sup>818</sup> Specifically, JASON concluded “our notion of research integrity” needed “to include disclosures of commitments and potential conflicts of interest,” and greater understanding between academia and federal agencies.<sup>819</sup> Since 2019, NSF has taken steps to improve research security. The Office of the CRSSP was established in 2020, and in 2022 NSF implemented a research analytics database designed to uncover any hidden affiliations that researchers might have.<sup>820</sup> The NSF is also implementing Research on Research Security (RORS) to better identify research security risks,<sup>821</sup> and continues to consult with JASON.<sup>822</sup> NSF advised the Committee that it now requires its staff to complete research security training and is being more proactive with its outreach to research institutions so that they understand the risks posed by the CCP.<sup>823</sup>

The PRC’s use of talent recruitment programs is typified in a November 1, 2023, report that shows NSF funded a CCP-backed scientist researching artificial intelligence at the University of California, Los Angeles.<sup>824</sup> The House Committee on Energy and Commerce found that NSF continued funding the scientist of concern even after the individual returned to China to work at a university closely connected to the PRC’s military research.<sup>825</sup> The individual had been linked to the CCP’s Thousand Talents Plan,<sup>826</sup> a clear red flag, since 2010.<sup>827</sup> When pressed by the Committee during the briefing, NSF explained that its new analytics database

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<sup>814</sup> *Id.*

<sup>815</sup> *Id.*

<sup>816</sup> See Alex Joske, *Hunting the Phoenix, The Chinese Communist Party’s global search for technology and talent*, Austl. Strategic Pol’y Inst. (Aug. 20, 2020).

<sup>817</sup> NSF Briefing.

<sup>818</sup> JSR-19-21, *Fundamental Research Security*, JASON, nsf.gov (Dec. 6, 2019) (last accessed Sept. 16, 2024).

<sup>819</sup> *Id.*

<sup>820</sup> Letter from H. Sethuraman Panchanathan, Director, National Science Foundation, to Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability (Dec. 4, 2023).

<sup>821</sup> See *Research Security at the National Science Found.*, Office of the Chief of Research Security Strategy and Policy, U.S. Nat’l Science Found., <https://new.nsf.gov/research-security> (last accessed Sept. 16, 2024).

<sup>822</sup> NSF Briefing.

<sup>823</sup> *Id.*

<sup>824</sup> Didi Kirsten Tatlow, *Exclusive: U.S. Gave \$30 Million to Top Chinese Scientist Leading China’s AI ‘Race’*, Newsweek (Nov. 1, 2023).

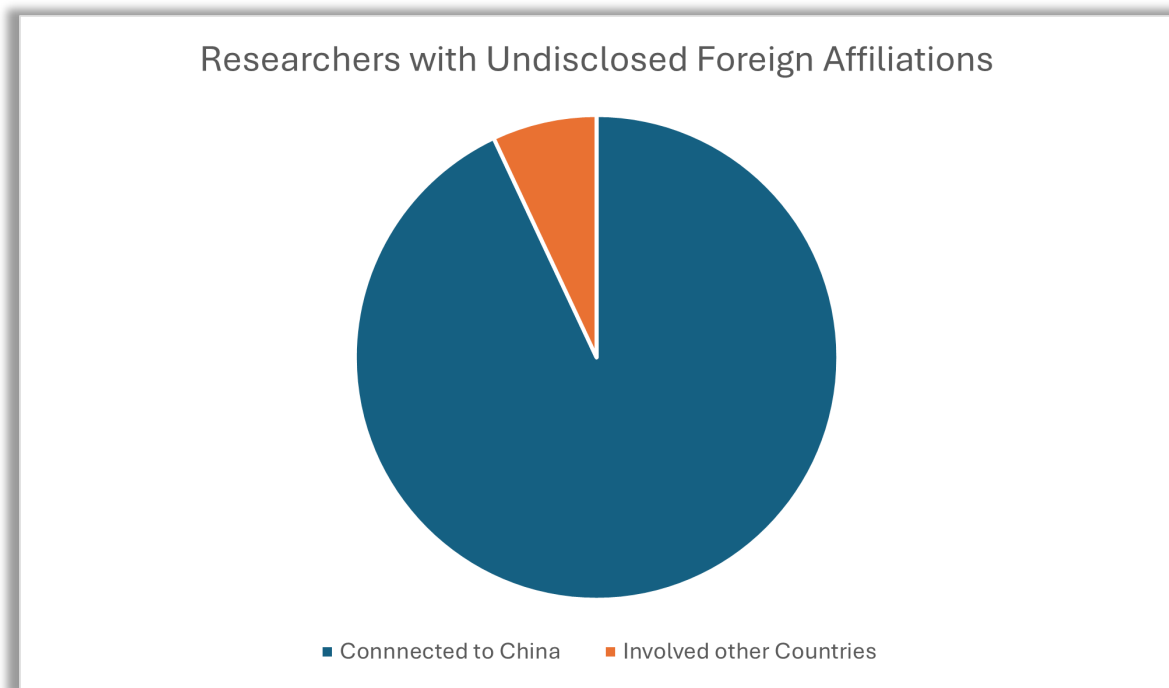
<sup>825</sup> Press Release, Select Comm. on CCP & House Energy and Commerce, Chairs Launch Inquiry into Taxpayer Funding Streams Funneled to CCP-Backed Researcher (Jan. 17, 2024).

<sup>826</sup> See Robyn Beck, *America Challenges China’s National Talent Programs*, Ctr. for Strategic & Int’l Studies, at 2 (May 5, 2020) (Through the Thousand Talents Program, “China has been enticing its current and former nationals to transfer technology created in the United States back to China.”).

<sup>827</sup> See *id.* at 4.

would have captured that scientist’s undisclosed affiliations and flagged the grant had the tool been available at the time.<sup>828</sup>

Some of the steps taken by NSF to address CCP unrestricted warfare—waged in this case via theft of American research—have been encouraging. Yet NSF refuses to categorize the PRC as a threat unique from other countries of concern—despite abundant evidence that the PRC is the top national security threat to our country.<sup>829</sup> NSF’s own officials attribute the great majority of theft and fraud to researchers linked to China,<sup>830</sup> and the agency’s independent oversight official has testified in recent years that the PRC is consistently linked to the majority of such cases (see graph below).<sup>831</sup> In 2021, NSF’s OIG shared that 28 of 30 actions taken as the result of violations in NSF’s disclosure policy were related to Chinese scientists.<sup>832</sup>



Source: House Oversight staff created this graph from Jeffrey Mervis, *Top U.S. science funder says it is swamped by investigations of foreign influence on grantees*, *Science* (Oct. 7, 2021).

NSF’s CRSSP officials told Committee staff that PRC-backed scientists represent nine out of ten cases related to research security.<sup>833</sup> The result is that U.S. taxpayer-funded research in America and the fruits of this research end up in Chinese hands. To ensure that Americans are

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<sup>828</sup> NSF Briefing.

<sup>829</sup> See 2024 ODNI Annual Threat Assessment, *supra* note 694 (detailing that the CCP is America’s top national security threat; and stating that “China has the capability to directly compete with the United States and U.S. allies and to alter the rules-based global order in ways that support Beijing’s power and form of governance over that of the United States.”).

<sup>830</sup> NSF Briefing.

<sup>831</sup> Jeffrey Mervis, *Top U.S. science funder says it is swamped by investigations of foreign influence on grantees*, *Science* (Oct. 7, 2021).

<sup>832</sup> *Id.*

<sup>833</sup> NSF Briefing.



not funding China’s scientific gains, NSF should conduct aggressive and proactive oversight, which requires it to lead a frank conversation with research institutions.

As Dr. Robert Atkinson, Founder and President of the Information Technology and Innovation Foundation, testified to the Committee, NSF “sees its mission as helping U.S. research scientists and research universities, so it is hesitant to impose restrictions on working with Chinese researchers.”<sup>834</sup> But, according to Dr. Atkinson, NSF’s goal should be “to support knowledge generation that limits Chinese access while advancing U.S. industrial innovation.”<sup>835</sup> This will help the United States prevail in what Dr. Atkinson describes as the “techno-economic war” China is waging on the United States.<sup>836</sup>

### Committee Recommendations

- NSF should be honest about the threat the PRC poses to American research security.
  - The PRC poses the greatest risk to research security at U.S. research institutions; therefore, the NSF should acknowledge that fact in its guidance, training, and research security measures.
  - NSF’s guidance should highlight the PRC’s unique risk to research security.
  - NSF should implement research security training modules and research security programs focused on the risks posed specifically by the PRC.
- Using existing authorities, NSF should work with partners to counter CCP theft of valuable American research.
  - As co-chair of the White House Office of Science and Technology Policy (OSTP), NSF is well-suited to lead a more forward-thinking interagency approach to address research security. In an effort to achieve a more forward-thinking posture, NSF should work with other agencies to report annually to Congress how threats to research security evolve and the proactive steps that are being taken to stay ahead of the threats.
- NSF should propose how the agency could use the tools and expertise it has developed to perform an assessment on research security vulnerabilities that the PRC poses in the private sector.

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<sup>834</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>835</sup> *Id.*

<sup>836</sup> *Id.*





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## NATIONAL SCIENCE FOUNDATION

Subject	Grade
Strategy and response to CCP unrestricted warfare, political warfare or other relevant form(s) of warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

**Comment**

NSF acknowledges China is the culprit responsible for the majority of research security issues in federally funded research. Yet, NSF mistakenly employs country agnostic strategies to address the threat. NSF's in-house expertise relies on NSF training, and it is unclear whether those trainings are sufficient to recalibrate NSF's strategy to secure valuable U.S. research from China.

## I. Office of the Director of National Intelligence

The Office of the Director of National Intelligence Should Synchronize an Aimless Intelligence Community and Support a Whole-of-Government China Strategy.

- While the Intelligence Community (IC) was late to acknowledge the threat posed by the CCP, the Office of Director of National Intelligence (ODNI) now largely recognizes the unparalleled threat.
- ODNI has failed to synchronize the IC to counter CCP unrestricted warfare.
- ODNI refused to answer Committee questions about ODNI's China expertise—or lack thereof.
- ODNI, and more specifically the NCSC, engages in public outreach, but it lacks effective monitoring to determine whether outreach is successful and reaches communities across America.
- NCSC's "Safeguarding Our Future" bulletin series is a positive starting point for outreach, and other federal agencies should engage in and strengthen such outreach.

ODNI's Director of National Intelligence "serves as the head of the intelligence community, overseeing and directing the implementation of the National Intelligence Program budget and serving as the principal advisor to the President, the National Security Council, and the Homeland Security Council for intelligence matters related to national security."<sup>837</sup> ODNI's mission is to "effectively integrate foreign, military and domestic intelligence in defense of the homeland and of United States interests abroad."<sup>838</sup> Therefore, it is imperative that ODNI integrate the other 17 members of the IC<sup>839</sup> to "operat[e] as one team" by "synchronizing collection, analysis and counterintelligence so that they are fused"<sup>840</sup>—including the National Security Council (NSC), which advises the President's national security and foreign policy decision-making and coordinates national security issues across federal agencies,<sup>841</sup> and the CIA,

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<sup>837</sup> Office of the Dir. of Nat'l Intelligence, What We Do (last accessed Sept. 16, 2024).

<sup>838</sup> *Id.*

<sup>839</sup> See Office of the Dir. of Nat'l Intelligence, Members of the IC (last accessed Sept. 16, 2024) ("IC Member List") (The IC is comprised of 18 organizations, including: (1) ODNI; (2) the Central Intelligence Agency (CIA); (3) the Defense Intelligence Agency (DIA); (4) the National Security Agency (NSA); (5) the National Geospatial-Intelligence Agency (NGA); (6) the National Reconnaissance Office (NRO); the intelligence offices within the (7) Army, (8) Navy, (9) Marine Corps, (10) Air Force, and (11) Space Force; (12) the Department of Energy's Office of Intelligence and Counter-Intelligence; (13) the Department of Homeland Security's Office of Intelligence and Analysis and (14) U.S. Coast Guard Intelligence; the Department of Justice's (15) Federal Bureau of Investigation and (16) the Drug Enforcement Administration's Office of National Security Intelligence; (17) the Department of State's Bureau of Intelligence and Research; and (18) the Department of the Treasury's Office of Intelligence and Analysis).

<sup>840</sup> *Id.*; Office of the Dir. of Nat'l Intelligence, Mission, Vision & Values (last accessed Sept. 16, 2024).

<sup>841</sup> IC Member List, *supra* note 839; The White House, National Security Council, <https://www.whitehouse.gov/nsc/> (last accessed Sept. 16, 2024).

which is the primary collector of foreign intelligence and conductor of covert action<sup>842</sup>—and to establish a cohesive plan and consistent messaging to effectively counter and defeat CCP unrestricted warfare.

On May 6, 2024, the Committee requested a briefing on steps ODNI is taking to synchronize the IC to protect American communities from the threat.<sup>843</sup> On July 29, 2024, ODNI provided an unclassified briefing to the Committee, attended by a national intelligence officer for China and a high-ranking official from the NCSC.<sup>844</sup>

On a high-level, ODNI understands the CCP presents the leading threat to the United States. Former Director of National Intelligence (DNI) John Ratcliffe paved the way for ODNI to transparently communicate with the American people about the nature of the communist regime. In 2020, DNI Ratcliffe authored an op-ed entitled “China Is National Security Threat No. 1” that concluded “the [PRC] poses the greatest threat to America today, and the greatest threat to democracy and freedom world-wide since World War II.”<sup>845</sup> Following DNI Ratcliffe’s public statements, ODNI has maintained this position. In March 2023, DNI Avril Haines testified that “the CCP presents both the leading and most consequential threat to U.S. national security and leadership globally, and its intelligence-specific ambitions and capabilities make it for us our most serious and consequential intelligence rival.”<sup>846</sup>

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“[T]he [PRC] poses the greatest threat to America today, and the greatest threat to democracy and freedom world-wide since World War II.”

- John Ratcliffe, *China Is National Security Threat No. 1*, Wall St. J. (Dec. 3, 2020).

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### ODNI Has Failed to Effectively Shepherd the IC to Ensure Each Member is Addressing CCP Unrestricted Warfare Against America.

Members of the IC are not aligned when it comes to addressing CCP unrestricted warfare. Few federal agencies have a plan to confront CCP unrestricted warfare—much less a plan to collaborate and coordinate with other agencies to ensure there are no gaps left for CCP infiltration and influence. Although several agencies now recognize the threat posed by the CCP, some agencies demonstrated an unwillingness to acknowledge it. For example, in a letter refusing to brief the Committee, the CIA asserted, “the CCP poses one of the most direct, serious threats to the security of the United States, and understanding the nature of these threats remains of the CIA’s top priorities.”<sup>847</sup> This statement is not aligned with ODNI’s articulated perception

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<sup>842</sup> IC Member List, *supra* note 839; Cent. Intelligence Agency, Our Mission, <https://www.cia.gov/about/mission-division/> (last accessed Sept. 16, 2024).

<sup>843</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Avril Haines, Dir., Office of the Dir. of Nat’l Intelligence (May 6, 2024).

<sup>844</sup> Briefing from ODNI officials to Oversight & Accountability Committee staff (July 29, 2024) (“ODNI Briefing”).

<sup>845</sup> Ratcliffe, *supra* note 5.

<sup>846</sup> *Annual Threat Assessment: Hearing Before S. Select Comm. on Intelligence* (Mar. 8, 2023) (testimony of Hon. Avril Haines, Director of National Intelligence, Office of the Dir. of Nat’l Intelligence) (“2023 ODNI Director Haines Testimony”) (emphasis added).

<sup>847</sup> CIA Letter to Committee (emphasis added).

that the CCP presents the “most consequential” threat.<sup>848</sup> Further, these agencies failed to demonstrate a clear system of coordination regarding efforts to thwart the CCP.

Despite ODNI’s failure to synchronize the IC, it proactively seeks to increase outreach to communities targeted by the CCP, which ought to serve as guidance for other agencies.

#### ODNI Refused to Answer Committee Questions About ODNI’s China Expertise.

Though ODNI recognizes the danger the CCP poses for Americans, it refused to answer the Committee’s questions about ODNI’s China expertise, making it impossible to conclude ODNI has the depth of understanding necessary to succeed in a cold war.<sup>849</sup> Committee staff requested (1) the number of individuals within ODNI that have China expertise or focus on China and (2) how ODNI assesses and defines expertise.<sup>850</sup> ODNI personnel claimed that the “nature of this information” is classified and referred the Committee to other committees within the House of Representatives.<sup>851</sup> Its refusal to discuss China expertise within its personnel is concerning—especially when China expertise is essential to recognizing the CCP’s unique tactics, including the united front and elite capture, and establishing a plan to defeat CCP unrestricted warfare.<sup>852</sup> Peter Mattis, President of the Jamestown Foundation and former CIA Counterintelligence Analyst, testified to the Committee that the U.S. government should “[i]nvest in expertise building inside and outside the U.S. Government with special attention paid to developing and funding educational programs to support mid-career expertise building and language skill maintenance.”<sup>853</sup> However, to increase expertise in the U.S government, both the legislative and executive branches must understand where additional expertise is necessary—and where it is currently insufficient.

#### Targeted Outreach and Metrics are Needed to Ensure Success in the NCSC.

In 2014, the DNI established NCSC “to effectively integrate and align counterintelligence and security mission areas under a single organizational construct.”<sup>854</sup> NCSC, as part of ODNI, “provides effective leadership and support to the counterintelligence and security activities” of the IC, other sectors of the U.S. government, and private sector entities “at risk of intelligence collection or attack by foreign adversaries.”<sup>855</sup> NCSC’s role includes engaging in counterintelligence awareness and outreach and it does so, in part, by creating awareness materials.<sup>856</sup>

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<sup>848</sup> 2023 ODNI Director Haines Testimony, *supra* note 846.

<sup>849</sup> Email from Office of the Dir. Of Nat’l Intelligence to Oversight & Accountability Committee staff (Aug. 22, 2024) (“ODNI Email”).

<sup>850</sup> Email from Oversight & Accountability Committee staff to Office of the Dir. Of Nat’l Intelligence (July 30, 2024).

<sup>851</sup> ODNI Email.

<sup>852</sup> *See supra*, Executive Summary.

<sup>853</sup> CCP Political Warfare Hearing I (testimony of Mr. Mattis).

<sup>854</sup> Office of the Dir. of Nat’l Intelligence, History of NCSC, <https://www.odni.gov/index.php/ncsc-who-we-are/ncsc-history> (last accessed Sept. 16, 2024).

<sup>855</sup> Office of the Dir. of Nat’l Intelligence, What We Do, <https://www.odni.gov/index.php/ncsc-what-we-do> (last accessed Sept. 16, 2024).

<sup>856</sup> *Id.*

Although NCSC produces documents that clearly identify the threat posed by the CCP to specific American communities and sectors, the office lacks the ability to (1) ensure outreach to the right individuals, and (2) measure or quantify the success of its outreach. NCSC “lead[s] and support[s] the U.S. Government’s counterintelligence (CI) and security activities critical to protecting our nation; provide[s] CI outreach to U.S. private sector entities at risk of foreign intelligence penetration; and issue[s] public warnings regarding intelligence threats to the U.S.”<sup>857</sup> As such, one of NCSC’s responsibilities is to engage with the public regarding CCP unrestricted warfare against American communities and sectors.

NCSC, unlike many other federal agencies and members of the IC, seeks to engage in public outreach. An NCSC official told the Committee that they engage in outreach to three primary communities: (1) the United States government, (2) private sector and the public, and (3) foreign and international partners.<sup>858</sup> NCSC engages in outreach in several ways, including by releasing a national, unclassified intelligence strategy, through briefings, and through a bulletin series entitled “Safeguarding Our Future.”<sup>859</sup>

The Safeguarding Our Future series is a valuable resource addressing CCP unrestricted warfare, albeit without using that term—if it reaches targeted communities and leads to the protection of Americans vulnerable to the CCP’s tactics. The bulletins are two-page documents that summarize the threat, provide potential indicators, efforts that entities or individuals can take to mitigate the threat, and resources for reporting to federal agencies.<sup>860</sup> In 2024, for example, NCSC has released bulletins that seek to safeguard innovation and military expertise.<sup>861</sup>

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<sup>857</sup> The Nat’l Counterintelligence and Security Center, Who We Are, <https://www.dni.gov/index.php/ncsc-home> (last accessed Sept. 16, 2024).

<sup>858</sup> ODNI Briefing.

<sup>859</sup> *Id.*

<sup>860</sup> The Nat’l Counterintelligence and Security Center, Safeguarding Our Future (last accessed Sept. 16, 2024).

<sup>861</sup> Nat’l Counterintelligence and Sec. Ctr., Safeguarding Our Innovation: Protecting U.S. Emerging Technology Companies from Investment by Foreign Threat Actors (July 24, 2024); ODNI Briefing; Nat’l Counterintelligence and Sec. Ctr., Safeguarding Our Military Expertise: Foreign Companies Continue to Recruit Current and Former Western Service Members to Bolster the PRC’s Military (June 5, 2024) (“Safeguarding Our Military Expertise”).



# SAFEGUARDING OUR INNOVATION

## PROTECTING U.S. EMERGING TECHNOLOGY COMPANIES FROM INVESTMENT BY FOREIGN THREAT ACTORS

### THREAT

Venture capital (VC), private equity, and other foreign-origin private investment can provide vital funding for United States (U.S.) technology startups. Foreign threat actors can also use these investments to exploit U.S. startups and harm U.S. economic and national security interests.

- **U.S. startups can lose market share and fail** if foreign threat actors obtain their proprietary data in the investment process, then use it to compete against them in global markets.
- **Startups can be denied U.S. government contracts or funding** if foreign threat actors gain a footing in their firms.
  - ▶ To help mitigate foreign risk, federal agencies that grant Small Business Innovation Research or Small Business Technology Transfer awards are required to have due diligence programs to assess small businesses seeking these awards.
- **Startups can also suffer undue foreign influence** that forces corporate decisions or direction benefiting foreign threat actors at the expense of the U.S. company.
- **Foreign threat actors can acquire data and technology** from U.S. startups that advances their nation's economic and military capabilities at the expense of the U.S.
- **Foreign threat actors can also target startups** that contract with the U.S. government—and other critical U.S. sectors—to threaten U.S. national security.

U.S. startups seeking capital can face challenges in determining the ownership and intent of foreign investors. For example, foreign threat actors may:

- **Structure their investments to avoid scrutiny** from the Committee on Foreign Investment in the United States (CFIUS), which reviews certain mergers, acquisitions, and investments into the U.S. for national security risks.

- **Route investments through intermediaries** in the U.S. or other third countries to obscure the money's origin.
- **Use minority and limited partner investments.**
- **Attempt to acquire sensitive and proprietary data** from U.S. startups under the guise of due diligence, before investing.

In 2018, the U.S. Trade Representative warned that **the People's Republic of China (PRC) government directs the investment in, and acquisition of, U.S. companies by China-based firms** to obtain technologies and Intellectual Property (IP), and to facilitate technology transfer to support PRC state plans. VC investment from China has focused on U.S. emerging technology sectors like Artificial Intelligence and other PRC government priorities. Recent developments have heightened these concerns:

- **In January 2024, the U.S. Department of Defense (DOD) added IDG Capital, a China-based VC/private equity firm, to its list of "Chinese military companies"** operating directly or indirectly in the U.S. The firm has invested in more than 1,600 companies, including several in the U.S.
- Last year, the CEO of a U.S. startup (which is suing defendants in China for trade secret theft) told U.S. Congress that **some China-based VC firms may target and pay employees of U.S. startups to acquire technology**, then fund competitors in China who try to monetize the stolen technology.
- Some U.S. and European firms have alleged **China-based investors offered them investments, then withdrew the offers** after obtaining their proprietary data in the due diligence process.
- One U.K. firm, after agreeing to a takeover by an investor in China, began transferring technology to its would-be acquirer in exchange for part of the firm's sales price. The investor in China later abandoned the acquisition. **The U.K. firm was left facing bankruptcy after sharing its IP.**

## POTENTIAL INDICATORS

Below are activities that may be associated with investment efforts by foreign threat actors, although some of them are also routine legal tactics. U.S. technology startups should be diligent if foreign investment involves:

- **Complex Ownership:** A foreign investor whose structure includes separate entities with the same key personnel or shell companies with no substantive purpose. Entities are often incorporated in offshore locations lacking transparency and effective regulatory oversight.
- **Investments Through Intermediaries:** A foreign investor that routes investment through funds, partners, or intermediaries in the U.S. or other countries. This tactic can help foreign threat actors avoid or complicate outside scrutiny through degrees of separation.
- **Limited Partner Investments:** A foreign investor that invests in U.S. companies indirectly through U.S. firms or others in which they are limited partners. Some limited partners are truly passive, while others can gain influence over corporate decisions or access to proprietary data.
- **Requests for Sensitive Data:** A foreign investor that requests proprietary or other sensitive data from a U.S. firm before making an investment or while feigning interest in an investment. All investors conduct due diligence. Startups should be alert to intrusive requests for sensitive data.
- **Preying on Struggling U.S. Firms:** A foreign investor that preys on struggling U.S. companies, which can lead to the transfer of a company's IP in exchange for an infusion of capital.

## MITIGATION

U.S. technology startups are not helpless. Below are some steps U.S. companies can take to guard against investment by foreign threat actors.

- **Identify and Protect Critical Assets:** Before seeking investment, identify and compartmentalize your company's "crown jewels."
  - ▶ Put physical and virtual protection around these assets.
  - ▶ Restrict access only to those who require it.
  - ▶ Identify a risk manager empowered by leadership to organize protection efforts.
  - ▶ Include protections for your assets within contracts and investment documentation.
  - ▶ Ensure legal and contractual agreements are enforceable in the investor's home country.
  - ▶ Implement a structure that ensures risk management over time.

- **Know Your Investor:** Scrutinize prospective investors to assess risks.
  - ▶ Verify who they say they are, who owns them (e.g., foreign governments or militaries), and the origin of their funding.
  - ▶ Determine if investors are subject to sanctions, export controls, or similar designations.
  - ▶ Research the laws where the foreign investor operates. Determine if they must share data with or assist their host government.
  - ▶ Confirm that their values and intentions align with your own.
- **Limit Your Exposure:** Before negotiating with investors, determine what is appropriate to share.
  - ▶ Limit data sharing to only that which is appropriate, before and after investment.
  - ▶ Identify red lines and responses if an investor requests information beyond what you would share with other investors.
  - ▶ Set protocols for investors to handle sensitive data appropriately.
  - ▶ Consider what you could lose if an investor reneges on a deal.
- **Engage:** Engage federal agencies and others in your industry to gather and share up-to-date threat information and risk mitigation resources.

## REPORTING

- To report a tip about a potential foreign investment with national security implications, contact [CFIUS.tips@treasury.gov](mailto:CFIUS.tips@treasury.gov) or (202) 622-1860.
- If you believe that you, your personnel, or your company's data have been targeted, or are at risk of compromise, contact your local FBI Field Office: <https://www.fbi.gov/contact-us/field-offices>.
- To report foreign investment of concern in U.S. DOD critical technology sectors, contact the Department of the Air Force Office of Special Investigations and the Naval Criminal Investigative Service at <https://www.osi.af.mil/Submit-a-Tip/> or <https://www.ncis.navy.mil/Resources/NCIS-Tips/>
- For more threat awareness materials or publications, visit the National Counterintelligence and Security Center (NCSC) website at [www.ncsc.gov](http://www.ncsc.gov) or contact [DNI\\_NCSC\\_OUTREACH@dni.gov](mailto:DNI_NCSC_OUTREACH@dni.gov).

References in this product to any specific commercial product, process, or service or the use of any corporate name herein is for informational purposes only and does not constitute an endorsement, recommendation, or disparagement of that product, process, service, or corporation on behalf of the Intelligence Community. For additional information on NCSC awareness materials or publications, visit our website: [www.ncsc.gov](http://www.ncsc.gov) or contact [DNI\\_NCSC\\_OUTREACH@dni.gov](mailto:DNI_NCSC_OUTREACH@dni.gov).

Find us on Twitter (X): @NCSCoov

On LinkedIn: NATIONAL COUNTERINTELLIGENCE AND SECURITY CENTER

05/25/24

Source: Nat'l Counterintelligence and Sec. Ctr., Safeguarding Our Innovation: Protecting U.S. Emerging Technology Companies from Investment by Foreign Threat Actors (July 24, 2024)



This series, which synthesizes complex issues into digestible summaries, can inform affected communities and lead them to resources.

NCSC is seeking to expand its outreach by offering translations and engaging with foreign partners. For example, ODNI collaborates with the FBI on issues like transnational repression.<sup>862</sup> Due to this collaboration, NCSC is able to alter the series to address the needs of specific communities. For example, a bulletin on transnational repression was translated into eleven languages, of which simplified Chinese and traditional Chinese were two of the languages.<sup>863</sup> Additionally, in 2024, ODNI released a “Safeguarding Our Military Expertise” bulletin which ODNI informed the Committee was the first ever joint bulletin with other Five Eyes partners.<sup>864</sup>

## Committee Recommendations

Although NCSC engages in proactive and reactive outreach via briefings in which ODNI personnel brief companies, sectors, associations and conferences, ODNI lacks the capability to measure the success of outreach.<sup>865</sup> Further, NCSC personnel would not disclose to the Committee the kinds of companies or sectors with whom they engage. Importantly, ODNI should have a system for tracking outreach among industries and sectors to ensure that no communities are left behind. Although ODNI cannot require industries to make decisions or alter activity,<sup>866</sup> ODNI must establish a system to measure or quantify success of outreach. The Committee recommends:

- ODNI should help establish and coordinate the implementation of a government-wide strategy to identify, counter, and defeat CCP unrestricted warfare.
  - Given that ODNI recognizes that China is the United States’ top threat, it could play an important role in convincing other federal agencies of the urgent need to establish a whole-of-government approach to protect America from the CCP’s destructive ambitions to weaken America.
- ODNI should engage in public outreach about CCP unrestricted, political, economic, psychological, and other forms of warfare the CCP uses in its effort to destroy America.<sup>867</sup>

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<sup>862</sup> ODNI Briefing.

<sup>863</sup> *Id.*; see Nat’l Counterintelligence and Sec. Ctr., *Safeguarding The Public: Don’t Be a Pawn of Repressive Foreign Governments* (Mar. 2023).

<sup>864</sup> ODNI Briefing; *Safeguarding Our Military Expertise*, *supra* note 861; see Brad Williams, *Why the Five Eyes? Power and Identity in the Formation of a Multilateral Intelligence Grouping Abstract*, *Journal of Cold War Studies* (2023) (“The ‘Five Eyes’ multilateral intelligence-sharing arrangement comprising the major intelligence services of Australia, Canada, New Zealand, the United Kingdom, and the United States was formed in 1946 as the Cold War was emerging.”).

<sup>865</sup> ODNI Briefing.

<sup>866</sup> *Id.*

<sup>867</sup> See *supra*, Section II. A. Unrestricted and Other Forms of Warfare.

- ODNI should be transparent with Congress and the American public about the China expertise of its personnel—to help ensure that ODNI has sufficient expertise to combat the CCP.
- ODNI should establish a system to measure the success of its public outreach about CCP unrestricted, political, and economic warfare.
  - ODNI must have a system in place to measure whether its current form of outreach is reaching communities and sectors across America and helping ensure they are more secure from CCP efforts to infiltrate and influence.





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

ODNI accurately describes the threat that communist China poses to the United States and engages in good public outreach, but fails to help establish a government-wide China strategy and wholly refused to answer questions about its China expertise.

## J. U.S. Department of Agriculture

The U.S. Department of Agriculture Risks America's Food Supply by Valuing America's Top Customer Over its Constituency: The American People.

- The U.S. Department of Agriculture (USDA) aids CCP unrestricted warfare that is targeting American farmers, the agricultural industry, and America's food supply by valuing trade with the PRC over the security of the American people.
- USDA is not adequately monitoring the CCP's illicit attempts to undermine and control American agricultural resources because it lacks a coherent strategy that values American farmers and consumers over the PRC and the will to track foreign land acquisition reporting.
- America is dependent on China across the agricultural sector, yet USDA prioritizes engagement with the communist regime over long-term American interests, and uses political rhetoric that will not offend the Party.
- The Committee's investigation has revealed that USDA is one of the more complacent federal agencies when addressing communist China's unrestricted warfare against America.



Source: John Hendrickson, *Chinese Investment in American Agriculture*, Iowans for Tax Relief Found. (Aug. 15, 2022).

As part of its unrestricted warfare campaign against America, the CCP is conducting economic and resource warfare<sup>868</sup> to exploit the U.S. food supply, influence agricultural policy, and increase America's dependence on the PRC—all to the benefit of the communist regime and

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<sup>868</sup> See *supra*, Section II. A. Unrestricted and Other Forms of Warfare.

the detriment of America’s national security. America’s food security, and thus national security, is at risk, because “[h]istorically, food security is also an indicator of government legitimacy and political stability.”<sup>869</sup> USDA’s failure to address CCP unrestricted warfare against U.S. agriculture is unacceptable given the CCP’s efforts are not new. For decades, the communist regime has interfered with agricultural production. For example, the CCP caused the death of approximately 45 million Chinese people with its “Great Leap Forward” campaign to convert the agrarian economy in China into an industrial one between 1958 and 1962.<sup>870</sup>

On March 13, 2024, the Committee requested a briefing from USDA regarding its efforts to protect America’s agricultural industry from CCP infiltration.<sup>871</sup> On April 18, 2024, USDA provided the Committee a briefing.<sup>872</sup> Though USDA acknowledged to the Committee that food security is national security,<sup>873</sup> USDA overlooks the CCP’s efforts to exploit America’s food security because the PRC is America’s biggest agricultural customer, and USDA does not want to offend America’s top customer. USDA is responsible for “promot[ing] agricultural production that better nourishes Americans” and “helping rural America to thrive.”<sup>874</sup> Yet, USDA touts U.S. agricultural exports that continue to flow to the PRC in record amounts, making it increasingly difficult for Americans to thrive without an unhealthy dependence on the CCP.<sup>875</sup>

#### USDA Views the CCP as a Valued Customer Instead of a National Security Threat.

USDA characterized the PRC to the Committee as a real but manageable threat,<sup>876</sup> but USDA is more focused on keeping the PRC as a customer of the United States at the expense of Americans, the country’s food supply, and the American agricultural industry. USDA told the Committee that it is reliant on China as America’s number one agricultural export customer.<sup>877</sup> Although USDA also told the Committee that it is committed to making sure Americans are safe and that it is focused on market diversification,<sup>878</sup> the USDA appears to be valuing an adversary over national security.

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<sup>869</sup> Ellen Messer & Marc J. Cohen, *Food as a Weapon*, Oxford Research Encyclopedia of Food Studies (June 18, 2024).

<sup>870</sup> Frank Dikotter, *Mao’s Great Famine: The History of China’s Most Devastating Catastrophe, 1958-1962*, at 333 (2010) (detailing Mao Zedong’s Great Leap Forward: “People in the countryside were robbed of their work, their homes, their lands, their belongings and their livelihood. Food, distributed by the spoonful in collective canteens according to merit, became a weapon to force people to follow the party’s every dictate.”).

<sup>871</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Thomas J. Vilsack, Sec’y, U.S. Dep’t of Agriculture (Mar. 13, 2024).

<sup>872</sup> Briefing from USDA Officials to Oversight & Accountability Committee staff (Apr. 18, 2024) (“USDA Briefing”).

<sup>873</sup> *Id.*

<sup>874</sup> About the U.S. Department of Agriculture (last accessed Sept. 16, 2024).

<sup>875</sup> USDA Briefing; *see also U.S. Trade with China in 2023*, Foreign Agriculture Service, U.S. Dep’t of Agriculture; Rep. No. CH2023-0023, *Highlights of 2022 Record Agricultural Trade with the PRC*, USDA Foreign Agricultural Service (Feb. 17, 2023) (“USDA, *Highlights of 2022 Record Agricultural Trade with the PRC*”).

<sup>876</sup> USDA Briefing.

<sup>877</sup> *Id.*

<sup>878</sup> *Id.*

In 2022, U.S. agricultural exports to the PRC reached a record \$40.9 billion.<sup>879</sup> In 2023, U.S. agricultural exports to the PRC were estimated at \$33.7 billion.<sup>880</sup> While these amounts are significant to the U.S. economy, USDA must account for the CCP's motives to surpass America as the global leader in agriculture. America is a global leader in many agricultural sectors, making it a prime trading partner as well as a prime target of China's efforts to lead in the industry.<sup>881</sup> The CCP's domestic agriculture production is dwindling, as droughts and floods are striking the region in high frequency and arable land is diminishing.<sup>882</sup>

To compensate for these agricultural vulnerabilities, the CCP is acquiring American farmland, investing in American agricultural assets, and obtaining agricultural IP to exceed America's agricultural industry.<sup>883</sup> Any CCP control over the U.S. agricultural industry puts America's economy, food supply, and national security at risk since the CCP is "growing more aggressive militarily and [] attempting to control resources across the globe."<sup>884</sup> A shift to domestic food security is crucial for America's continued prosperity—and will not succeed without strong leadership from the department tasked with helping rural America thrive.

Given the USDA's focus on China as America's number one customer, it is unsurprising that USDA has a significant presence in China—there are five USDA offices in the PRC. Yet, USDA officials told the Committee they do not offer trainings about CCP infiltration and influence operations targeting American agriculture and food supply.<sup>885</sup> Rather, USDA offers CCP-specific training *only* to employees traveling to the PRC.<sup>886</sup> A lack of comprehensive knowledge about the communist regime will lead to a failure to "grasp the scope, magnitude, severity, and urgency" of the effects the CCP's global desires will have on America.<sup>887</sup> While the threat from the CCP grows, USDA does not have sufficient personnel focused on China nor does it offer necessary trainings for employees to address it.<sup>888</sup>

USDA told the Committee the IC is increasing its prioritization of agriculture as it relates to national security, and USDA coordinates with the IC for national security information related to agriculture.<sup>889</sup> To address the importance agricultural security has on national security, the 2024 NDAA required USDA to open an "Intelligence Community Counterintelligence Office."<sup>890</sup> However, USDA must also appreciate the relationship between its protection of America's agricultural industry and the national security consequences of the CCP's exploitation

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<sup>879</sup> See USDA, *Highlights of 2022 Record Agricultural Trade with the PRC*, *supra* note 875, at 1 (This number represents "an increase of 14.5 percent compared to the previous year.")

<sup>880</sup> Economic Research Service, *Agricultural Trade*, U.S. Dep't of Agriculture (Feb. 16, 2024).

<sup>881</sup> See Lauren Greenwood, *China's Interests in U.S. Agriculture: Augmenting Food Security through Investment Abroad*, U.S.-China Economic & Security Review Comm'n, at 3 (May 26, 2022).

<sup>882</sup> See Faith Ka Shun Chan, et al., *Food security in climatic extremes: Challenges and opportunities for China*, Cell Reports Sustainability (Feb. 23, 2024); *see generally* Greenwood, *supra* note 881.

<sup>883</sup> See Greenwood, *supra* note 881, at 3.

<sup>884</sup> John Hendrickson, *Chinese Investment in American Agriculture*, Iowans for Tax Relief Found. (Aug. 15, 2022).

<sup>885</sup> USDA Briefing.

<sup>886</sup> *Id.*

<sup>887</sup> Han & Thayer, *Understanding the China Threat*, at 18.

<sup>888</sup> USDA Briefing.

<sup>889</sup> *Id.*

<sup>890</sup> The deadline for establishment of the Intelligence Community Counterintelligence Office is January 1, 2025. National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, § 7318 (Dec. 22, 2023).

of such. When pressed by the Committee about whether USDA publicly addresses the damaging effects CCP warfare has on U.S. agriculture, USDA briefers told the Committee it does not want to engage in rhetoric that will denigrate the United States' number one agriculture customer.<sup>891</sup> In short, USDA officials are hesitant to engage in public messaging about China to avoid instilling fear or detracting from the billions of dollars China spends on U.S. agriculture. The American people deserve to know the truth about CCP efforts to infiltrate and exploit American agriculture, and USDA should speak candidly about why protecting the industry from CCP warfare is more urgent than ever.

## USDA Does Not Protect American Agricultural Land, Assets, and Intellectual Property from the CCP.

### *CCP Infiltration on American Soil and USDA's Inadequate Monitoring*

The Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA) requires foreign persons acquiring or transferring agricultural land to timely report specific information about the transaction to USDA.<sup>892</sup> Current reporting requirements “lack rules and transparency related to ownership, use, and change in use,” which makes it “increasingly difficult for the U.S. government to monitor and consider any potential risks to national security.”<sup>893</sup> USDA's enforcement of these reporting requirements has been referred to as “alarmingly lax,”<sup>894</sup> and USDA itself has recognized that the reporting structure proves “China's interest [to] be under-represented.”<sup>895</sup> Under-regulation of the CCP's purchasing of American farmland makes it an area “ripe for neglect,”<sup>896</sup> and enhances the CCP's ability to influence, infiltrate, and surveil on American soil.

It is troubling that USDA has limited expertise to assess and use AFIDA reporting, and that, under AFIDA, foreign persons or entities are subject to a good faith, self-reporting system for foreign purchases of U.S. farmland.<sup>897</sup> The communist regime in China does not embrace good faith standards; Colonel Grant Newsham, retired U.S. Marine Corps Colonel and former Intelligence and Foreign Service Officer, who testified before the Committee in this investigation, has explained that the CCP “only obeys rules when the rules are in the CCP's interest.”<sup>898</sup> Similarly, former Secretary of State Mike Pompeo warned of the CCP's ambitions to “erode our freedoms and subvert the rules-based order that our societies have worked so hard to build.”<sup>899</sup> Without effective monitoring of the CCP's purchasing of American farmland, the CCP will continue taking advantage of its access to American soil.

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<sup>891</sup> USDA Briefing.

<sup>892</sup> Pub. L. No. 95-460, 7 U.S.C. § 3501(a).

<sup>893</sup> Greenwood, *supra* note 881, at 16.

<sup>894</sup> H. Comm. on Agriculture: The Danger China Poses to American Agriculture (Mar. 20, 2024) (written testimony of Rep. Mike Gallagher).

<sup>895</sup> *Foreign Holdings of U.S. Agricultural Land Through December 31, 2022*, USDA Farm Service Agency, at 5 (Dec. 14, 2023) (“...the acreage associated with China—or any other country discussed in this report—should be interpreted as a minimum.”).

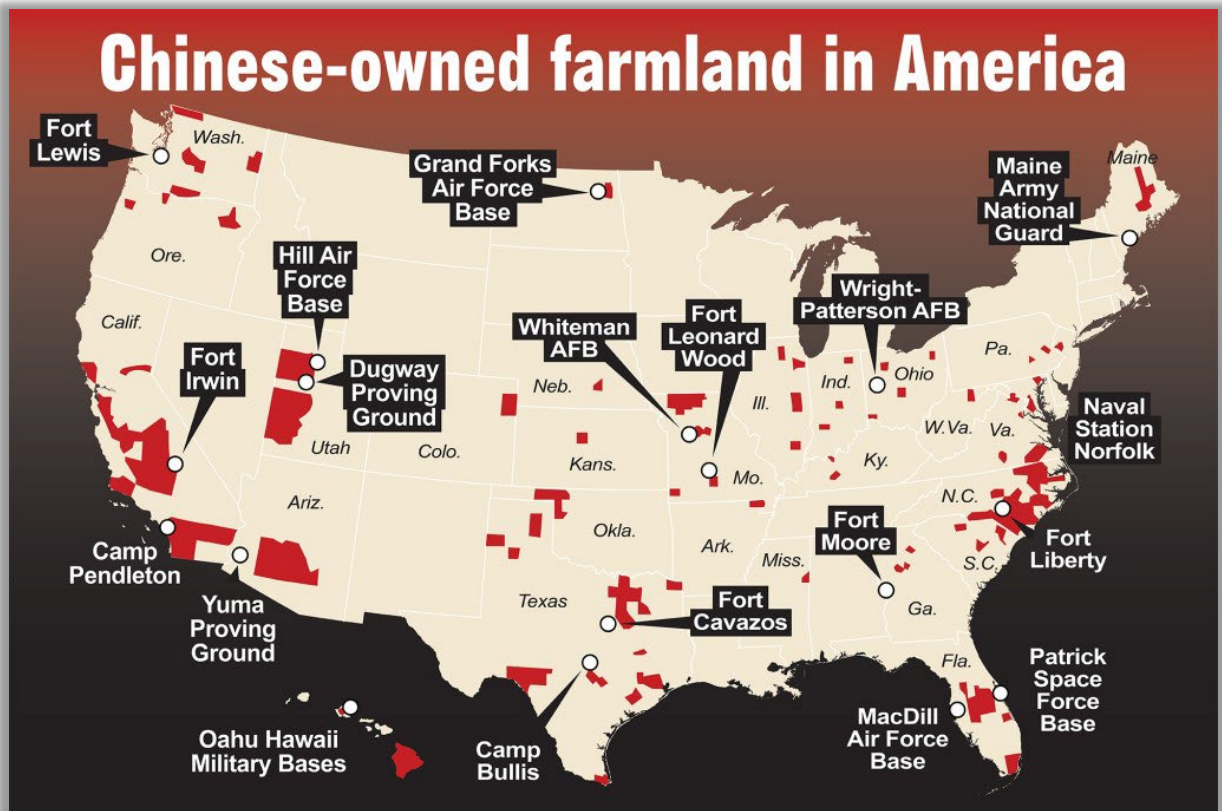
<sup>896</sup> Greenwood, *supra* note 881, at 13.

<sup>897</sup> USDA Briefing.

<sup>898</sup> Newsham, *When China Attacks: A Warning to America*, at 102.

<sup>899</sup> Mike Pompeo, *China Policy Address at the Nixon Library* (July 23, 2020) (“Pompeo China Policy Address”).

Erik Bethel, former Executive Director of the World Bank, testified before the Committee that the CCP increasingly buying agricultural land in close proximity to U.S. military installations “is greatly concerning.”<sup>900</sup> By purchasing agricultural land near U.S. military bases, the CCP can “set up reconnaissance sights, install tracking technology, use radar and infra-red scanning to view bases or attempt to fly drones over them as ways to surveil military sites on American farmland.”<sup>901</sup> Indeed, the CCP is already strategically purchasing American farmland near U.S. military bases. It is troubling that these operations could go unreported and unnoticed, and that USDA has no strategy or effective reporting system to track CCP unrestricted warfare operations on American soil.



Source: Mary K. Jacob, *Map shows Chinese-owned farmland next to 19 US military bases in ‘alarming’ threat to national security: experts*, N.Y. Post (June 20, 2024).

### *Discrepancies Between How the United States and China Treat Each Other*

While the CCP denies its aggressive efforts to become the global leader in agriculture, leaders of federal agencies, including USDA, continue counterproductive engagement with the authoritarian regime. In 2020, the Chinese consulate in Houston, Texas was involved in IP theft and enabling unlawful Fox Hunt operations,<sup>902</sup> and helping PLA officers conceal CCP military

<sup>900</sup> CCP Political Warfare Hearing II (testimony of Mr. Bethel).

<sup>901</sup> Mary K. Jacob, *Map shows Chinese-owned farmland next to 19 US military bases in ‘alarming’ threat to national security: experts*, N.Y. Post (June 20, 2024).

<sup>902</sup> See *infra*, Section III. P. U.S. Department of Justice.



affiliation to evade law enforcement.<sup>903</sup> Former Secretary of State Mike Pompeo confirmed that the Houston consulate was “a hub of spying and intellectual property theft.”<sup>904</sup> The Trump Administration ordered the consulate to close due to these activities.<sup>905</sup> USDA’s Agricultural Trade Office (ATO) in Chengdu, China was closed by the PRC, in apparent retaliation for the consulate closure.<sup>906</sup> Yet, USDA still values China as America’s most valued customer, and USDA has not retaliated or penalized the CCP for infiltrating American soil and putting national security at risk.

In contrast to USDA’s lax foreign land acquisition reporting system, run by the PRC Ministry of Commerce, *requires* foreign investors to file applications and receive approval *before* foreign investments in China are authorized.<sup>907</sup> Among other reasons, approval may be denied if a foreign investment would “injure China’s sovereignty or the public interest or would endanger state security.”<sup>908</sup> The foreign investment safeguards implemented by China and America are disproportionate, and USDA should, at a minimum, conduct reciprocal scrutiny to protect American agricultural industries.<sup>909</sup>

### Committee Recommendations

Leaders of federal agencies have responsibilities to communicate about risks to national security. Yet USDA leadership continues to ignore CCP infiltration in American agriculture by neglecting to speak about the CCP as an adversary and threat to America’s national security. While the CCP is taking advantage of unenforced foreign land acquisition reporting (while monitoring its own foreign investments), USDA continues ready engagement with the PRC. In fact, USDA told the Committee that it *needs* China to keep buying products from America.<sup>910</sup> USDA’s outlook and actions regarding the CCP do not serve America’s long-term interests.

USDA’s engagement with the PRC perpetuates the increasingly unhealthy economic relationship between the United States and the PRC, and USDA does little to reduce America’s export reliance on the communist regime. In 2023, USDA sent an official delegation to the sixth China International Import Expo (CIIE) for the first time since the CIIE began.<sup>911</sup> The CIIE was hosted by the PRC Ministry of Commerce and the Shanghai Municipal People’s Government

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<sup>903</sup> See *Briefing With Senior U.S. Government Officials On the Closure of the Chinese Consulate in Houston, Texas*, U.S. Dep’t of State (July 24, 2020) (“State Dept. Briefing on Closure of Chinese Consulate”); Pompeo China Policy Address, *supra* note 899.

<sup>904</sup> Pompeo China Policy Address, *supra* note 899.

<sup>905</sup> State Dept. Briefing on Closure of Chinese Consulate, *supra* note 903.

<sup>906</sup> Email from USDA to Oversight & Accountability Committee staff (May 15, 2024) (“USDA Email”).

<sup>907</sup> See Leah Wils-Owens, *Memorandum: China’s Status as a Non-Market Economy*, U.S. Dep’t of Commerce, Int’l Trade Admin., at 35 (Oct. 26, 2017) (emphasis added).

<sup>908</sup> See *id.* at 36.

<sup>909</sup> See Hoover Inst., *Covert, Coercive, and Corrupt: Countering Chinese Communist Party Malign Influence in Free Societies*, YouTube (Nov. 30, 2020) (“Reciprocity is the basis for international relations . . . yet for decades, we and other countries made exceptions for China. We allowed the Chinese Communist Party to engage with our societies on a non-reciprocal basis and Beijing exploited the imbalance. And now, our insistence on reciprocity is a long overdue defense.”) (statement of David Stilwell) (emphasis added).

<sup>910</sup> USDA Briefing.

<sup>911</sup> Hu Xuan & Lin Jinbing, U.S. Agriculture Department to Debut at China’s Largest Import Fair, Caixin Global (Nov. 4, 2023).

and included a high-profile endorsement by the PRC government.<sup>912</sup> USDA’s purported aim to reduce American agricultural reliance on the PRC is not supported by its decision to send top leadership to the CIIE, which “aims to boost the consumption of imported products” to the PRC,<sup>913</sup> nor by its decision to highlight America’s presence and engagement through media exposure.<sup>914</sup>

Economic engagement that neglects consideration for the security of the food supply sends a message to Americans that economic engagement with the CCP is reliable and secure. USDA should instead hold the CCP accountable for exploiting the American economy and be candid about the dangers of CCP economic warfare. USDA is insufficiently addressing the fact that the PRC is perched as America’s top agricultural customer, all while the CCP wages economic warfare to surpass America’s agricultural sector. The Committee therefore recommends the following:

- USDA should make efforts to protect America’s food supply—one of America’s most essential assets—from the PRC. The agency must speak to the American people about the threat that the CCP poses to America’s economy, food supply, and national security.
  - USDA should offer public resources warning Americans and American agricultural businesses of the risks of investing with the PRC and the importance of reducing export and import reliance on the PRC. These resources should be disseminated at national, state, and local levels.
  - USDA should inform American agricultural businesses about CCP unrestricted warfare.
  - USDA should not send official delegations to the PRC for import expositions funded by the PRC, as doing so sends a message to Americans that agricultural business with the PRC is reliable, safe, and secure.
- USDA should improve its monitoring and enforcement under AFIDA—particularly given the national security concerns surrounding Chinese nationals purchasing U.S. farmland in close proximity to U.S. military bases.
- USDA should ensure that it does not succumb to CCP efforts to infiltrate and influence USDA officials or policy by training all its employees to recognize and counter CCP warfare tactics, in addition to USDA’s CCP-specific trainings for employees traveling to the PRC.
- USDA should send a strong message to China that it will not tolerate CCP unrestricted warfare targeting American agricultural industries and consider closing USDA offices in China. The CCP retaliated against the closure of the Chinese

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<sup>912</sup> China International Import Expo News Center, *US delegation to CIIE shows agricultural trade is a ballast*, China Daily (Nov. 2, 2023); ATO Shanghai Staff Report, *American Food and Agriculture Pavilion Makes Strong Debut at CIIE*, USDA Foreign Agricultural Service (Mar. 20, 2024) (“ATO Shanghai Staff Report”).

<sup>913</sup> ATO Shanghai Staff Report, *supra* note 912.

<sup>914</sup> *See id.*

Consulate in Houston, Texas, by closing USDA's Chengdu office.<sup>915</sup> Thus far, USDA has not publicly responded to the CCP's ongoing actions.

- USDA should reconsider or avoid endorsing trade shows hosted in the PRC,<sup>916</sup> as USDA endorsements promote dangerous economic integration with the CCP.

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<sup>915</sup> USDA Email.

<sup>916</sup> See Trade Show, *China Fisheries and Seafood Expo (Oct. 30 – Nov. 1, 2024)*, Foreign Agricultural Service, U.S. Dep't of Agriculture ("USDA endorsed") (last accessed Sept. 16, 2024); Trade Show, *Food and Hospitality China (Nov. 12 – 14, 2024)*, Foreign Agricultural Service, U.S. Dep't of Agriculture ("USDA endorsed") (last accessed Sept. 16, 2024); Trade Show, *Food Ingredients China (Mar. 17 – 19, 2025)*, Foreign Agricultural Service, U.S. Dep't of Agriculture ("USDA endorsed") (last accessed Sept. 16, 2024).





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF AGRICULTURE

Subject	Grade
Strategy and response to CCP unrestricted warfare, political warfare or other relevant form(s) of warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

The U.S. Department of Agriculture endangers U.S. national, economic, and food security by valuing the CCP as America's top customer and relies on lax reporting requirements to detect CCP influence and infiltration.

## K. U.S. Department of Commerce

The U.S. Department of Commerce Fails to Adequately Engage with U.S. State and Local Government Officials About How the CCP is Using Political and Economic Warfare Against Them.

- The CCP has a history of aggressive influence operations at the American state and local government levels,<sup>917</sup> as it views U.S. state and local governments as easier to infiltrate than the federal government, which may be better prepared for to address the CCP’s political and economic warfare tactics.<sup>918</sup>
- The mission of the Department of Commerce (Commerce Department) is to “Improve America’s Economic Competitiveness.”<sup>919</sup> However, not one of the Commerce Department’s five strategic goals to reach this objective<sup>920</sup> includes protecting the American people against CCP political and economic warfare.
- Though the Commerce Department told the Committee it is aware of the increased challenges the CCP poses to the United States and that it is addressing those challenges “both within the Department and to the public,”<sup>921</sup> the Committee has identified areas of weakness in these objectives, particularly regarding interaction with U.S. state and local government officials and business leaders.
- The mission of the Commerce Department’s Office of Legislative and Intergovernmental Affairs (OLIA) is to aid the Commerce Department’s efforts through a “range of programs, information, and services” for consumers, businesses and state, local, and tribal governments.<sup>922</sup> As a pivotal link between the Commerce Department and these constituencies, OLIA should provide direct and ongoing communication about threats posed by the CCP.

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<sup>917</sup> Peter Mattis, “China’s Global Influence and Interference Activities - Testimony before the U.S.-China Economic and Security Review Commission” (Mar. 23, 2023).

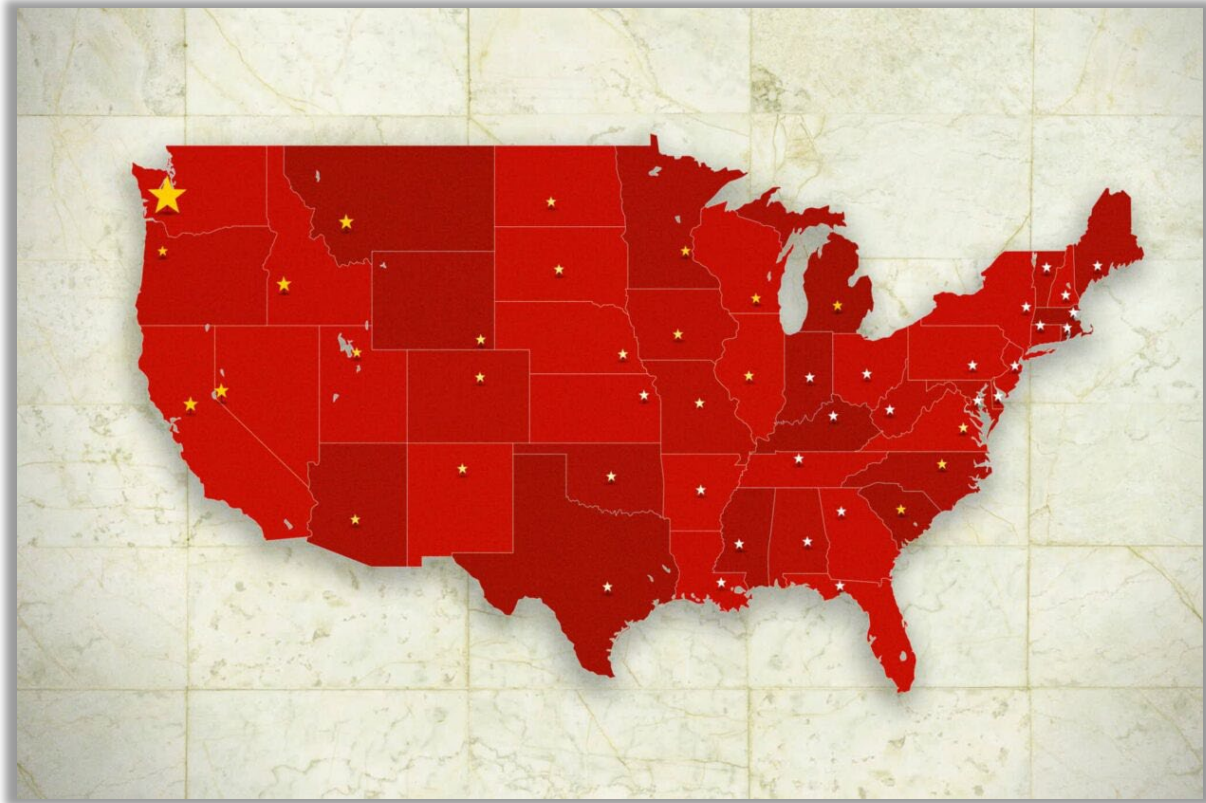
<sup>918</sup> See de La Bruyère & Picarsic, *All Over the Map: The Chinese Communist Party’s Subnational Interests in the United States*, *supra* note 507.

<sup>919</sup> U.S. Department of Commerce, About Commerce (last accessed Sept. 16, 2024) (“About Commerce”).

<sup>920</sup> *Id.*

<sup>921</sup> Email from U.S. Department of Commerce to Oversight & Accountability Committee staff (July 9, 2024) (“Department of Commerce Email”).

<sup>922</sup> U.S. Department of Commerce, Office of Legislative and Intergovernmental Affairs (last accessed Sept. 16, 2024).



Source: Emily de La Bruyère & Nathan Picarsic, *All over the Map, The Chinese Communist Party's Subnational Interests in the United States*, Foundation for Defense of Democracies (Nov. 15, 2021).

On May 15, 2024, the Committee requested a briefing from OLIA to better understand its efforts to combat the CCP's infiltration and manipulation of American state and local government officials.<sup>923</sup> On June 12, the Commerce Department provided this briefing, which was attended by officials from the Commerce Department's Office of Policy and Strategic Planning, OLIA, and the General Counsel's Office.<sup>924</sup>

Though the Committee's focus has been how effectively the Commerce Department's OLIA interacts with U.S. state and local government officials, businesses, and consumers about the CCP's political and economic warfare tactics,<sup>925</sup> the briefers were unprepared to address the topic. Instead, the briefing addressed CCP-related policy initiatives by other offices within the Commerce Department.<sup>926</sup> The briefers discussed general increased investments in American innovation, efforts to increase manufacturing of microchips in the United States, artificial intelligence, export controls, and the recently launched Bureau of Industry and Security's (BIS)

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<sup>923</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight and Accountability, to Hon. Gina Raimondo, Sec'y, U.S. Dep't of Commerce (May 6, 2024) ("Dep't of Commerce Letter").

<sup>924</sup> Briefing from U.S. Department of Commerce Officials to Oversight & Accountability Committee staff (June 12, 2024) ("Department of Commerce Briefing").

<sup>925</sup> Dep't of Commerce Letter.

<sup>926</sup> Department of Commerce Briefing.

Academic Outreach Initiative which seeks to counter the CCP’s use of foreign nationals to exploit U.S. colleges and universities.<sup>927</sup>

The Offices Within the Commerce Department that Liaise with U.S. State and Local Government Officials Lack Understanding of and Fail to Focus on CCP Influence Operations Targeting Officials.

The Commerce Department told the Committee that there are no CCP subject matter experts within liaison offices such as OLIA but only within offices and bureaus such as the BIS, Office of Policy and Strategic Planning (OPSP), the International Trade Administration (ITA), and the U.S. Patent and Trademark Office (USPTO).<sup>928</sup> As such, liaison offices are ill-equipped to effectively warn state and local constituencies about CCP economic and political warfare tactics levied against them.

While the Commerce Department does not currently engage with state and local players and government officials about CCP political and economic warfare, the briefers expressed interest in working with the Committee to identify opportunities to discuss CCP unrestricted warfare when engaging in outreach regarding the role of legislation in securing U.S. national security.<sup>929</sup> The Commerce Department is willing to engage on these matters, given it is responsible for advancing economic growth and opportunity across America.<sup>930</sup> However, the Department does not have a strategy to conduct outreach about ongoing CCP political and economic warfare targeting these communities—especially the influential political and business figures that lead them.

On July 29, 2024, the Commerce Department provided supplemental information to the Committee, reinforcing information provided during the briefing. This additional information reinforced that the Department’s OLIA and Office of Public Engagement (OPE) are only “coordination and liaison” offices, and in that capacity, their staff are “principally responsible for coordinating all activities involving legislative and congressional relations and activities, as well as maintaining relationships and liaising with intergovernmental partners, on behalf of the Department.”<sup>931</sup> The Department stressed that, as the OLIA and OPE offices are currently structured, there are no staff that receive training on CCP tactics, nor do they house any CCP subject matter experts.<sup>932</sup> As such, these offices are unable to directly warn those they are charged with engaging—U.S. state and local governments, or businesses and consumers—about CCP political and economic warfare.

The Commerce Department—through OLIA and OPE or elsewhere—must address the risks of CCP infiltration and influence of state and local government officials and business leaders. The CCP employs the tactic of elite capture—defined as “a form of political warfare that seeks to control the actions of political, academic, business, and cultural leaders”—to

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<sup>927</sup> *Id.*

<sup>928</sup> *Id.*

<sup>929</sup> *Id.*

<sup>930</sup> About Commerce, *supra* note 919.

<sup>931</sup> Department of Commerce Email.

<sup>932</sup> *Id.*

achieve policies and actions within the United States that it views as beneficial to the Party.<sup>933</sup> Such manipulation is achieved through a variety of techniques, to include “financial incentives, financial dependence or compromise, business entanglement, offers of access to opportunities within China, ideological appeal, and even blackmail.”<sup>934</sup> The CCP understands that state and local governments prioritize local job creation and view bilateral relationships primarily from an economic perspective and therefore are ripe for infiltration and manipulation.<sup>935</sup>

The UFWD is a primary entity used by the CCP to infiltrate and manipulate government officials at state and local levels.<sup>936</sup> Through myriad front organizations, the UFWD has established a broad network of proxies, in the form of groups, organizations, and business forums throughout all fifty states.<sup>937</sup> These seemingly benign organizations, focused on cultural and economic outreach and cooperation between the two nations, allow the CCP to exploit U.S. state and local government entities to advance its objectives.<sup>938</sup> In the United States, the China People’s Association for Friendship with Foreign Countries (CPAFFC) coordinates CCP state and local influence operations.<sup>939</sup>

In July 2022, NCSC issued a warning to state and local officials, cautioning of China’s “increased use of overt and covert means to influence policy making,”<sup>940</sup> and “leaders at the U.S. state, local, tribal, and territorial levels risk being manipulated to support hidden PRC agendas. Further, NCSC warned that state and local government officials were “on the front lines of national security.”<sup>941</sup> Despite this warning, Commerce’s OLIA and OPE do not conduct any public outreach about the risks the CCP poses to the state and local government and business leaders with whom they are supposed to engage.

#### U.S. Governors and Mayors are in the Crosshairs of the CCP.

The CCP has been successfully targeting and infiltrating U.S. state and local government officials for decades. Yet, the Commerce Department has been silent on the issue—despite the clear nexus between CCP influence operations and economic activity with China across the country. American governors and mayors, in the interest of creating jobs and strengthening the economy for their communities, have a history of falling prey to the CCP’s political and economic warfare tactics. It is critical, therefore, that this community be warned about the CCP’s political and economic warfare tactics so that they are prepared to protect themselves, and their communities, from them.

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<sup>933</sup> *Elite Capture, Why America is Losing in the Political Warfare Arena, and What Can Be Done, The Oversight Project*, Heritage Found. (Apr. 5, 2023).

<sup>934</sup> *Id.*

<sup>935</sup> Dep’t of Commerce Letter.

<sup>936</sup> *Id.*

<sup>937</sup> USCC 2023 Annual Report, *supra* note 223, at 223.

<sup>938</sup> *Id.*

<sup>939</sup> de La Bruyère & Picarsic, *All Over the Map: The Chinese Communist Party’s Subnational Interests in the United States*, *supra* note 507, at 14.

<sup>940</sup> Kate O’Keeffe & Warren P. Strobel, *China Escalates Efforts to Influence U.S. State and Local Leaders, Officials Warn*, Wall St. J. (July 6, 2022).

<sup>941</sup> *Id.*



Former Secretary of State Mike Pompeo, in a February 2020 address before the U.S. Governors Association, directly warned state leaders about the CCP’s political warfare tactics at the state and local levels, and the broader implications they have for the nation. He cautioned, “[c]ompetition with China is happening inside of your state, and it affects our capacity to perform America’s vital national security functions.”<sup>942</sup> The Secretary described the methodical way the CCP has analyzed the American governmental system, noting that it has “assessed our vulnerabilities, and it’s decided to exploit our freedoms to gain advantage over us at the federal level, the state level, and the local level . . . . What China does in Topeka and Sacramento,” he said, “reverberates in Washington, in Beijing, and far beyond.”<sup>943</sup> This speech is an example of the kind of messaging OLIA and OPE should be doing on a consistent basis as part of their official duties, when engaging with state and local government officials.

In June 2019, a Chinese think tank released a report that included a rating of how friendly U.S. governors at the time were to China.<sup>944</sup> While the organization was not directly affiliated with the Party, it partners with the UFWD, the CCP’s political influence arm.<sup>945</sup> The report is important, as it is yet another demonstration of the CCP’s response to “Washington’s sharp turn toward hardline policies on China.”<sup>946</sup> The report noted that “[g]overnors can ignore orders from the White House” and that “state governments can change or even cancel local governments such as cities, counties, and school districts.”<sup>947</sup> The Heritage Foundation has reported that “agents cultivate aspiring politicians, business elites, and academics early in their careers and use these relationships to influence policymaking decades later, largely unbeknownst to their victims.”<sup>948</sup> It concluded that “[n]ever has a foreign adversary had such deep inroads in U.S. state and local politics.”<sup>949</sup> As such, “[s]tate and local policymakers— particularly state legislators—need a far greater understanding of the threats they face and how to respond to them.”<sup>950</sup> The CCP’s infiltration efforts have ultimately yielded influence for the CCP as described below.

While the Commerce Department made clear to the Committee that it is not currently studying, addressing, or communicating about CCP infiltration of state and local governments and business leaders, the Party’s nefarious operations continue to grow. The following are a few examples of influence operations that could be avoided if agencies like the Commerce Department proactively cautioned about how the CCP and its proxies exploit relationships with U.S. state and local officials to further the Party’s political and economic warfare against America:

**New York** – New York has a long history of CCP infiltration and manipulation of state and local government entities. Current New York City Mayor Eric Adams has a history of close

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<sup>942</sup> Mike Pompeo, U.S. Sec’y of State, Speech to the U.S. Governors Ass’n (Feb. 8, 2020).

<sup>943</sup> *Id.*

<sup>944</sup> Bethany Allen-Ebrahimian, *How a Chinese think tank rates all 50 U.S. governors*, Axios China (Feb. 19, 2020).

<sup>945</sup> *Id.*

<sup>946</sup> *Id.*

<sup>947</sup> *Id.*

<sup>948</sup> Michael Cunningham, *Why State Legislatures Must Confront Chinese Infiltration*, Heritage Found., at 1 (July 27, 2022).

<sup>949</sup> *Id.*

<sup>950</sup> *Id.*

ties with the CCP.<sup>951</sup> In 2022, top members of Mayor Adams’s staff, Ingrid Lewis-Martin, and Winnie Greco, met with Robin Mui, the Chief Executive Officer of Sing Tao, a Chinese-owned media company with offices in New York City.<sup>952</sup> In 2021, DOJ “forced the paper to register as a foreign agent. Records show that Mui registered as a foreign agent the same year.”<sup>953</sup> The offices of both staff members were raided by the FBI as part of a federal probe.<sup>954</sup> Between 2014 and 2021, the mayor made seven trips to China,<sup>955</sup> and the FBI and federal prosecutors have been investigating at least one of his trips to China, which is said to have been “partially funded by the Chinese Communist Party.”<sup>956</sup> The trips were organized by one of his key advisors, Winnie Greco, who is currently New York City’s head of Asian affairs and who has served as a “consultant” for CCP-backed organizations for years.<sup>957</sup>



Winnie Greco (third from right) is a key aide to Eric Adams. She is also a longtime “consultant” to Chinese Communist Party-backed organizations. Source: Isabel Vincent, *Feds probing Eric Adams and top adviser’s trips to China*, N.Y. Post (June 25, 2024).

On September 26, 2024, Mayor Adams was indicted on charges of bribery, campaign finance, and conspiracy offenses.<sup>958</sup> Ms. Greco appears in the indictment as his liaison to the

<sup>951</sup> Jimmy Quinn, *Eric Adams Attends ‘China Day’ Flag-Raising Rally for Communist Government’s Anniversary*, Nat’l Review (Oct. 2, 2023).

<sup>952</sup> Michael Gartland, *NYC Mayor Adams claims ‘no knowledge’ donor is foreign agent*, N.Y. Daily News (July 2, 2024).

<sup>953</sup> *Id.*

<sup>954</sup> *Id.*

<sup>955</sup> *Id.*

<sup>956</sup> Isabel Vincent, *Feds probing Eric Adams and top advisor’s trips to China*, N.Y. Post (June 25, 2024).

<sup>957</sup> *Id.*

<sup>958</sup> Press Release, United States Attorney’s Office Southern District of New York, *New York City Mayor Eric Adams Charged With Bribery And Campaign Finance Offenses* (Sept. 26, 2024).

Asian-American community, when mentioning a trip Mayor Adams took to China.<sup>959</sup> According to *Newsweek*, “Adams has been a successful example of the Communist Party building relationships deep within America and *Newsweek* reported last year on donations to his campaigns by groups in New York linked to China’s ruling party.”<sup>960</sup>

**California** – California’s current governor, Gavin Newsom, in an October 30, 2023, press release entitled, “What Governor Newsom’s Trip to China Accomplished,” touted, “Strengthening trade and tourism between California and China grows our economy and creates jobs. California and China do \$166 billion in two-way trade with each other, making China California’s largest trading partner.”<sup>961</sup> The press release further highlighted that “[w]hile in China, Governor Newsom sought to strengthen that relationship that continues to support thousands of jobs and wages for countless families.”<sup>962</sup>



Governor Gavin Newsom and General Secretary Xi Jinping at the Great Hall of the People in Beijing, China.  
Source: Xinhua, *Xi meets U.S. California governor*, Xinhua Net (Oct. 25, 2023).

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<sup>959</sup> John Feng, *Eric Adams Indictment: China Could Lose a Friend in New York*, *Newsweek* (Sept. 26, 2024); see also Sally Goldenberg, *More people ensnared in federal probes depart Adams administration*, *Politico* (Oct. 7, 2024) (“longtime aide Winnie Greco” is leaving the Adams administration after having “wielded enormous influence.”).

<sup>960</sup> John Feng, *Eric Adams Indictment: China Could Lose a Friend in New York*, *Newsweek* (Sept. 26, 2024).

<sup>961</sup> *What Governor Newsom’s Trip to China Accomplished*, Office of Governor Gavin Newsom (Oct. 30, 2023).

<sup>962</sup> *Id.*

**Michigan** – Many state governments use tax dollars to “invest” in CCP-affiliated companies, highlighting the “job creation” linked to such an investment, and avoiding the possible undermining of U.S. national security.<sup>963</sup> Michigan, for example, has increasingly provided state funds to China-tied corporations.<sup>964</sup> In October of 2022, Michigan Governor Gretchen Whitmer announced that Gotion, a company tied to the CCP through its parent company, Gotion High-Tech, would receive \$715 million in state “incentives” in order to lure its “\$2.4 billion factory to Michigan.”<sup>965</sup> As of 2022, Gotion High Tech employs more than 900 CCP members and a “visiting delegation of CCP officials set up a talent recruitment work station at Gotion’s California headquarters in 2017.”<sup>966</sup> Further, new national security regulations proposed by the Biden-Harris Administration would provide a concerning loophole to Gotion.<sup>967</sup> The proposed rule would allow federal officials to better observe foreign nations undertaking transactions within 100 miles of certain U.S. military facilities. This includes the National Guard’s Camp Grayling in Crawford County, Michigan.<sup>968</sup> However, because enforcement of the rules would not be retroactive, Gotion would escape review.<sup>969</sup>

Former U.S. ambassadors Joseph Cella and Peter Hoekstra expressed concern about the dangers of this loophole, stating, “[i]t is highly irregular and problematic while Treasury is closely tracking a ‘deal’ in Michigan with PRC-based and CCP-tied Gotion, it would include Camp Grayling on the list of these installations, yet exempts Gotion from the vetting even though its proposed location is well within the extended 100 mile range.”<sup>970</sup> They added, “[t]his latest development is yet another example of how PRC-based and CCP-tied Gotion is involved in an influence operation and unrestricted warfare.”<sup>971</sup> Ambassador Cella, former U.S. Ambassador to Fiji, Kiribati, Nauru, Tonga, and Tuvalu, and Co-Founder of Michigan China Economic Security and Review Group, testified to the Committee about the CCP’s “influence through a subnational incursion and influence operation” tied to the Gotion issue in Michigan.<sup>972</sup> He highlighted recent court filings demonstrating that Gotion courted now-recalled Michigan township trustees with all-expense paid trips to China, million dollar real estate deals, and promises of employment. Even more concerning, Ambassador Cella informed the Committee that U.S. national security and intelligence officials warned “a group of bi-partisan state and local elected officials and business executives across the country to warn them of China’s

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<sup>963</sup> Tyler Durden, *A Final Indignity To The Arsenal Of Democracy?*, Zero Hedge (May 27, 2024).

<sup>964</sup> Nick Pope, *Democrats Kill Effort To Make It Harder For China-Linked Companies to Reap Taxpayer Cash*, Daily Caller News Found. (May 19, 2024).

<sup>965</sup> *Id.*

<sup>966</sup> *Id.*

<sup>967</sup> Thomas Catenacci, *Biden-Harris Admin Gives Chinese-Owned Green Energy Facility Free Pass in NatSec Crackdown on Foreign Transactions*, Washington Free Beacon (Aug. 22, 2024).

<sup>968</sup> *Id.*

<sup>969</sup> *Id.*

<sup>970</sup> *Id.*; see also Donald Trump (@realDonaldTrump), TRUTH SOCIAL (Aug. 20, 2024, 6:28 PM), <https://truthsocial.com/@realDonaldTrump/posts> (President Trump commented, “the Michigan Gotion plant would be very bad for our country. It would put Michiganders under the thumb of the Chinese Communist Party in Beijing.”).

<sup>971</sup> *Id.*

<sup>972</sup> CCP Political Warfare Hearing III (written testimony of Ambassador Cella).

political warfare.”<sup>973</sup> However, even after such warnings, “all supporting the Gotion project brazenly defied them.”<sup>974</sup>

The CCP understands that state and local officials can exert pressure on the federal government and often become federal leaders themselves. Therefore, offices within the Commerce Department that liaise with state and local governments and officials, such as OLIA and OPE, should conduct ongoing outreach to these constituencies about CCP political and economic warfare tactics. They should consistently warn these communities of CCP efforts to exploit relationships in order to promote the Party’s communist ambitions. The CCP is continuing a long history of successfully waging political and economic warfare against U.S. governors, mayors, and state legislators, regardless of political affiliation. These officials understandably seek to strengthen their individual communities through increased jobs and economic prosperity. The CCP works to cultivate relationships with these officials, because they understand how those relationships “open doors for China and Chinese entities and offset growing resistance in Washington to Beijing’s global agenda.”<sup>975</sup> Given its particular mission, the Commerce Department—through its offices responsible for direct interaction with state and local officials and leaders—should play a pivotal role in ensuring that these entities are protected from the CCP threat.

#### Committee Recommendations

The CCP “poses the foremost threat to U.S. national security.”<sup>976</sup> Beijing has long understood that U.S. state and local officials respond to economic incentives that focus on job creation.<sup>977</sup> As such, the role of the Commerce Department in warning these officials carries significant weight. The Commerce Department must better use the offices that directly liaise with U.S. state and local government officials, so that these officials and their staff can be fully prepared to recognize CCP political and economic warfare tactics, and to defend themselves against the tactics. Offices within the Commerce Department that regularly liaise with these groups should be more proactive in exposing and guarding against ongoing CCP infiltration that threatens the economic security of the nation. The Commerce Department appears not to be using its liaison offices in an effective way to inform the American public—state and local government and business leaders across the nation—about the threat that CCP elite capture and influence operations pose to them. This is dangerous to both the economic and national security of America. The Committee therefore recommends the following:

- The Commerce Department should ensure that its employees, particularly those that consistently liaise with U.S. state and local government officials and the business community, such as OLIA and OPE, are well-versed in the tactics used by the CCP to capture, manipulate, and influence American officials at the state and local levels, and the American business community.

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<sup>973</sup> *Id.*

<sup>974</sup> *Id.*

<sup>975</sup> de La Bruyère & Picarsic, *All Over the Map: The Chinese Communist Party’s Subnational Interests in the United States*, *supra* note 507, at 6.

<sup>976</sup> *Id.*

<sup>977</sup> *Id.*

- For example, the Commerce Department should conduct regular training sessions for the staff of those offices on CCP influence operations, political and economic warfare, elite capture, and united front activity targeting state and local governments, chambers of commerce, and the business community.
- The Commerce Department should establish clear channels for the American public, state and local government officials, and its staff to report suspicious behavior related to CCP infiltration and influence activities.
- The Commerce Department should launch public awareness campaigns, under OLIA as appropriate, to conduct outreach to state and local government officials and entities, and the American business community about the national and economic security threats posed by the CCP.
- The Commerce Department should provide guidance to state and local government officials that enables officials to recognize, report, and reject CCP infiltration and influence targeting their governance and decision-making.





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF COMMERCE

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

The U.S. Department of Commerce's Office of Legislative and Intergovernmental Affairs (OLIA) is currently not structured, nor staffed, adequately to effectively protect one of its most important constituencies, U.S. subnational government officials, from the ongoing political and economic warfare tactics of the CCP.

## L. U.S. Department of Defense

### The Pentagon Must Proactively Identify and Defeat CCP Unrestricted Warfare.

For decades, the Department of Defense (DoD or the Pentagon) underestimated the threat that the CCP poses to the United States. While the DoD now correctly identifies the CCP as the United States' most serious national security threat, institutional problems within the DoD have stifled the innovation necessary to address CCP unrestricted, political, and economic warfare. To defend the United States, the following must be addressed:

- **The Pentagon's Underestimation and Failure**
  - The DoD historically underestimated the CCP's threat due to "threat deflation" and a focus on the War on Terror.<sup>978</sup> Despite recent acknowledgments in the 2022 National Defense Strategy (NDS),<sup>979</sup> the DoD continues to fall short in addressing the CCP's strategic ambitions.
  
- **Institutional Challenges**
  - Although the DoD now identifies the CCP as the United States' greatest security threat, the DoD faces cultural and bureaucratic barriers that stifle innovation and hinder the implementation of a cross-branch strategy to adequately address CCP unrestricted warfare.
  
- **Cyber and Espionage Threats**
  - The DoD has struggled with a fragmented response to CCP infiltration, focusing on individual cases rather than a unified, long-term strategy to thwart cyber and espionage threats.
  
- **Defense Sector Penetration and Counterfeits**
  - The CCP's Military-Civil Fusion (MCF) strategy<sup>980</sup> and cyber activities target the U.S. defense sector, including public-private partnerships and critical infrastructure. Inadequate efforts to remove Chinese-manufactured goods and counterfeit parts in defense supply chains highlight ongoing vulnerabilities despite some recent attempts by the DoD to incentivize contractors to remove Chinese-made goods from their supply Chain by the DoD.

On June 21, 2024, the Committee requested a briefing with the DoD to discuss how it is working to protect Americans from CCP influence and unrestricted warfare.<sup>981</sup> On August 1, 2024, the DoD provided the Committee a joint briefing with the Navy.<sup>982</sup> The DoD has exhibited shortcomings in addressing CCP unrestricted warfare tactics and is not treating the cold war that the CCP has waged against America as paramount. Despite the vague

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<sup>978</sup> CCP Political Warfare Hearing II (written testimony of Captain Fanell).

<sup>979</sup> See generally Dep't of Def., National Defense Strategy (2022) ("2022 National Defense Strategy").

<sup>980</sup> State Dep't, *Military-Civil Fusion and the People's Republic of China* (2020).

<sup>981</sup> Letter from Hon. James Comer, Chairman, Comm. on Oversight & Accountability, to Hon. Lloyd Austin, Sec'y, Dep't of Def. (June 21, 2024).

<sup>982</sup> Briefing from DoD Officials to Oversight & Accountability Committee staff (Aug. 1, 2024) ("DoD Briefing"); see also *infra*, Section III. Q. U.S. Department of the Navy.



acknowledgment of China as the DoD’s “pacing” challenge, DoD officials did not acknowledge its delayed recognition of the CCP’s threat to the United States.<sup>983</sup> DoD’s approach to countering CCP espionage and infiltration remains fragmented, and oversight of CCP influence within the defense sector has been inadequate. The persistent gaps in supply chain security and failure to implement a comprehensive strategy to combat CCP disintegration warfare and unrestricted warfare underscore broader institutional stagnation.

### DoD Must Understand the CCP’s Unique Strategy Designed to Defeat the United States.

To effectively counter the CCP’s unrestricted warfare tactics, it is essential to understand the unique strategies employed by the CCP. The CCP has developed an aggressive approach aimed at surpassing the United States as the world’s leading military power.<sup>984</sup> In 1999, two PLA colonels published *Unrestricted Warfare*, which has been characterized by General Rob Spalding, former Senior Director for Strategic Planning at the National Security Council, as “the main blueprint for China’s efforts to unseat America as the world’s economic, political, and ideological leader.”<sup>985</sup> The book details a comprehensive, long-term strategy by a totalitarian state aiming to dominate the West through an array of tactics, including corporate sabotage, cyber warfare, deceitful diplomacy, violations of international trade and intellectual property laws, and manipulations of the global financial system.<sup>986</sup> Professor Kerry Gershaneck, a former counterintelligence officer who wrote a book on combatting PRC Political Warfare, has explained that for the CCP, “the boundaries between war and non-war and between military and non-military affairs [have] systemically broken down.”<sup>987</sup>

In the 21st century, the CCP and PLA use different approaches to warfare with the United States than the traditional use of direct military force. As General Spalding testified to the Committee, the CCP is waging a political war using “the tools of statecraft, business, economics, trade, finance, academia, and especially technology.”<sup>988</sup> General Spalding emphasizes the importance of recognizing the threat China poses as different from those posed by past competitors.<sup>989</sup> The DoD must appraise this threat as novel and design methods to thwart the CCP’s destructive actions.

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<sup>983</sup> 2022 National Defense Strategy, *supra* note 979, at III; DoD Briefing (When pressed by the Committee to explain what it means to DoD that China is the “pacing threat,” a DoD official explained that it should keep China in mind).

<sup>984</sup> See *supra*, Section II. A. Unrestricted and Other Forms of Warfare.

<sup>985</sup> Spalding, War Without Rules, at xix.

<sup>986</sup> *Id.*

<sup>987</sup> See Gershaneck, Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,” at 16-17 (referencing Liang & Xiangsu, *Unrestricted Warfare: China’s Master Plan to Destroy America*, at 6-7).

<sup>988</sup> CCP Political Warfare Hearing I (written testimony of General Spalding).

<sup>989</sup> Spalding, War Without Rules, at 13.

## For Far Too Long, the Pentagon Failed to Recognize the CCP Threat.

Captain James Fanell, former Director of Intelligence and Information Operations for the U.S. Pacific Fleet, testified to the Committee that the historic misjudgment of the CCP's threat is the "gravest strategic mistake ever made by the U.S[.]"<sup>990</sup> Since President Nixon's visit to China in 1972, the United States has largely adhered to an engagement policy that has involved significant support and funding for the CCP.<sup>991</sup> The DoD acknowledged to the Committee that as China rose on the global stage, the United States was focused on the War on Terror and other near-term problems.<sup>992</sup> Captain Fanell describes this phenomenon as "threat deflation," or the downplaying of a threat and its impact or denying the existence of the threat altogether.<sup>993</sup>

The DoD fell prey to the CCP's threat deflation tactics. The NDS, which replaced the Quadrennial Defense Review (QDR) in 2017, is the DoD's guiding document to our greatest national security threats.<sup>994</sup> In 2010, the QDR stated that "[t]he United States welcomes a strong, prosperous, and successful China that plays a greater global role."<sup>995</sup> Leadership within DoD echoed these sentiments to the American public. For example, Joseph Nye, former Assistant Secretary of Defense for International Security Affairs and Chair of the National Intelligence Council under President Bill Clinton, stated that "China now is not what the Soviet Union was then" and China "is not seeking global hegemony[.]"<sup>996</sup>

DoD personnel who attempted to warn DoD leadership and the American public were silenced or ignored. In 2014, Captain Fanell gave a speech at the U.S. Naval Institute West Conference in San Diego describing the PLA Navy's rapid modernization.<sup>997</sup> Captain Fanell testified to the Committee that he was publicly rebuked



Source: House Committee on Oversight staff, Quotes from Bill Owens, *America Must start treating China as a friend*, Financial Times (Nov. 17, 2009) & Phil Stewart, *Pentagon plays down intelligence officer's provocative China assessment*, Reuters (Feb 20, 2014).

<sup>990</sup> CCP Political Warfare Hearing II (written testimony of Captain Fanell).

<sup>991</sup> Fanell & Thayer, *Embracing Communist China: America's Greatest Strategic Failure*, at 60.

<sup>992</sup> DoD Briefing.

<sup>993</sup> Fanell & Thayer, *Embracing Communist China: America's Greatest Strategic Failure*, at xix.

<sup>994</sup> DoD Briefing.

<sup>995</sup> Dep't of Def., *Quadrennial Defense Review*, at 60 (2010).

<sup>996</sup> Joseph Nye, *Work with China, Don't Contain It*, N.Y. Times (Jan. 25, 2013) (emphasis added).

<sup>997</sup> CCP Political Warfare Hearing II (written testimony of Captain Fanell).

for the speech.<sup>998</sup> The DoD’s position on the matter was reaffirmed when a spokesman representing the DoD, John Kirby, the current White House National Security Communications Advisor, stated that the Secretary of Defense thought all those within the DoD “believe that the peaceful, prosperous rise of China is a good thing for the region, for the world.”<sup>999</sup> One DoD official claimed to the Committee that they had warned about China *for decades* but felt they were a voice shouting in the wilderness.<sup>1000</sup>

As the DoD ignored individuals warning of the CCP threat, the Pentagon pursued a reckless policy of military-to-military engagement. During the 1990s, U.S. Navy leaders “went out of their way to provide their PLA Navy (PLAN) counterparts with an ‘open door’ policy of access to U.S. Navy ships and bases.”<sup>1001</sup> Despite numerous warnings from Capitol Hill, the Pentagon continued.<sup>1002</sup> In the 2000 National Defense Authorization Act (NDAA), Congress prohibited the Secretary of Defense from military engagement that risks “inappropriate exposure.”<sup>1003</sup> Despite this action, the Pentagon continued to engage with the PLA. In 2010, for example, eight PLA officers were invited aboard the USS Essex.<sup>1004</sup> An officer aboard the ship said, “[i]t was good to be able to brief another nation’s military on our capabilities and hear a little bit about theirs.”<sup>1005</sup> In 2014, General Fang Fenghui of the PLA toured the U.S. nuclear-powered aircraft carrier, the USS Ronald Reagan, and the littoral combat ship, the USS Coronado, amid congressional protestations.<sup>1006</sup> Former Representative Randy Forbes (R-Va) objected to General Fan Fenghui’s tour, citing the 2000 NDAA in a letter to then Secretary of Defense Chuck Hagel, and he said “I believe that the Department currently lacks the thorough guidance and oversight mechanisms necessary to maintain a consistent mil-mil policy that best serves U.S. national security objectives over the ‘long-haul’ of the emerging U.S.-China peacetime competition.”<sup>1007</sup> However, the policy of engagement continued as China’s coercive actions in the Indo-Pacific grew. In April 2016, the CCP denied a U.S. aircraft carrier entrance



Source: Official US Navy Page, *Gen Fang Fenghui tours USS Coronado*, Flickr

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<sup>998</sup> *Id.*

<sup>999</sup> *Id.*; see Phil Stewart, *Pentagon plays down intelligence officer’s provocative China assessment*, Reuters (Feb. 20, 2014).

<sup>1000</sup> DoD Briefing.

<sup>1001</sup> Fanell & Thayer, *Embracing Communist China: America’s Greatest Strategic Failure*, at 101.

<sup>1002</sup> *Id.*

<sup>1003</sup> *Id.*

<sup>1004</sup> *Marines visit with Chinese military, other officials on USS Essex in Hong Kong*, Marines: The Official Website of the Marine Corps (Nov. 17, 2010).

<sup>1005</sup> *Id.*

<sup>1006</sup> *China’s Top Commander Tours San Diego*, Military.com (May 13, 2014); Shannon Tiezzi, *US-China Military Relations: The Great Debate*, The Diplomat (Dec. 19, 2014).

<sup>1007</sup> Daniel Wisner, *Forbes Calls For Review Of US-China Military Engagement*, The Washington Free Beacon (Dec. 12, 2014).

into the Hong Kong port.<sup>1008</sup> Despite tensions, the PLAN was invited to the biennial Rim of the Pacific (RIMPAC) Exercise several months later.<sup>1009</sup>

Recently, the DoD publicly acknowledged the rising threat China poses. The 2022 NDS describes the PRC as “[t]he most comprehensive and serious challenge to U.S. national security.”<sup>1010</sup> In its annual report titled *Military and Security Developments Involving the People’s Republic of China*,<sup>1011</sup> the DoD characterizes PRC strategy as “determined efforts to . . . harness the internal and external elements of national power that will place the PRC in a ‘leading position’ in an enduring competition between systems.”<sup>1012</sup> However, while the DoD now recognizes the CCP’s strategy, it continues to underestimate CCP unrestricted warfare and has not yet demonstrated that its actions align with this new posture. The bipartisan Commission on the National Defense Strategy, a congressionally appointed group comprised of lawmakers and DoD officials, collaborated with the Rand Corporation to assess the 2022 NDS. It found that the threats highlighted within the 2022 NDS were “understated.”<sup>1013</sup> When asked by the Committee if the DoD agrees with this assessment, officials replied that they stand by the NDS.<sup>1014</sup> This answer suggests that the DoD continues to adhere to outdated information and prescriptions despite a new and ever-changing security environment.

Although the DoD took far too long to recognize the danger posed by the CCP, a DoD official explained to the Committee that the Pentagon now has a rigorous approval process for all DoD engagement with the PLA—more stringent than that for engagement with militaries from other foreign nations.<sup>1015</sup> Other agencies should pursue a similar targeted approach to addressing communication efforts with the CCP.

### DoD Must Overcome Institutional Barriers and Enhance Innovation to Thwart Unrestricted Warfare.

Addressing the Pentagon’s institutional barriers is critical to the establishment of the innovative strategies and technologies necessary to defend against CCP’s unrestricted warfare. Mr. Goldman, Deputy Editor for the *Asia Times* and Washington Fellow at the Claremont Institute’s Center for the American Way of Life, has written:

Can America remain the world’s most powerful, productive, and innovative country? We have faced this challenge before—during World War II, when the Arsenal of Democracy overwhelmed the

<sup>1008</sup> Jennifer Rizzo, et al., *China denies U.S. aircraft carrier Hong Kong port visit*, CNN (Apr. 29, 2016).

<sup>1009</sup> Press Release, U.S. Indo Pacific Command, Miranda Williams RIMPAC Public Affairs, Exercise Rim of the Pacific 2016 Concludes (Aug. 4, 2016).

<sup>1010</sup> 2022 National Defense Strategy, *supra* note 979, at 4.

<sup>1011</sup> Dep’t of Def., *2023 Report on Military and Security Developments Involving the People’s Republic of China*, at 1 (2023).

<sup>1012</sup> *Id.*

<sup>1013</sup> Rand, *Commission on the National Defense Strategy*, at 5-6 (2024) (“China is in fact *outpacing* U.S. defense production and growth in force size, and increasingly, in force capability and is almost certain to continue to do so.”).

<sup>1014</sup> DoD Briefing.

<sup>1015</sup> *Id.*

Axis; during the Space Race, when we overcame an early Russian lead to land men on the moon; and during the Reagan Administration, when the digital revolution leapfrogged Russia's illusory advantages in military technology. We require a national effort on the scale of John F. Kennedy's Moonshot and Reagan's Strategic Defense Initiative to restore America's decisive edge in high-tech manufacturing and military applications. If we don't—if China surpasses the United States—we will fade into second-rate status, much like Britain in the 20th century. We will be poorer, weaker, and less secure. The choice is ours, at least for a while.<sup>1016</sup>

Yet, the DoD is not currently employing economic statecraft or other strategies necessary to thwart communist China's economic and unrestricted warfare. The Defense Innovation Board, which is tasked with addressing challenges in accelerating "innovation adoption" within the DoD, stated that the "DoD does not have an innovation problem; it has an innovation adoption problem."<sup>1017</sup> This innovation adoption problem has created barriers to the successful implementation of a comprehensive cross-branch strategy to defeat CCP unrestricted warfare.

The DoD's term for warfare below the threshold of military engagement is irregular warfare.<sup>1018</sup> It is defined as "a struggle among state and non-state actors to influence populations and affect legitimacy" that "favors indirect and asymmetric approaches . . . to erode an adversary's power, influence, and will."<sup>1019</sup> In other words, it is a particular kind of warfare meant to undermine adversaries through indirect and asymmetric means.<sup>1020</sup> As a joint operating concept within the Joint Warfighting Concept (JWC),<sup>1021</sup> irregular warfare's use is part of a "holistic US Government and partner nation approach."<sup>1022</sup> In discussing the evolution of the Office of Irregular Warfare and Competition (OIWC) to address peer competitors, the Director stated that "[w]e need to figure out how to play in this information environment, how to influence populations, how to determine what a population's will to resist is, and how to do that[.]"<sup>1023</sup> While the OIWC is taking steps to increase U.S. irregular warfare abilities, OIWC should prioritize combatting CCP unrestricted warfare.

To address the challenges posed by CCP unrestricted warfare, it is crucial for the DoD to overcome institutional barriers to innovation adoption and to realign the OIWC with both offensive and defensive strategies.

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<sup>1016</sup> Goldman, *The Chinese Challenge: America has never faced such an adversary*, *supra* note 550.

<sup>1017</sup> Patrick Tucker, *Here's How to Stop Squelching New Ideas*, *Eric Schmidt's Advisory Board Tells DoD*, *Defense One* (Jan. 17, 2018).

<sup>1018</sup> *Defense Primer: What Is Irregular Warfare?*, Congressional Research Service (Jan. 8, 2024).

<sup>1019</sup> Irregular Warfare Technical Support Directorate, *About IWTSD* (last accessed Sept. 16, 2024).

<sup>1020</sup> Dep't of Def., *Summary of the Irregular Warfare Annex to the National Defense Strategy*, at 2 (2020).

<sup>1021</sup> Irregular Warfare Technical Support Directorate, *About IWTSD* (last accessed Sept. 16, 2024).

<sup>1022</sup> *Id.*

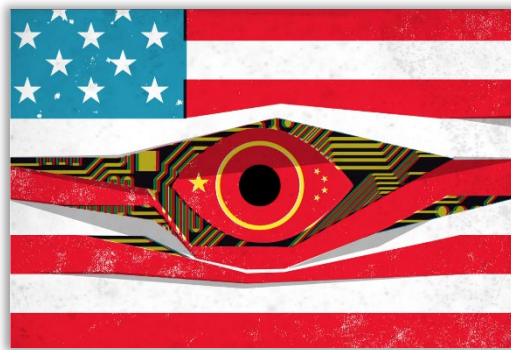
<sup>1023</sup> Mark Pomerleau, *In light of great power competition, DOD reevaluating irregular warfare and info ops*, *DefenseScoop* (Nov, 21, 2022).

## DoD Faces Ongoing Challenges with CCP Espionage.

Despite recent efforts by the DoD and the IC to counter CCP espionage activities targeting U.S. military personnel and critical infrastructure, the approach remains fragmented and insufficiently strategic, as evidenced by ongoing CCP infiltration.

The most recent ODNI annual threat assessment report identified the PRC as the most significant and persistent cyber espionage threat against the U.S. government, the private sector, and critical infrastructure networks.<sup>1024</sup> The CCP intentionally seeks out personnel like former Defense Intelligence Agency officers or personnel such as navy servicemen working on base or aircraft carriers or sensitive information.<sup>1025</sup>

While the DoD has taken steps to address CCP targeting of military personnel through trainings, the problem persists at a substantial scale.<sup>1026</sup> When the Committee asked the DoD for insights into the common patterns observed regarding individuals and entities targeted by the CCP, a DoD official described the CCP's approach as agnostic and answered the Committee by providing anecdotal examples of CCP espionage.<sup>1027</sup> This mentality reflects a larger problem in which federal agencies fail to adopt a targeted approach to address CCP unrestricted warfare. Former counterintelligence executive Michelle Van Cleave underscored this problem when she testified before the U.S. China Economic and Security Review Commission: "Instead of looking at the strategic implications of China's intelligence operations, the U.S. government for the most part has adopted a case-by-case approach to dealing with the threat they represent."<sup>1028</sup>



Source: Joe Magee, *China Used Stolen Data to Expose CIA Operatives in Africa and Europe*, *The Economist* (Dec. 21, 2020).

This approach has—at least publicly—manifested as a series of isolated espionage prosecutions rather than a coordinated counterintelligence effort. Frequent occurrences of CCP

<sup>1024</sup> See 2024 ODNI Annual Threat Assessment, *supra* note 694, at 11.

<sup>1025</sup> Jasper Ward, *US Army intelligence analyst pleads guilty to selling military secrets to China*, Reuters (Aug. 13, 2024); Press Release, Office of Public Affairs, Dep't of Justice, *Former Soldier Indicted for Attempting to Pass National Defense Information to People's Republic of China* (Oct. 6, 2023); *Safeguarding Our Military Expertise*, *supra* note 861.

<sup>1026</sup> Thomas Novelly, *Hundreds' of Service Members Are Being Solicited by China for Insider Info, Air Force Says*, *military.com* (Sept. 11, 2023).

<sup>1027</sup> DoD Briefing.

<sup>1028</sup> *China's Intelligence Services and Espionage Operations: Hearing Before the U.S.- China Economic Security Review Commission*, 114<sup>th</sup> Cong. (June 9, 2016) (statement for the record of Michelle Van Cleave, at 7).

infiltration into the IC suggest that the DoD is not prepared to address the threat in a long-term sense. DoD should prioritize CCP infiltration and coordinate with other agencies to develop a long-term strategy to identify, counter, and defeat CCP unrestricted warfare. Such efforts would be most effective if DoD started by accepting responsibility for falling for threat deflation. The fact that the Pentagon fell prey to this tactic demonstrates some level of CCP influence within one of the most important federal agencies responsible for identifying and thwarting these operations.

### The CCP Has Strategically Penetrated the U.S. Defense Sector.

The CCP's strategic manipulation of the cyber and defense sectors and significant gaps in the DoD's response have jeopardized both technological integrity and kinetic defense capabilities. In conjunction with its intelligence-seeking efforts, the CCP is targeting the cyber component of the defense industry through a specific focus on public-private partnerships and critical information infrastructure systems.<sup>1029</sup> As Colonel Newsham testified to the Committee, "the CCP actively works to destroy U.S. manufacturing and commercial sectors," by luring companies and targeting key supply chains.<sup>1030</sup> This targeted campaign has resulted in the loss of millions of U.S. jobs and poses a significant national security risk.<sup>1031</sup> The CCP leverages the international integration of Chinese companies and conducts targeted espionage campaigns to acquire commercial leverage and dual-use technologies.<sup>1032</sup> Under the strategy of Military-Civil Fusion, the CCP integrates advances in commercial or research sectors into the military and defense industrial sectors.<sup>1033</sup> Alarming, the DoD itself has become susceptible to these tactics. Just months before the release of this report, Dr. Yitao Liao, a recipient of a U.S. Army grant for researching chip fabrication technology, was selected to lead Hong Kong's third-generation chip production line, a move aimed at circumventing U.S. restrictions.<sup>1034</sup> As a leading agency responsible for national security and cutting-edge research, the DoD must ensure such vulnerabilities are swiftly addressed and prevented in the future. The military application of stolen dual-use technologies presents a direct national security risk to the United States. As such, the DoD should aggressively defend against CCP economic warfare and protect dual-use technologies in defense *and* commercial sectors from being used to enhance the PLA.

The OIWC's mission presents an opportunity for the DoD to take additional actions to defend against CCP economic warfare without increasing bureaucracy. David H. Ucko, a professor of irregular warfare and strategy at the College of International Security Affairs at the National Defense University, draws connections between the asymmetric methods used by terrorist groups like al-Qaeda to those used by China to demonstrate how irregular warfare can be used to face a new strategic environment: much like "al-Qaeda's efforts . . . it is possible to view China as involved in a global campaign of irregular warfare—a multifaceted, international offensive that weaponizes all normal instruments of power, everything from diplomacy to

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<sup>1029</sup> See 2024 ODNI Annual Threat Assessment, *supra* note 694, at 11.

<sup>1030</sup> CCP Political Warfare Hearing I (written testimony of Colonel Newsham).

<sup>1031</sup> *Id.*

<sup>1032</sup> See Emily de La Bruyère & Nate Picarsic, *Defusing Military-Civil Fusion: The Need to Identify and Respond to Chinese Military Companies*, Found. for Defense of Democracies (May 27, 2021).

<sup>1033</sup> State Dep't, *Military-Civil Fusion and the People's Republic of China* (2020).

<sup>1034</sup> See Sunny Cheung, *Scientist at Forefront of US Army Research Selected to Lead PRC's Strategic Chip Production Line*, Jamestown Foundation: China Brief (Aug. 8, 2024).

economic levers, and integrates them with kinetic menace and direct application.”<sup>1035</sup> Just as irregular warfare strategies counter asymmetric threats from groups like al-Qaeda, the strategies can and should be adapted to address China’s complex, multi-dimensional approach to global power.

Given the cold war that China is waging against the United States, the DoD should have more influence in the Committee on Foreign Investment in the United States (CFIUS). Treasury closely follows the lines of Washington’s trade consensus and has largely viewed all foreign direct investment as a positive.<sup>1036</sup> Under its current framework, CFIUS can only place bans on foreign investments that threaten U.S. national security.<sup>1037</sup> However, given the CCP’s strategy of Military-Civil Fusion and the increased integration of the civilian industrial base with the defense industrial base within the United States, CFIUS’s scope should be expanded.<sup>1038</sup> While the Secretary of Defense has a role as a member of CFIUS, the Pentagon—with leadership from the Office of Irregular Warfare—is better suited than the Treasury Department to lead CFIUS to tackle CCP economic warfare threatening U.S. national security. The CCP’s integration into the global economy has also allowed the Party to enmesh itself within supply chains critical to the U.S. defense sector. As Representative Pat Fallon (TX-4) highlighted at a Committee hearing in this investigation, actively countering CCP economic warfare around the globe should be a priority for the next administration.<sup>1039</sup> Mr. Stokes, Senior Fellow for the Indo-Pacific Security Program at the Center for a New American Security, agreed and testified that DoD could play a role in countering the Belt and Road initiative—“mostly for the military, dual-use installations part.”<sup>1040</sup>

The DoD’s engagement with the CCP has also led to severe degradation of kinetic defense capabilities. The Senate Armed Services Committee released a report stating that there were counterfeit Chinese aircraft components on aircrafts the U.S. military uses daily, such as the American-manufactured C-27J, C-130J and P-8A.<sup>1041</sup> The report states that China is the most dominant in the United States’ defense industrial supply chain.<sup>1042</sup> Problems persist. Contractors occasionally fail to report the origins of counterfeit parts even after discovering them.<sup>1043</sup> DoD briefers told the Committee that the prevalence of Chinese parts in the supply chain representing

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<sup>1035</sup> David Ucko & Thomas Marks, *Redefining Irregular Warfare: Legitimacy, Coercion, and Power*, Modern War Institute at West Point (Oct. 18, 2022).

<sup>1036</sup> *Chinese Investment in the United States: Impacts and Issues for Policymakers: Hearing Before the U.S.- China Economic Security Review Commission*, 115<sup>th</sup> Cong. (Jan. 26, 2017) (written testimony of Dr. Atkinson).

<sup>1037</sup> *See id.*

<sup>1038</sup> *See id.* (“Because the threat to both the U.S. defense industrial base and the U.S. industrial base is systemic, the charter of CFIUS needs to be updated to allow reviewers to move beyond solely case-by-case examinations to allow them to assess and gauge systemic threats and examine covered transactions in a broader context.”).

<sup>1039</sup> CCP Political Warfare Hearing III (statement of Rep. Fallon).

<sup>1040</sup> CCP Political Warfare Hearing III (testimony of Mr. Stokes); *see also* Gershaneck, Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,” at 8 (quoting Yang Han and Wen Zongduo, *Belt and Road Reaches out to the World*, China Daily (Oct. 7, 2019)) (“Economic coercion has become one particularly visible PRC political warfare tool,” which is visible for the CCP’s use of the “promise of its global Belt and Road Initiative . . . to build what *China Daily* describes as ‘a new platform for world economic cooperation.’”).

<sup>1041</sup> Rep. No. 112-167, *Inquiry Into Counterfeit Electronic Parts in The Department of Defense Supply Chain*, S. Comm. on Armed Services, at ii (2012).

<sup>1042</sup> *Id.* at i.

<sup>1043</sup> *Id.* at iv.



a shrinking problem.<sup>1044</sup> However, a comprehensive five-year study funded by the Pentagon<sup>1045</sup> has revealed that China’s position as a “key DoD supplier” has remained unchanged for the past decade.<sup>1046</sup> After the report was released, reporting indicated it was “not clear that [the] report [is] making a difference,” likely due to “crushing inertia within the DoD.”<sup>1047</sup> Given the hefty cost of \$400 million,<sup>1048</sup> this study’s findings should have been addressed publicly and acted on swiftly.

Although the DoD is limited in its ability to ascertain the origin of counterfeit parts when they are discovered, there have been instances in which the DoD could have done more to protect U.S. supply chains. In Fiscal Year 1999, the DoD was tasked with documenting Communist Chinese military companies that operate directly or indirectly within the United States.<sup>1049</sup> Despite having a deadline of 90 days, the DoD took two decades to fulfill the congressional mandate.<sup>1050</sup> When questioned about the delay, the DoD told the Committee that they had “forgotten” about the mandate until a coalition of senators reminded them of their obligation in 2020.<sup>1051</sup> To make the best use of this tool, the DoD should continuously update the list on an “ongoing basis,” as it was tasked to do so in the NDAA.<sup>1052</sup>

CCP infiltration of the defense sector has significant ramifications for DoD military readiness. As such, the Committee urges the DoD to root out CCP infiltration and strengthen its preparedness to deter a kinetic conflict with the PRC. The Commission on the National Defense Strategy found that “the U.S. military lacks both the capabilities and the capacity required to be confident it can deter and prevail in combat”<sup>1053</sup> Weeks before the release of this report, the Center for New American Security found that the United States “relies on Cold War-era strategies that are increasingly inadequate for managing and countering China’s evolving nuclear posture.”<sup>1054</sup> These findings are daunting; the DoD must correct course to ensure that the United States is prepared for a potential kinetic war with the CCP.

## Committee Recommendations

Decades of threat deflation, mistaken policies, and misplaced priorities coupled with a cumbersome bureaucracy have prevented the DoD from adapting to address the grave threat of CCP unrestricted warfare. While the DoD shared anecdotal examples of actions it has taken to

<sup>1044</sup> DoD Briefing.

<sup>1045</sup> Ark.ai, *The 2023 National Security Scorecard: Critical Technologies Edition*, Govini (July 17, 2023).

<sup>1046</sup> Eric Tegler, *China Was a Key DoD Supplier A Decade Ago - It Still Is*, Forbes (Aug. 23, 2023).

<sup>1047</sup> *Id.*

<sup>1048</sup> *Id.*

<sup>1049</sup> Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, § 1237 (Oct. 17, 1998) (“1999 NDAA § 1237”).

<sup>1050</sup> de La Bruyère & Picarsic, *Defusing Military-Civil Fusion: The Need to Identify and Respond to Chinese Military Companies*, *supra* note 1032, at 7.

<sup>1051</sup> DoD Briefing.

<sup>1052</sup> 1999 NDAA §1237, *supra* note 1049.

<sup>1053</sup> Rand, *Commission on the National Defense Strategy*, at vii (2024).

<sup>1054</sup> Gabriel Honrada, *US Air Force prepping for a nuclear showdown over Taiwan*, Asia Times (Sept. 24, 2024) (referencing Andrew Metrick, et al., *Over the Brink: Escalation Management in a Protracted War*, Center for New American Studies (Aug. 2024)).

address CCP unrestricted warfare, problems persist. The DoD should take steps to correct course:

- The DoD must admit past failures.
  - The first step in adjusting course must be an acknowledgement of past failures. For the DoD to successfully conduct a meaningful strategic shift and convincingly communicate this transformation, it is crucial to address its previous missteps.
  - This acknowledgment should be candidly communicated to DoD personnel and the American people, ensuring that everyone is aware of the CCP's ambitions and the measures the DoD is implementing to protect the United States.
  
- The DoD must implement a cross-branch strategic plan to combat CCP non-kinetic warfare, including economic warfare.
  - The DoD should apply the already operational JWC or another coordinating strategy to combat unrestricted warfare.
  - The DoD should consider whether using existing resources, the Office of Irregular Warfare should address not only offensive measures against great power adversaries, particularly the CCP, but also defensive strategies against unrestricted warfare tactics.
  - The DoD's input in CFIUS should be given much greater weight given its insight into national security matters and CCP unrestricted warfare strategies and tactics. CFIUS must review most, if not all, CCP investments and acquisitions in U.S. companies.<sup>1055</sup>
  
- The DoD must foster bold, strategic solutions to combat CCP unrestricted warfare across the defense sector. It must prioritize strategies to counter CCP economic warfare given the threat it poses to the U.S. military, technological strength, and the economy.
  - The DoD should actively encourage innovation within the Pentagon. A dramatic shift in strategic concepts will require new ideas. More credence should be given to individuals or offices that are working on ways to defend against the CCP's non-kinetic warfare—especially economic warfare—that is pervasive across the United States and the defense sector.
  
- The DoD should offer incentives to U.S. businesses to innovate and create key technologies necessary to strengthen the defense base and U.S. national security interests.
  - The DoD should establish further connections with venture capitalists and entrepreneurs through programs such as the Defense Innovation Unit (DIU), Defense Advanced Research Projects Agency (DARPA), and the Small Business Innovation Research (SBIR) program.<sup>1056</sup>

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<sup>1055</sup> See Robert D. Atkinson, et al., *A Techno-Economic Agenda for the Next Administration*, Information Technology & Innovation Foundation (June 10, 2024).

<sup>1056</sup> Dep't of Def., Defense Innovation Board, *Lowering Barriers to Innovation*, at 12 (Jan. 23, 2024).

- The DoD should continue to offer incentives for cooperation from privately-owned American companies to report counterfeit parts and cut ties with Chinese suppliers.
- The DoD must do more to protect its forces from CCP infiltration.
  - The DoD must address CCP infiltration tactics by assessing the long-term strategic implications of intelligence infiltration among the armed forces and focus on long-term trends rather than isolated incidents. These assessments should be used to create a comprehensive approach to address CCP efforts.
  - Ambassador Cella testified to the Committee about CCP infiltration into a DoD-funded university.<sup>1057</sup> The DoD must take steps to ensure that research labs it funds—including those focused on non-classified and dual-use technology—are not compromised.

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<sup>1057</sup> CCP Political Warfare Hearing III (testimony of Ambassador Cella) (“In February of 2022, the top executives of Gotion, PRC nationals that came in, leadership in the Chinese Communist Party, Chinese people’s consultant of Congress, they requested to divert from their planned itinerary and asked to see the AI laboratory at Ferris State University. Ferris State University is 1 of only 2 universities in the United States of America that are funded by the NSA and the DOD to do cyber studies, satellite studies, cybersecurity, and the driver of the bus was told to not ask them any questions or have conversations with them. That program has nothing to do what Gotion’s designs are. I would say probably we know what their designs are, and that is indicative and troubling. So our guard needs to be up, and it is not.”).





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF DEFENSE

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

While decades late in acknowledging the threat from the PRC, DoD now acknowledges that the PRC is the most comprehensive and serious challenge to U.S. national security. However, DoD's inadequate economic warfare strategy and bureaucratic nature hinder its ability to identify, counter, and defeat CCP unrestricted warfare.

## M. U.S. Department of Education

The Department of Education is Ignorant to the Threat CCP Unrestricted Warfare Poses to its Mission.

- The CCP is exploiting academic freedoms and targeting America’s open, democratic society, yet the Department of Education is not adequately addressing CCP unrestricted warfare across America’s educational system.
- CCP influence on American campuses “has dangerous implications for free speech, student safety, industrial espionage, ethical scientific practices, and national security,”<sup>1058</sup> which the Department of Education must address beyond tracking how educational institutions self-report foreign funding.
- CCP-run talent recruitment programs coerce top American scientists, engineers, professors, and others, to steal sensitive information and innovative research back to the PRC to aid the CCP’s agenda.
- United front-backed groups such as Chinese Students and Scholars Associations (CSSA) and Confucius Institutes have infiltrated the country and threatened the First Amendment rights of American students by silencing criticism about the communist regime.

The Department of Education’s “mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.”<sup>1059</sup> CCP unrestricted warfare, the Party’s ambition for global domination, and united front infiltration and influence in schools and universities across the country undercut the Department of Education’s ability to effect its mission. Both the Department of Education and the Secretary of Education, Miguel Cardona, have responsibilities in “raising national and community awareness of the education challenges confronting the Nation.”<sup>1060</sup>

On March 6, 2024, the Committee requested a briefing from the Department of Education regarding its efforts to combat the CCP’s unrestricted warfare operations that undermine American education and deprive the country of valuable taxpayer funded research and intellectual property at the heart of U.S. innovation.<sup>1061</sup> On June 3, 2024, the Department of Education provided a briefing to the Committee.<sup>1062</sup> In the briefing, the Committee learned that the Department of Education lacks awareness of the CCP threat to its mission and has no strategy

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<sup>1058</sup> Seth Kaplan & John Metz, *Concealed Crackdown: China’s Influence Across Campus*, heterodox academy (Oct. 4, 2022).

<sup>1059</sup> *Overview and Mission Statement*, U.S. Dep’t of Educ. (last accessed Sept. 16, 2024).

<sup>1060</sup> *The Federal Role in Education*, U.S. Dep’t of Educ. (last accessed Sept. 16, 2024).

<sup>1061</sup> See Letter from Hon. James Comer, Chairman, Comm. on Oversight & Accountability, to Hon. Miguel A. Cardona, Sec’y, Dep’t of Educ. (May 6, 2024) (“Dep’t of Education Letter”).

<sup>1062</sup> Briefing from Department of Education Officials to Oversight & Accountability Committee staff (June 3, 2024) (“Department of Education Briefing”).

to counter it beyond tracking institutions' reporting of foreign funding.<sup>1063</sup> Furthermore, the Department of Education does not engage in any public messaging warning Americans about the grave threat posed by the CCP, which leaves the education network unaware of, and vulnerable to, exploitation from CCP warfare.<sup>1064</sup>

U.S. educational institutions are critical in shaping the nation, as they “train the people who typically make and implement policy, and they shape elite culture ideas to set the agenda for policy discussions.”<sup>1065</sup> The CCP seeks to exploit this reality by funding American institutions and united front operations,<sup>1066</sup> employing talent programs,<sup>1067</sup> and manipulating academic freedoms via organizations such as CSSAs and Confucius Institutes.

The Department of Education's Enforcement of the Higher Education Act of 1965 (§117 Reporting) Does Not Protect U.S. Institutions from CCP Influence and Infiltration.

The Higher Education Act (HEA) of 1965 requires institutions that receive federal financial assistance to file disclosure reports with the Secretary of Education bi-annually.<sup>1068</sup> Reports must be filed for gifts that are received from a foreign source and for executed contracts with a foreign source, valued at \$250,000 or more, or if an institution is owned or controlled by a foreign source (§117 reporting).<sup>1069</sup>

#### *The Department of Education's Minimal Role*

The Department of Education told the Committee that its role in countering what it refers to as foreign malign influence focuses on transparency, which it contends is achieved by sharing information received from §117 reporting with arms of the IC.<sup>1070</sup> This approach is inadequate because (1) grouping the CCP with all other foreign sources ignores the unparalleled threat posed by the communist regime; (2) §117's self-reporting does not capture money flowing from the CCP to American institutions; (3) the Department of Education has no expertise on CCP warfare tactics;<sup>1071</sup> and (4) the CCP seeks to influence and infiltrate the American education system in many ways untouched by such funding and ignored by the Department of Education.

The Department of Education's emphasis on foreign malign influence is detrimental to American institutions because it removes specific focus on the communist regime that seeks to undermine America's educational system. By concentrating on the broader concept of foreign malign influence, the Department of Education does not hold the CCP accountable for its rampant influence and infiltration in American education and its suppression of First Amendment rights. The Department of Education's country agnostic approach is devoid of any

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<sup>1063</sup> *Id.*

<sup>1064</sup> *Id.*

<sup>1065</sup> Jay Greene, et. al, *Protecting American Universities from Undue Foreign Influence*, The Heritage Found. (Feb. 13, 2024).

<sup>1066</sup> *See supra*, Section II. B. United front.

<sup>1067</sup> *See Beck, supra* note 826.

<sup>1068</sup> 20 U.S.C. § 1011f(a).

<sup>1069</sup> *Id.*

<sup>1070</sup> Department of Education Briefing.

<sup>1071</sup> *Id.*

recognition of the unique tactics used and the unparalleled threats posed by the CCP. Without a strategy that factors in CCP-specific threats to American education, the Department of Education cannot identify and counter CCP united front work stifling American academic freedom.

The Department of Education agrees that §117 reporting disclosures are critical to “ensuring transparency and identifying possible foreign influence in U.S. higher education.”<sup>1072</sup> In 2020, the Department of Education released a report detailing §117 *under-reporting*,<sup>1073</sup> and noted that “there is a very real reason for concern that foreign money buys influence or control over teaching and research.”<sup>1074</sup> Section 117 reporting does not capture the significant amount of money that flows from CCP-backed sources because the Department of Education has no mechanism to compel reporting and it relies on a good-faith system of self-reporting.<sup>1075</sup> The Department of Education claimed that schools are taking it seriously,<sup>1076</sup> but the good faith, self-reporting system leaves loopholes for concerning foreign contracts or gifts to go unnoticed and undisclosed. General Spalding testified to the Committee that America’s “universities and educational system are influenced economically with grants and Chinese student tuition,” which allows American institutions to “influence the political process to ensure we maintain an economic connection to the party’s influence.”<sup>1077</sup> In order to identify and counter CCP influence operations, the Department of Education must take a vigilant approach to monitoring reports and scrutinizing the absence of reporting.

A recent report from the Select Committee on the CCP details the Biden-Harris Department of Education’s “abject failure” to enforce §117 reporting requirements.<sup>1078</sup> In contrast to the Trump Administration’s §117 compliance investigations, which discovered \$6.5 billion in undisclosed foreign gifts and contributions, the report also highlighted that the Biden-Harris Administration “appears unconcerned about foreign gifts and influence,” as not a single compliance investigation has been opened in the current administration.<sup>1079</sup> Representative Virginia Foxx (NC-5) warned the Committee that “the CCP’s malign influence and subversion have turned [the American university system] into a potential liability.”<sup>1080</sup> To address these concerns, Dr. Robert Atkinson, Founder and President of the Information Technology and Innovation Foundation, recommended to the Committee that “any university, public or private, that receives any Chinese money should be ineligible for federal funding.”<sup>1081</sup>

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<sup>1072</sup> Letter from Richard Cordray, Chief Operating Officer, U.S. Dep’t of Educ. Office of Fed. Student Aid, to Hon. Jim Banks, Member of Congress (July 23, 2023).

<sup>1073</sup> U.S. Dep’t of Educ., Office of the General Counsel, *Institutional Compliance with Section 117 of the Higher Education Act of 1965*, at 7 (Oct. 2020) (“Historically, fewer than 300 of the approximately 6,000 U.S. institutions self-report foreign money each year.”).

<sup>1074</sup> *Id.* at 3.

<sup>1075</sup> Department of Education Briefing.

<sup>1076</sup> *Id.*

<sup>1077</sup> CCP Political Warfare Hearing I (testimony of General Spalding).

<sup>1078</sup> Majority Staff Report, *CCP on the Quad: How American Taxpayers and Universities Fund the CCP’s Advanced Military and Technological Research*, The Select Comm. on the CCP, at 3 (Sept. 2024).

<sup>1079</sup> *Id.* at 62.

<sup>1080</sup> CCP Political Warfare Hearing III (statement of Rep. Foxx).

<sup>1081</sup> CCP Political Warfare Hearing III (testimony of Dr. Atkinson).

The Department of Education also recognized that intermediaries, including school organizations such as CSSAs, do not have independent reporting obligations.<sup>1082</sup> This is troubling because CCP funding of CSSAs creates powerful incentives for these groups to conform to and coercively push Party ideology on American campuses.<sup>1083</sup> If the Department of Education trusts that institutions take reporting requirements seriously, it leaves the CCP with an open door to use intermediaries as a vehicle for contingent funding, propaganda, and overall malign influence.

The Department of Education admitted that it lacks expertise to assess the comprehensiveness of disclosures under §117.<sup>1084</sup> Therefore, there is no expertise to track, verify, or flag CCP-backed sources that may fund influence and infiltration across American educational institutions. Reporting data shows that over the last ten years, the PRC has been the largest source of reported foreign money to institutions.<sup>1085</sup> In 2020, *Bloomberg* reported that 115 U.S. colleges received almost one billion dollars in gifts and contracts from CCP-related sources, over a period of six and a half years.<sup>1086</sup> The Department of Education’s knowledge gap leaves institutions vulnerable to CCP united front efforts that seek to influence groups and individuals, disseminate propaganda, and facilitate espionage. The money flowing from the CCP to American institutions, including through intermediaries, deserves heightened scrutiny considering the Party’s strategy to influence, infiltrate, and ultimately surpass the American educational enterprise.

The Department of Education Lacks Comprehensive Understanding of CCP Warfare, Which Leaves Institutions Susceptible to Influence and Infiltration.

The CCP uses various united front operations to undermine academic freedom and integrity in America.<sup>1087</sup> Talent programs threaten universities by recruiting researchers and scientists to steal IP and conduct economic espionage.<sup>1088</sup> University budgets, investments, and endowment funds take in funding tied to the CCP, granting the Party the ability to use funding as conditional or coercive.<sup>1089</sup> Confucius Institutes and CSSAs infringe on student privacy and force pro-CCP propaganda on campus.<sup>1090</sup> All of these tactics employed can and should be identified, thwarted, and publicly addressed by the Department of Education.

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<sup>1082</sup> Department of Education Briefing.

<sup>1083</sup> See generally Kaplan & Metz, *supra* note 1058.

<sup>1084</sup> Department of Education Briefing.

<sup>1085</sup> Email from Dep’t of Educ. to Oversight & Accountability Committee staff (June 12, 2024); see also House Foreign Affairs Comm., *Chinese Communist Party (CCP) Threat to American Universities* (Feb. 2020) (“The PRC is the largest source of foreign donations to U.S. universities since 2013.”) (“Report: CCP Threat to American Universities”).

<sup>1086</sup> Janet Lorin & Brandon Kochkodin, *Harvard Leads U.S. Colleges That Received \$1 Billion from China*, *Bloomberg* (Feb. 6, 2020).

<sup>1087</sup> See Report: CCP Threat to American Universities, *supra* note 1085.

<sup>1088</sup> *Id.*

<sup>1089</sup> *Id.*

<sup>1090</sup> *Id.*



## CCP Theft

The CCP is seeking to exploit America’s openness for its own economic and military gain,<sup>1091</sup> and it aspires to infiltrate American education and surpass the United States to become a world leader in science and technology by 2050.<sup>1092</sup> To strengthen its global position, the CCP uses coercive recruitment programs to induce academics to steal American research, data, and intellectual property. Colonel Newsham testified before the Committee that recruitment programs give the CCP the ability to “look[] overseas for people who have technology, information that it wants, particularly technology that it can use to build up its own economy, its military, and get them on payroll.”<sup>1093</sup>

The CCP also exploits America’s openness by engaging in espionage via Chinese nationals studying at American universities. On October 2, 2024, federal prosecutors charged five Chinese nationals, with several crimes, including conspiracy, lying to federal investigators, and destroying records during a criminal investigation, after the individuals were found on Camp Grayling in northern Michigan last year during a U.S. National Guard training exercise with the Taiwanese military.<sup>1094</sup> The defendants were University of Michigan students when they “were confronted in the dark near a remote Michigan military site where thousands of people had gathered for summer drills.”<sup>1095</sup> Ambassador Cella testified to the Committee that Camp Grayling “is the hub of the National All-Domain Warfighting Center, which trains our troops and those of our allies, including Taiwan, in strategic and tactical battle operations.”<sup>1096</sup> These individuals were undergraduate students at the University of Michigan in a joint program with Shanghai Jiao Tong University.<sup>1097</sup> Known, prosecuted cases are, reportedly, “just the tip of the iceberg.”<sup>1098</sup> Reportedly, “The FBI noted in [a] court filing that there have been instances of college students from China taking photos of vital defense sites in the United States.”<sup>1099</sup>

At the heart of CCP recruitment programs inducing theft is the Thousand Talents Program (TTP). In 2008, the CCP launched TTP as a recruitment effort to entice Chinese scientists and academics abroad to bring research back to the PRC.<sup>1100</sup> TTP “incentivizes individuals engaged in research and development in the United States to transmit the knowledge and research they gain here to China in exchange for salaries, research funding, lab space, and other incentives.”<sup>1101</sup> Though the TTP’s name has largely been removed from CCP public

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<sup>1091</sup> See Staff Report, *Threats to the U.S. Research Enterprise: China’s Talent Recruitment Plans*, S. Comm. on Homeland Sec. and Governmental Affairs, Permanent Subcomm. on Investigations, at 1 (“Report: Threats to the U.S. Research Enterprise”) (Nov. 18, 2019).

<sup>1092</sup> See *id.* at 7.

<sup>1093</sup> CCP Political Warfare Hearing I (testimony of Colonel Newsham).

<sup>1094</sup> Robert Snell, *Feds charge five UM students from China amid FBI counterintelligence probe*, The Detroit News (Oct. 2, 2024).

<sup>1095</sup> Ed White, *5 Chinese nationals charged with covering up midnight visit to Michigan military site*, Associated Press (Oct. 2, 2024).

<sup>1096</sup> CCP Political Warfare Hearing III (written testimony of Ambassador Cella).

<sup>1097</sup> Snell, *supra* note 1094.

<sup>1098</sup> *Id.*

<sup>1099</sup> White, *supra* note 1095.

<sup>1100</sup> Ellen Barry & Gina Kolata, *China’s Lavish Funds Lured U.S. Scientists. What Did It Get in Return?*, N.Y. Times (Feb. 6, 2020).

<sup>1101</sup> Report: Threats to the U.S. Research Enterprise, *supra* note 1091, at 1.

dialogue, the program still exists under the name “Qiming.”<sup>1102</sup> Regardless of the titles of these illegitimate recruitment programs, research and IP funded by American taxpayers, particularly related to sensitive and emerging markets, does not belong in the hands of an authoritarian regime. The Department of Education does not warn targeted academics of the CCP’s nefarious recruitment goals.<sup>1103</sup>

*The CCP Threatens Free Speech on America’s Campuses.*

As early as the 1970s, united front operations established CSSAs on American campuses to “monitor Chinese students and mobilize them against views that dissent from the CCP’s stance.”<sup>1104</sup> Peter Mattis, President of the Jamestown Foundation and former CIA Counterintelligence Analyst, testified before the Committee that “the PRC and the party state is trying to prevent Chinese students from having a free and full experience on a U.S. university campus.”<sup>1105</sup> When pressed by the Committee about the threat CSSAs pose on college campuses, the Department of Education claimed that they have received no reporting regarding national security concerns about CSSAs,<sup>1106</sup> contrary to publicly-available reporting on CSSA influence operations.<sup>1107</sup>

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**“[T]he PRC and the party state is trying to prevent Chinese students from having a free and full experience on a U.S. university campus.”**

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Alex Joske, a Chinese-Australian author, sinologist, open-source intelligence researcher, and risk consultant who investigates the CCP, explains that united front operations, such as CSSAs, are overseen by the PRC’s Ministry of Education, which is directly tied to the CCP.<sup>1108</sup> The CCP uses CSSAs to intimidate and harass students on American campuses, in ways such as telling universities to remove anti-CCP posters from campus, “identify the students responsible” for the posters, and “punish them severely” for criticizing the communist regime.<sup>1109</sup> The Department of Education’s ignorance about CSSAs is concerning given these groups function as the “eyes and ears of the Chinese government on campuses, creating immense pressure for Chinese students to not only conform to their government’s standards but to inform on one another to demonstrate their own loyalty.”<sup>1110</sup>

The Department of Education is taking little to no action to protect American campuses from these threats, skirting its obligation to warn students on American campuses about the dangers posed by united front tactics. Such tactics use soft power to suppress anti-CCP views

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<sup>1102</sup> Benzinga, *China’s Stealth Revival Of ‘Thousand Talents Plan’ Signals Semiconductor Ambitions Despite US Restrictions*, Business Insider (Aug. 24, 2023).

<sup>1103</sup> Department of Education Briefing.

<sup>1104</sup> U.S. Dep’t of State, *The Chinese Communist Party on Campus: Opportunities & Risks* (“CCP on Campus”) (Sept. 2020).

<sup>1105</sup> CCP Political Warfare Hearing I (testimony of Mr. Mattis).

<sup>1106</sup> Department of Education Briefing.

<sup>1107</sup> See generally Dep’t of Education Letter; Kaplan & Metz, *supra* note 1058; Report: CCP Threat to American Universities, *supra* note 1085.

<sup>1108</sup> Joske, *The party speaks for you*, *supra* note 158, at 7.

<sup>1109</sup> Kaplan & Metz, *supra* note 1058.

<sup>1110</sup> *Id.*

and heighten transnational repression on campuses in the United States.<sup>1111</sup> Beyond CSSAs, universities that heavily rely on full-tuition price funding from Chinese students run the risk of “admit[ting] students whose speech is monitored and punished, allow[ing] the promotion of CCP propaganda, tolerat[ing] espionage, and even silenc[ing] protest that may cause offense.”<sup>1112</sup> The Department of Education should become well-versed in the ways the CCP takes advantage of academic freedom and suppresses students’ First Amendment rights. The State Department released detailed information on the dangers that united front operations such as CSSAs and Confucius Institutes present to American students, institutions, and national security.<sup>1113</sup> The Department of Education does not need additional authority or resources to speak to the American people about transnational repression, CSSAs, and Confucius Institutes threatening America’s academic freedom.

### *CCP Manipulation of America’s Academic Freedom*

Confucius Institutes have played a large part in the CCP’s penetration of U.S. academic institutions. First discovered in 2005, Confucius Institutes have since confirmed that the CCP “treats its engagement with the American academy as a chance to spread its own ideology.”<sup>1114</sup> The Foundation for Defense of Democracies recently explained:

Beijing has created these unobtrusive beachheads in which Mao is essentially masquerading as Mr. Rogers to expand its influence and gain access to American education and community leaders. With these pint-sized outposts, the CCP is exploiting the democratic system designed to limit American governmental power to instead accumulate power and promote Beijing’s authoritarian interests inside the United States. The CCP likes to tell its story in ways intended to shape how individuals think about China, normalizing or minimizing autocracy and thereby promoting positive historical and cultural narratives about China while diminishing the United States.<sup>1115</sup>

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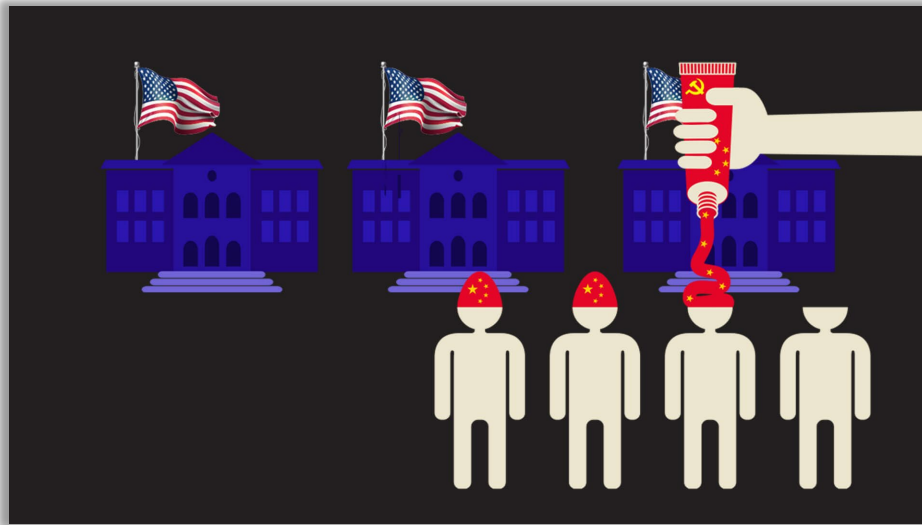
<sup>1111</sup> See *infra*, Section III. P. Department of Justice.

<sup>1112</sup> American Compass, *A Hard Break from China, Protecting the American Market from Subversion by the CCP*, at 6 (June 2023) (“American Compass, *A Hard Break from China*”).

<sup>1113</sup> See CCP on Campus, *supra* note 1104.

<sup>1114</sup> Thomas D. Klingenstein, *China and Saudi Arabia Are Invading Our Universities*, tomklingenstein.com (Mar. 12, 2024).

<sup>1115</sup> Antonette Bowman, *How Mao is Outsmarting Madison in American K-12 Classrooms*, The Found. for Defense of Democracies (Sept. 19, 2024).



Source: Zoe Gladstone, et al., *Unraveling China’s Attempts to Hinder Academic Freedom: Confucius Institutes*, Human Rights Found. (Aug. 4, 2021).

Reporting on Confucius Institutes reveals that the organizations must “abide by the PRC’s laws,” and that “contracts between universities and [Confucius Institutes] often feature broad nondisclosure requirements while empowering the [Confucius Institutes] to mandate that educators not damage China’s image abroad.”<sup>1116</sup> Indeed, the National Association of Scholars has reported Confucius Institutes are a product of the CCP and exist to “shape American attitudes towards [the CCP].”<sup>1117</sup> Communist China, or any other foreign nation for that matter, should not wield this much power over America’s education system.

In response to the nature of Confucius Institutes being exposed, the State Department designated Confucius Institutes as “foreign missions” controlled by the PRC in 2020.<sup>1118</sup> Then-Secretary of State Mike Pompeo recognized Confucius Institutes were “an entity advancing Beijing’s global propaganda and malign influence.”<sup>1119</sup> Since the foreign mission designation, Confucius Institutes have dwindled across the nation following “concerns about academic freedom,” and “the potential for Chinese government influence and risks to U.S. national security.”<sup>1120</sup> The “apparent decrease may be associated with the decline in Confucius Institutes or the success of the CCP in rebranding the programs, among other reasons. Regardless, the

<sup>1116</sup> Kaplan & Metz, *supra* note 1058.

<sup>1117</sup> Rachele Peterson, *Outsourced to China: Confucius Institutes and Soft Power in American Higher Education*, Nat’l Assoc. of Scholars, at 12 (Apr. 15, 2017).

<sup>1118</sup> Fact Sheet, “*Confucius Institute U.S. Center*” Designation as a Foreign Mission, Dep’t of State (Aug. 13, 2020); Cong. Research Service, *Confucius Institutes in the United States: Selected Issues* (“CRS: Confucius Institutes in the U.S.”) (May 2, 2023).

<sup>1119</sup> David Brunstrom, et al., *Pompeo hopeful China’s Confucius Institutes will be gone from U.S. by year-end*, Reuters (Sept. 1, 2020).

<sup>1120</sup> CRS: Confucius Institutes in the U.S., *supra* note 1118; *see also* Yana Gorokhovskaia & Grady Vaughn, *Addressing Transnational Repression on Campuses in the United States*, Freedom House (Jan. 2024) (“By the end of 2022, there were only 6 Confucius Institutes left in the United States...largely due to the Department of Defense restricting funding for Chinese-language instruction to education institutions that hosted Confucius Institutes, and designating institutes a ‘foreign mission’ of the Chinese government.”).

CCP is still operating in K-12 classrooms around the country, and we do not know the precise number, as few, if any, schools and districts are required to report on the programs.”<sup>1121</sup>

General Secretary Xi views Chinese students abroad as “sons and daughters of China,” who are expected to yield to the CCP regardless of location, as shown in the quote below.<sup>1122</sup> It is concerning that the Department of Education does not engage in discussions with educational institutions about the threats posed to institutions and students by Confucius Institutes and other united front groups.

*The party and country respect the choices of overseas students. If you return to China to work, we will open our arms to warmly welcome you. If you stay abroad, we will support you to serve the country through various means. Everyone must remember: no matter where you are, you are sons and daughters of China.*

—Xi Jinping, in his speech to the Western Returned Scholars Association, 2013

Source: *The party speaks for you: Foreign interference and the Chinese Communist Party's united front system*, Austl. Strat. Pol'y Inst., at 28 (June 9, 2020).

## Committee Recommendations

The Department of Education is discounting the power of public messaging and hurting institutions by not warning them about the risks associated with CCP influence operations, particularly by grouping CCP influence into the broader category of “foreign malign influence.” None of the Department of Education’s recent outreach has addressed the threats posed by the communist regime that is targeting universities and schools, which are essential to America’s culture, innovation, and future prosperity. While united front operations like CSSAs remain prevalent in schools and universities, the Department of Education should take initiative to warn American universities and schools about their vulnerability to CCP influence operations. The Committee therefore makes the following recommendations:

- Speak publicly and transparently about the CCP’s efforts to upend academic freedoms across America and the threats posed to American educational institutions.
  - “Officials at all levels of government” should implement “awareness campaigns to ensure Americans understand the national security concerns associated with K-12 programs beholden to the CCP.”<sup>1123</sup>
  - The Department of Education should not rely on generic terms like “foreign malign influence” when discussing and monitoring CCP warfare. The CCP’s

<sup>1121</sup> Bowman, *supra* note 1115.

<sup>1122</sup> Joske, *The party speaks for you*, *supra* note 158, at 28.

<sup>1123</sup> Bowman, *supra* note 1115.

tactics of influence and infiltration are unique from other foreign adversaries, and it is detrimental to academic security to group the CCP's nefarious actions with those of other actors.

- The Department of Education should warn institutions with Confucius Institutes and CSSAs, and students, about CCP and united front efforts to use these and similar organizations to intimidate, harass, and exploit the free exchange of ideas on American campuses. Specifically, the Department should issue related guidance for schools, universities, and students to recognize CCP influence operations and united front tactics seeking to undermine American education.<sup>1124</sup>
- As the Foundation for Defense of Democracies has recommended, “[t]he Department of Education should work with state governments to establish, maintain, and submit to Congress annually a list of all programs in K-12 schools that are funded, supported, or affiliated with the CCP.”<sup>1125</sup>
- Foster expertise to improve tracking CCP influence through §117 reporting.
  - Using existing authorities, the Department of Education should garner expertise, like that employed by the Australian University Foreign Interference Task Force,<sup>1126</sup> so it can understand, identify, and counter CCP interference and influence.
  - Given the limitations of self-reporting, the Department of Education should apply CCP expertise to conduct outreach about threats posed by CCP-backed funding and implore institutions to fully comply with §117 reporting.
  - The Department of Education should work with other relevant agencies, such as NSF, NIH, and DHS, to cross reference CCP and CCP-backed funding sources.
- Inspire and strengthen American students to innovate and create, including by promoting STEM field research among top American students.
  - The CCP seeks to take advantage of America's open education systems and threatens the nation's ability to remain a world leader in the science and technology sector. In 2019 and 2020, 49 percent of all STEM master's degrees and 57 percent of all STEM doctorate degrees were given to international students.<sup>1127</sup> Additionally, more than one third of foreign students come from China, which is up from less than one percent in 1980.<sup>1128</sup> The Department of Education should continue to promote STEM field research among American

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<sup>1124</sup> See, e.g., University Foreign Interference Taskforce, *Guidelines to Counter Foreign Interference in the Australian University Sector*, Austl. Gov. Dep't of Educ., at 5 (Nov. 13, 2019) (“Australian universities rely on a regular flow of communication to and from security agencies to support their strategies to mitigate the risk of foreign interference.”) (“Austl. University Foreign Interference Taskforce”).

<sup>1125</sup> Bowman, *supra* note 1115.

<sup>1126</sup> Austl. University Foreign Interference Taskforce, *supra* note 1124.

<sup>1127</sup> Graduate Journey Resource Center, *More International Students Enroll in U.S. Grad STEM Programs: The Numbers and Their Impact*, Educational Testing Service (last accessed Sept. 16, 2024).

<sup>1128</sup> U.S. Dep't of Educ., Nat'l Center for Educ. Statistics, *Foreign Students Enrolled in Institutions of Higher Education in the United States, by Continent, Region, and Selected Countries of Origin: Selected Years, 1980-81 through 2019-20* (Jan. 2021) (last accessed Sept. 16, 2024).

students so that the country can outpace the PRC's efforts to be a global leader in STEM.<sup>1129</sup>

- America's focus on research and science education has "has shrunk to roughly half its size during the Reagan Administration."<sup>1130</sup> Thus, Department of Education leadership should use its national platform to encourage U.S. students to strive for excellence.

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<sup>1129</sup> David Goldman, *You Will Be Assimilated: China's Plan to Sino-Form the World*, at XXII (2020) ("China now graduates more scientists and engineers than the United States, Europe, Japan, Taiwan, and South Korea combined.").

<sup>1130</sup> Goldman, *The Chinese Challenge: America has never faced such an adversary*, *supra* note 550.

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF EDUCATION

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	●
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●

### Comment

The U.S. Department of Education lacks comprehensive knowledge of CCP unrestricted warfare and does not have a strategy to protect and warn America's institutions of the threats that are prevalent across the nation's campuses.



## N. U.S. Department of Energy

### The Department of Energy Must Update its Mission to Secure the Domestic Energy Supply.

- The PRC is burrowed in the U.S. electrical grid, and the threat is significant to U.S. national security. Intelligence agencies consider it probable that China could conduct a large-scale attack on America's electrical grid—greatly endangering the American people.
- Department of Energy (Energy Department) officials disclosed to the Committee that they consider China a unique threat, citing the PRC's ability to compel Chinese nationals in the United States to spy for the CCP and transfer technology back to China. The federally mandated transition to renewable energy exacerbates America's reliance on Chinese firms for renewable energy and allows PRC companies to benefit from U.S. taxpayer-funded subsidies.
- The Energy Department's recent establishment of an office to consider national security and economic competitiveness issues when awarding grants should prioritize reducing the PRC's ability to leverage U.S. resources for its own gains. While the Energy Department has PRC experts on staff, it mistakenly takes a country agnostic approach to addressing threats from foreign actors.



Source: Sébastien Thibault, available at Sara Schonhard & Phelim Kine, *'Its Just Crazy': How the U.S.-China Energy Race Imperils the Climate Fight*, Politico (May 18, 2023).

On May 6, 2024, the Committee sent the Energy Department a request for a briefing to better understand how the agency secures America’s energy from Chinese threats.<sup>1131</sup> The Energy Department briefed Committee staff on May 30, 2024.<sup>1132</sup> China is waging a multi-prong war on America’s energy independence, and the PRC is leveraging its competitive advantage in green technologies against America by using federal mandates and federal subsidies to advance its economic interests.<sup>1133</sup> China also engages in more covert, dangerous tactics, such as espionage, to undermine U.S. energy security.<sup>1134</sup> Chinese agents steal American intellectual property and seek to infiltrate U.S. national laboratories,<sup>1135</sup> and the CCP is waging a large cyber warfare campaign targeting the U.S. electrical grid.<sup>1136</sup> As Energy Department officials acknowledged, reliable and affordable energy is meaningless unless it is secure, and the PRC’s goals to undermine U.S. energy security is a continuation of war against the United States through other means.<sup>1137</sup>

### The PRC is Leveraging Competitive Advantages in Green Technologies.

The United States relies on the PRC for solar panel components, electric vehicle (EV) components, and key materials needed for producing green technologies.<sup>1138</sup> The PRC commands the supply of core components for solar panels, specifically polysilicon, solar wafers, and solar cells.<sup>1139</sup> According to the Information Technology and Innovation Foundation, the PRC’s solar firms are well positioned to supply the U.S. domestic consumption of solar energy supplies because China’s “subsidies continue to shape international competition,” and that even with tax breaks, U.S. companies have proved “no match for their competition in China.”<sup>1140</sup> The PRC controls every step of lithium-ion battery production vital for EVs and produces more EVs than any other country.<sup>1141</sup>

Congress has passed sweeping legislation to increase domestic production of renewable energy, lithium batteries, and EVs. Legislation, such as the Inflation Reduction Act and the

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<sup>1131</sup> See Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Jennifer Granholm, Sec’y, Dep’t of Energy (May 6, 2024).

<sup>1132</sup> Briefing from Energy Department Officials to Oversight & Accountability Committee staff (“Energy Briefing”) (May 30, 2024).

<sup>1133</sup> See, e.g., Alana Goodman, *DOE Touts \$200M Grant to Lithium Battery Company as Boon to American-Made Clean Energy. The Company Operates Primarily From China*, Free Beacon (Dec. 6, 2022).

<sup>1134</sup> See Survey of Chinese Espionage in the United States Since 2000, Ctr. for Strategic & Int’l Studies (last accessed Sept. 16, 2024).

<sup>1135</sup> See, e.g., The Los Alamos Club: How the People’s Republic of China Recruited Leading Scientists from Los Alamos National Laboratory to Advance Its Military Programs, Strider Technologies (last accessed Sept. 16, 2024) (“The Los Alamos Club”).

<sup>1136</sup> See Wray, *Chinese Government Poses ‘Broad and Unrelenting’ Threat to U.S. Critical Infrastructure*, *supra* note 489.

<sup>1137</sup> Energy Briefing.

<sup>1138</sup> Agnes Chang & Keith Bradsher, *Can the World Make an Electric Car Battery Without China?*, Wall St. J. (May 16, 2023).

<sup>1139</sup> Wood Mackenzie, *China to Hold over 80% of Global Solar Manufacturing Capacity from 2023-26* (Nov. 7, 2023).

<sup>1140</sup> David Hart, *The Impact of China’s Production Surge on Innovation in the Global Solar Photovoltaics Industry*, Information Technology & Innovation Found. (Oct. 5, 2020).

<sup>1141</sup> Chang & Bradsher, *supra* note 1138.

Infrastructure Investment and Jobs Act, is encouraging huge investments in green energy.<sup>1142</sup> Due to the economic realities mentioned above, U.S. companies are partnering with PRC firms to obtain Chinese technology. American companies such as Ford have partnered with Chinese lithium battery maker, CATL.<sup>1143</sup> The lithium battery company, Microvast, has received millions in federal subsidies despite the company's primary operations being based in China.<sup>1144</sup> These examples raise questions about the implementation of legislation that has been portrayed to Americans as weening the United States off Chinese supply chains.<sup>1145</sup>

Chinese influence campaigns have also made inroads on the state and local levels. In 2023, the state of Michigan approved tens of millions of dollars in subsidies to the lithium ion battery manufacturer, Gotion, despite the company's ties to the CCP.<sup>1146</sup> Ambassador Joseph Cella, former U.S. Ambassador to Fiji, Kiribati, Nauru, Tonga, and Tuvalu, and Co-Founder of Michigan China Economic Security and Review Group, testified to the Committee about his concerns regarding the Gotion plant to be built in Green Charter Township, Michigan.<sup>1147</sup> Ambassador Cella told the Committee that the Gotion plant is only “one of many examples across the United States” of Chinese influence at the state and local levels.<sup>1148</sup> Ambassador Cella testified that Gotion's officials used the method of elite capture to persuade local officials to approve the plant.<sup>1149</sup> The Gotion project demonstrates that state and local officials, as well as business leaders, are vulnerable to Chinese influence campaigns targeting green energy.

In March 2023, the Energy Department announced the establishment of a “Research Technology and Economic Security Vetting Center” to consider risks to national security and economic competitiveness when awarding grants. According to Energy Department Under Secretary for Infrastructure David Crane, the vetting center “[goes] through all [Energy Department] projects, and [has] access to the intelligence and counterintelligence to make the right decision.”<sup>1150</sup> The Committee's concerns remain regarding the amount and speed of loan and grant authorities under the Energy Department's control with these limited resources to vet foreign entanglements such as those with the PRC. Cutting off federal funding to Chinese firms has taken too long, and China's underhanded methods to achieve its goals are more difficult to stop.

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<sup>1142</sup> *The Infrastructure Investment and Jobs Act is a Major Down Payment for Climate Action*, Bipartisan Policy Ctr. (Sept. 27, 2021).

<sup>1143</sup> Thomas Catenacci, *Joe Manchin blasts Biden admin for ceding control to CCP on green energy: ‘Pathetic’*, Fox News (Mar. 31, 2023).

<sup>1144</sup> Alana Goodman, *DOE Touts \$200M Grant to Lithium Battery Company as Boon to American-Made Clean Energy. The Company Operates Primarily From China*, Free Beacon (Dec. 6, 2022).

<sup>1145</sup> *FACT SHEET: President Biden Takes Action to Protect American Workers and Businesses from China's Unfair Trade Practices*, The White House (May 14, 2024).

<sup>1146</sup> *Gotion's revised filing, which cites Beijing subsidies, spurs new wave of US opposition*, South China Morning Post (Aug. 14, 2024).

<sup>1147</sup> CCP Political Warfare Hearing III (testimony of Ambassador Cella).

<sup>1148</sup> *Id.*

<sup>1149</sup> *Id.*

<sup>1150</sup> Nico Portuondo, *Takeaways from Tense Hearing on DOE Climate Spending*, Politico (Oct. 20, 2023).

## The CCP’s “Rob, Replicate, and Replace” Strategy has Culminated in a Unique Threat for the Energy Department.

By using a method that former Director of National Intelligence (DNI) John Ratcliffe has described as “rob, replicate, and replace,” China targets the tradecraft of U.S. companies.<sup>1151</sup> In some cases, the PRC has used outright theft to steal intellectual property.<sup>1152</sup> In other cases, China has used talent recruitment programs to co-opt American research.<sup>1153</sup> China’s covert means of stealing valuable American technology are persistent and target both private and public entities. Energy Department officials acknowledged to Committee staff that China is unique because its leaders can compel its nationals anywhere to commit espionage.<sup>1154</sup>

The CCP has sought for years, at times with success, to infiltrate U.S. national laboratories.<sup>1155</sup> The research conducted at these labs—including on supercomputing and artificial intelligence—is of great interest to the CCP.<sup>1156</sup> In 2022, it was discovered that China has recruited more than 150 scientists from Los Alamos National Laboratory to research for the CCP.<sup>1157</sup> The PRC is “employing a Talent Superpower Strategy” to encourage scientists to study abroad and then return to China.<sup>1158</sup> Many of the scientists who worked at Los Alamos returned to China to carry on CCP defense projects, including hypersonic missiles.<sup>1159</sup>

In 2014, a U.S. grand jury indicted five PLA agents for hacking several U.S. companies including U.S. Steel, Westinghouse Electric, and SolarWorld—America’s biggest solar technology company at the time.<sup>1160</sup> The stolen information went to heavily subsidized Chinese firms, and, in turn, products relying on SolarWorld’s innovations soon flooded the global market.<sup>1161</sup> In 2018, the DOJ charged Sinovel Wind Group, another PRC-based wind turbine exporter, for theft of trade secrets from an American company.<sup>1162</sup>

The Energy Department is agnostic to the nationality of the foreign threats, however, the Energy Department intelligence staff does have a dedicated team of experts on PRC threats that communicate with the IC.<sup>1163</sup> The Energy Department shared details with the Committee about its development of a Science & Technology Risk Matrix to protect scientific work not otherwise

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<sup>1151</sup> Ratcliffe, *supra* note 5.

<sup>1152</sup> Nicholas Yong, *Industrial espionage: How China sneaks out America's technology secrets*, BBC (Jan. 16, 2023).

<sup>1153</sup> The Los Alamos Club, *supra* note 1135.

<sup>1154</sup> Energy Briefing.

<sup>1155</sup> *Connect the Dots on State-Sponsored Cyber Incidents - Targeting of U.S. National Laboratories*, Council on Foreign Relations (Dec. 2007).

<sup>1156</sup> Namrata Goswami, *China Prioritizes 3 Strategic Technologies in Its Great Power Competition*, *The Diplomat* (Apr. 22, 2023).

<sup>1157</sup> The Los Alamos Club, *supra* note 1135.

<sup>1158</sup> *Id.*

<sup>1159</sup> *Id.*

<sup>1160</sup> Press Release, U.S. Attorney’s Office Western District of Pennsylvania, U.S. Charges Five Chinese Military Hackers for Cyber Espionage Against U.S. Corporations and a Labor Organization for Commercial Advantage (May 19, 2014).

<sup>1161</sup> Ian Williams, *China is trying to strangle the world's solar power energy*, *The Spectator* (Feb. 19, 2023).

<sup>1162</sup> Press Release, Dep’t of Justice, Court Imposes Maximum Fine on Sinovel Wind Group for Theft of Trade Secrets (July 6, 2018).

<sup>1163</sup> Energy Briefing.

protected by export or national security controls.<sup>1164</sup> The matrix only applies to specified countries of risk, which includes China.<sup>1165</sup>

### China's Onslaught of Cyber-Attacks has the Energy Department on the Defensive.

The United States faces threats to its energy security from large-scale Chinese cyber-attacks. American utilities and infrastructure will become increasingly vulnerable as the United States transitions to more renewable energy. U.S. intelligence has assessed that China, "almost certainly is capable of launching cyber-attacks that could disrupt critical infrastructure services within the United States, including against oil and gas pipelines, and rail systems."<sup>1166</sup>

The ongoing CCP-backed hacking campaign perpetrated by Volt Typhoon has reportedly burrowed into infrastructure of telecommunications, energy, water, and pipeline operators.<sup>1167</sup> The Director of Cybersecurity and Infrastructure Security Agency (CISA), Jen Easterly, testified alongside FBI Director Wray that the agency has previously found Chinese-linked intrusions in energy infrastructure.<sup>1168</sup> Cybersecurity experts have pointed to the 2021 ransomware attack on the Colonial Pipeline as an example of the disruption the United States faces with such threats.<sup>1169</sup>

The Energy Department's Office of Cybersecurity, Energy Security, and Emergency Response (CESER) monitors and prepares for threats of all kinds—physical, natural, and cyber.<sup>1170</sup> CESER works with the IC to disseminate information to stakeholders such as companies and utilities to mitigate vulnerabilities. CESER officials stated to the Committee that cyber threats in particular are very concerning.<sup>1171</sup> The private sector is subjected to a high number of attacks each year and multinational supply chains enhance the risks of these threats. In response to actions by the PRC-sponsored threat group Volt Typhoon, the Energy Department reconsidered how it searches infrastructure for these threats and tailors guidance for the industry on how to respond. The Energy Department's ability to work with the private sector is especially important to address these sorts of threats. The Energy Department offers information sharing platforms for cyber threats including one for manufacturers to communicate about threats such as firmware and chips.<sup>1172</sup> CESER conducts cyber-attack exercises with utilities and works with the Defense Department to prepare for attacks on U.S. energy and map the vulnerabilities—physical and cyber—in critical infrastructure.<sup>1173</sup>

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<sup>1164</sup> *Id.*

<sup>1165</sup> *Id.*

<sup>1166</sup> 2023 ODNI Annual Threat Assessment, *supra* note 585, at 10.

<sup>1167</sup> See David Jones, *China-linked hackers primed to attack US critical infrastructure, FBI director says*, Cybersecurity Dive (Feb. 1, 2024); see also *supra*, Section III. C. Federal Bureau of Investigation.

<sup>1168</sup> *Id.*

<sup>1169</sup> *Id.*

<sup>1170</sup> Energy Briefing.

<sup>1171</sup> *Id.*

<sup>1172</sup> *Id.*

<sup>1173</sup> *Id.*

## Committee Recommendations

The Energy Department has a number of positive initiatives to protect American interests from China, and notably, a team of China experts. When briefing the Committee, Energy Department officials were also willing to discuss the PRC as unique from other countries of concern, however, the department refuses to set China apart in practice.<sup>1174</sup> China and the United States are in a race to be the leading energy superpower with massive consequences for the livelihoods of Americans and their safety. The Energy Department, which houses agencies integral for U.S. national defense, heating American homes, and filling up gas tanks, should focus its expertise on efforts to explicitly counter China’s destructive rise as an energy superpower.

As Dr. Atkinson testified to the Committee, “The Department of Energy is often concerned with spreading advanced clean energy technology throughout the world, not on limiting China’s access to our technology.”<sup>1175</sup> It must prioritize energy security for America. The Committee therefore makes the following recommendations:

- Update the Energy Department’s mission statement to prioritize energy security.
  - This change would further the Department’s essential responsibilities to the American people—to secure U.S. national laboratories, the electric grid, and ensure that the Department is not using U.S. taxpayer dollars to advance China’s economic competitiveness or national defense goals.
- Using existing authorities, the Energy Department should establish an office that focuses on the energy, security, and economic challenges of competing with China.
  - The office should prioritize protecting U.S. economic competitiveness and national security. The office should review policies, guidance, and regulations with the opportunity to provide input on how those acts affect American competitiveness versus China.

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<sup>1174</sup> *Id.*

<sup>1175</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF ENERGY

Subject	Grade
Acknowledgment and Understanding of CCP Unrestricted Warfare, Infiltration and Influence Operations, and/or Relevant Form of CCP Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

The Energy Department has relevant expertise. The Office of Cybersecurity, Energy Security, and Emergency Response (CESER) is proactive and collaborative. CESAR reacted to Volt Typhoon by changing its practices in regards to searching for and defending against cyberattacks. CESAR earns the agency some good marks, but the rest of the agency appears to ignore the larger problem of CCP energy warfare. The Energy Department did not provide evidence that it addresses other forms of CCP unrestricted warfare.

## O. U.S. Department of Homeland Security

### The Department of Homeland Security Must Better Protect Americans from CCP Disintegration Warfare Within America's Borders.

- Although the Department of Homeland Security (DHS) has acknowledged the CCP as a threat to America's critical infrastructure,<sup>1176</sup> the agency undercuts efforts to address the threat by similarly naming climate change as a key threat—demonstrating a naïve approach to countering CCP unrestricted warfare.
- DHS has placed China in a position of trust with respect to its deadly role in chemical warfare waged through fentanyl that is targeting America and has minimized the CCP's role in creating and maintaining the fentanyl supply chain.
- By refusing to address the nation's open borders, DHS has facilitated CCP transnational repression, bolstering the Party's efforts to illegally stalk, harass, and coerce Chinese nationals.

DHS is uniquely positioned to address and defeat the CCP's unrestricted warfare against the United States. Specifically, DHS is the agency charged with protecting the nation's homeland.<sup>1177</sup> DHS's website describes the agency's mission as follows: "With honor and integrity, we will safeguard the American people, our homeland and our values."<sup>1178</sup> As part of its unrestricted warfare against America, the CCP aggressively targets America's critical infrastructure with cyberattacks intended to destroy the nation and the American way of life,<sup>1179</sup> facilitates the manufacture of fentanyl precursors and enables the trafficking of fentanyl into the country,<sup>1180</sup> and exploits Chinese nationals on American soil<sup>1181</sup>—something made significantly easier due to lax enforcement of the U.S. border.

On July 18, 2024, the Committee requested a briefing from DHS to learn about DHS's response to CCP warfare tactics and how DHS is conducting outreach to Americans about the CCP threat.<sup>1182</sup> On August 29, 2024, DHS provided a briefing attended by the following subject

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<sup>1176</sup> U.S. Dep't of Homeland Sec., Memorandum for Distribution, *Strategic Guidance and National Priorities for U.S. Critical Infrastructure Security and Resilience* (June 14, 2024) ("Energy grids, water and wastewater systems, transportation networks, healthcare facilities, communication networks, and other essential systems are vital for public safety, economic security, and national security. The increasing interconnectivity of critical infrastructure systems and reliance upon global technologies and supply chains make these systems susceptible to a myriad of threats.") ("DHS Guidance"); see also Justin Doubleday, *DHS names China, AI, cyber standards as key priorities for critical infrastructure*, Federal News Network (June 20, 2024) ("[a]gencies that oversee critical infrastructure should address threats posed by China and work to establish baseline cybersecurity requirements over the next two years.").

<sup>1177</sup> U.S. Dep't of Homeland Sec., Mission (last accessed Sept 16, 2024).

<sup>1178</sup> *Id.*

<sup>1179</sup> See *infra*, Section III. S. U.S. Department of Transportation.

<sup>1180</sup> See *supra*, Section III. B. Drug Enforcement Administration.

<sup>1181</sup> See *supra*, *id.*

<sup>1182</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Sec. (July 18, 2024) ("DHS Letter").



matter experts: International Affairs Policy, Countering Transnational Organized Crime Policy, Screening and Vetting Policy, Border Policy, Cyber, Infrastructure, Risk and Resilience Policy, Trade and Economic Security Policy, and Forced Labor Task Force Policy.<sup>1183</sup> The offices present at the briefing reflect DHS’s broad authorities and the tools available to the agency to counter the CCP’s unrestricted warfare.

### DHS Identifies China as a Threat to U.S. Critical Infrastructure but Fails to Sufficiently Counter the CCP Cyber Warfare Threat.

The CCP’s cyber warfare targeting of U.S. critical infrastructure is playing out in real time.<sup>1184</sup> U.S. cybersecurity officials have cautioned that China’s cyber-espionage and sabotage capacities are an “*epoch-defining threat*.”<sup>1185</sup> FBI Director Wray has warned that Chinese hackers are developing the “ability to physically wreak havoc on our critical infrastructure at a time of its choosing”<sup>1186</sup> and “[t]he FBI worries what this sprint means for our country’s critical infrastructure, since ‘these vital sectors—everything from water treatment facilities and energy grids to transportation and information technology—form the backbone of our society.’”<sup>1187</sup>

DHS is the only federal agency that told the Committee it made the deliberate decision to specifically name China as a threat to U.S. critical infrastructure instead of adopting a country agnostic approach.<sup>1188</sup> DHS explained that the cybersecurity environment is undergoing a significant change, shifting away from its historical focus on big data towards an approach that is focused on critical infrastructure security and resilience.<sup>1189</sup> The agency is especially focused on the threat posed by nation-state actors, such as the PRC.<sup>1190</sup> DHS informed the Committee that naming China in the agency’s *Strategic Guidance and National Priorities for U.S. Critical Infrastructure Security and Resilience (2024-2025)* (DHS Guidance)<sup>1191</sup> was a deliberate decision, and the failure to do so would have given the PRC tacit permission to continue as a bad actor in this space.<sup>1192</sup>

The DHS Guidance designates five priority risk areas that pose a danger to the nation’s critical infrastructure.<sup>1193</sup> It mentions the PRC first, advising stakeholders to, “[a]ddress cyber

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<sup>1183</sup> Briefing from U.S. Dep’t of Homeland Sec. officials to Oversight & Accountability Committee staff (Aug. 29, 2024) (“DHS Briefing”).

<sup>1184</sup> See Stephen Weber, *Threats to America’s critical infrastructure are now a terrifying reality*, The Hill (Feb. 11, 2024).

<sup>1185</sup> Rohan Goswami, ‘Aggressive’ China cyberattacks are the ‘defining threat’ of our time, top U.S. cyber official says, CNBC (June 13, 2023) (emphasis added) (A U.S. cybersecurity official “warn[ed] that in the event of open warfare ‘aggressive cyber operations’ would threaten critical U.S. transportation infrastructure ‘to induce societal panic.’”).

<sup>1186</sup> Brie Stimpson, *Chinese hackers preparing to ‘physically wreak havoc’ on US critical infrastructure*, Fox News (Apr. 19, 2024).

<sup>1187</sup> Wray, *Chinese Government Poses ‘Broad and Unrelenting’ Threat to U.S. Critical Infrastructure*, *supra* note 489.

<sup>1188</sup> DHS Briefing.

<sup>1189</sup> *Id.*

<sup>1190</sup> *Id.*

<sup>1191</sup> DHS Guidance, *supra* note 1176, at 2.

<sup>1192</sup> DHS Briefing.

<sup>1193</sup> DHS Guidance, *supra* note 1176, at 2.

and other threats posed by the People's Republic of China (PRC).”<sup>1194</sup> In line with FBI Director Wray’s warnings about PRC cyberattacks, the DHS Guidance reads, “[t]he U.S. Intelligence Community has provided public warnings about the PRC’s capability to launch cyberattacks on U.S. critical infrastructure and its willingness to target defense critical infrastructure (DCI) and other key critical infrastructure systems and assets to achieve its long-term strategic objectives.”<sup>1195</sup> While DHS deserves credit for naming China as a cybersecurity threat, not everyone at the agency was supportive of this approach, which could pose a problem in the future. Specifically, DHS told the Committee there was an internal debate about naming the PRC and that calling out the PRC was outside the comfort zone of many people at the agency.<sup>1196</sup>

Despite naming the PRC as a cyber threat, the DHS Guidance hinders government and private sector stakeholders from properly addressing the threat because it designates climate change as one of the five priority risk areas.<sup>1197</sup> The DHS Guidance directs stakeholders to “[i]ncorporate climate risks into sector resilience efforts” and highlights elevated climate concerns in Executive Order 14008 on *Tackling the Climate Crisis at Home and Abroad* as “an essential element of U.S. national security.”<sup>1198</sup> While the Biden-Harris Administration is fixated on climate change and directing stakeholders across government agencies and in the private sector to develop risk management plans based on DHS Guidance prioritizing climate change, the PRC continues to prioritize weakening America.<sup>1199</sup> In fact, the PRC is well-known as a climate offender. According to the Trump Administration’s State Department:

The People’s Republic of China (PRC) is the world’s largest emitter of greenhouse gases; the largest source of marine debris; the worst perpetrators of illegal, unreported, and unregulated (IUU) fishing; and the world’s largest consumer of trafficked wildlife and timber products. While the Chinese people have suffered the worst environmental impacts of its actions, Beijing also threatens the global economy and global health by unsustainably exploiting natural resources and exporting its willful disregard for the environment through its One Belt One Road initiative.<sup>1200</sup>

In addition to having an abysmal environmental record, the CCP has weaponized climate change against America. The United States is dependent on the PRC for the very items necessary to transition to green energy.<sup>1201</sup> Even worse, these items, including solar panels and

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<sup>1194</sup> *Id.*

<sup>1195</sup> *Id.*

<sup>1196</sup> DHS Briefing.

<sup>1197</sup> DHS Guidance, *supra* note 1176, at 3.

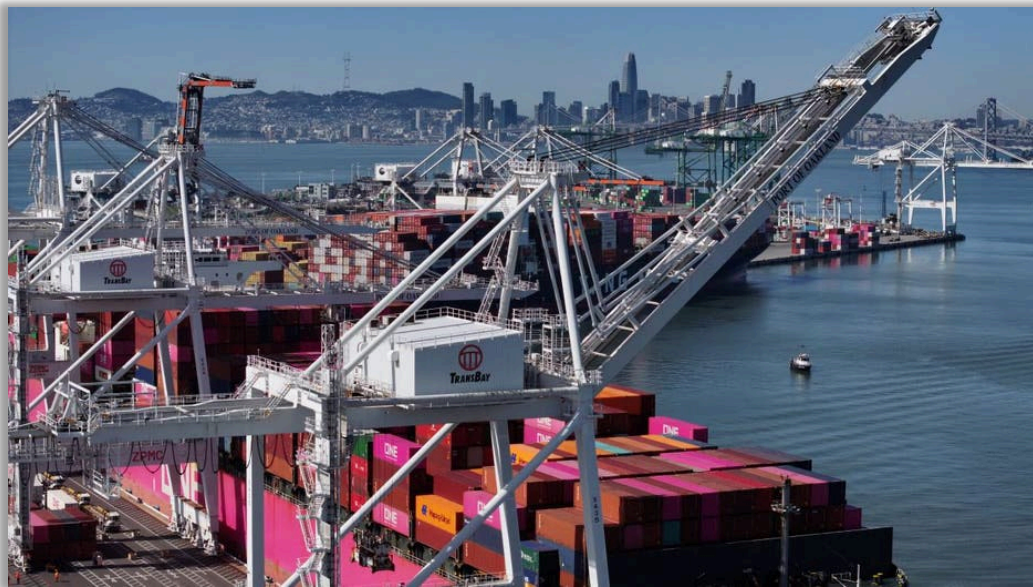
<sup>1198</sup> *Id.* (“Intensifying threats from climate change to our nation's critical infrastructure include extreme cold and heat, flooding, drought, sea-level rise, thawing permafrost, and wildfires in addition [to the increased frequency and severity of hurricanes and other storms.]”).

<sup>1199</sup> See CCP Political Warfare Hearing II (written testimony of Captain Fanell).

<sup>1200</sup> U.S. Dep’t of State, Archives, The Chinese Communist Party: Threatening Global Peace and Security, *China’s Environmental Abuses* (Jan. 20, 2017 to Jan. 20, 2021).

<sup>1201</sup> See Ana Swanson & Chris Buckley, *Red Flags for Forced Labor Found in China’s Car Battery Supply Chain*, N.Y. Times (updated Nov. 4, 2022) (“Trade experts have estimated that thousands of global companies may actually have some link to Xinjiang in their supply chains. If the United States fully enforces the [Uyghur Forced Labor

electric car batteries,<sup>1202</sup> are produced in China’s Xinjiang region, an area known for serious human rights violations against the “Uyghurs, ethnic Kazakhs and members of other largely Muslim minorities.”<sup>1203</sup> According to DHS, the Xinjiang region is where the PRC undertakes some of the most egregious activities anywhere in the world because China believes the people in this region are disposable.<sup>1204</sup> Yet the agency prioritizes climate change and the PRC as co-equal threats to U.S. critical infrastructure and cyber threats. DHS told the Committee that when it comes to cybersecurity, offense has the advantage over defense.<sup>1205</sup> However, until DHS elevates the cyber threat posed by the PRC above climate change and refocuses government and private sector stakeholders, the agency will remain on defense, unable to fully secure the homeland.



Source: Eric Revell, *Chinese crane firm denies posing security risk at US ports amid investigation*, Fox Business (Mar. 10, 2024).

DHS has failed to fully investigate possible CCP cyber warfare at America’s ports, further emboldening the CCP’s unrestricted warfare. For more than a year, news reports have highlighted concerns within the U.S. national security industry that PRC manufactured ship-to-shore cranes “could give Beijing a possible spying tool hiding in plain sight.”<sup>1206</sup> According to these reports, “[s]ome national-security and Pentagon officials have compared ship-to-shore

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Prevention Act], it could result in many products being blocked at the border, including those needed for electric vehicles and renewable energy projects. Some administration officials raised objections to cutting off shipments of all Chinese goods linked with Xinjiang, arguing that it would be disruptive to the U.S. economy and the clean energy transition.”).

<sup>1202</sup> *Id.*

<sup>1203</sup> *Id.*

<sup>1204</sup> DHS Briefing.

<sup>1205</sup> *Id.*

<sup>1206</sup> Aruna Viswanatha, et al., *Pentagon Sees Giant Cargo Cranes as Possible Spying Tools*, Wall St. J. (Mar. 5, 2023) (“In 2021, FBI agents searched a cargo ship delivering ZPMC cranes to the Baltimore port and found intelligence-gathering equipment on board [.]”).

cranes made by the China-based manufacturer, Shanghai Zhenhua Heavy Industries Co. Ltd. (ZPMC), to a Trojan horse.”<sup>1207</sup> Further, the House Committee on Homeland Security and the Select Committee on Strategic Competition between the United States and the Chinese Communist Party wrote to ZPMC as follows:

Over the course of our 8-month joint investigation, the Committees engaged with several U.S. maritime ports and U.S. federal law enforcement agencies, requesting documents and information through public and non-public oversight inquiries. Analysis of this material has led us to conclude that ZPMC installed certain components onto U.S.-bound STS [ship-to-shore] cranes and onshore maritime infrastructure that are outside of any existing contract between ZPMC and U.S. maritime ports. These components do not appear in any way to contribute to the operation of the STS cranes or onshore infrastructure, raising significant questions as to their intended applications.<sup>1208</sup>

Because of these concerns, the Committee asked the agency for answers about the threat posed by PRC ship-to-shore (STS) cranes.<sup>1209</sup> Despite the Committee’s stated interest in this issue, DHS did not bring a subject matter expert from the U.S. Coast Guard (USCG) to the agency’s briefing with the Committee.<sup>1210</sup>

The Committee asked DHS what the agency is doing to ensure Chinese-manufactured ZPMC STS cranes are not being weaponized to spy on the United States.<sup>1211</sup> DHS responded that the USCG was tasked to investigate whether ZPMC cranes were being used by the CCP to spy on America.<sup>1212</sup> DHS explained that the USCG went on-site to ports that use ZPMC STS cranes and inspected approximately 50 percent of the cranes.<sup>1213</sup> Importantly, DHS told the Committee the USCG was required to get permission prior to conducting on-site inspections of ZPMC cranes.<sup>1214</sup> Despite the requirement for advance notice to conduct inspections, which could include notification to the CCP,<sup>1215</sup> and inspecting only 50 percent of ZPMC cranes, DHS

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<sup>1207</sup> *Id.*

<sup>1208</sup> Letter from Mike Gallagher, et al., Chairman, H. Sel. Comm. on the Chinese Communist Party and Mark Green, et al., Chairman, H. Comm. on Homeland Sec., Subcomm. on Transp., to Richard Pope, President, ZPMC USA and Liu Chengyun, Chairman and President, ZPMC China (Feb. 29, 2024).

<sup>1209</sup> DHS Letter (“How DHS and its component agencies are working to mitigate risks of CCP state owned STS cranes at American shipping ports in response to the Executive Order No. 14116 and how affected workers are informed of this threat.”).

<sup>1210</sup> Email from Dep’t of Homeland Sec. to Oversight & Accountability Committee staff (Aug. 27, 2024); DHS Briefing.

<sup>1211</sup> DHS Briefing.

<sup>1212</sup> *Id.*

<sup>1213</sup> *Id.*

<sup>1214</sup> *Id.*

<sup>1215</sup> Viswanatha, et al., *supra* note 1206 (“The huge cranes are generally delivered to U.S. ports fully assembled on ships and are operated through Chinese-made software. In some cases, U.S. officials said, they are supported by Chinese nationals working on two-year U.S. visas, factors they described as potential avenues through which intelligence could be collected.”) (emphasis added).

assured the Committee that ZPMC cranes do not pose a security threat.<sup>1216</sup> These circumstances are concerning because advance notice may have given the CCP an opportunity to conceal nefarious activities. Even worse, according to a news report, in a 2017 video ZPMC’s former chairman and president admitted, “[t]hrough our main office in Shanghai, you can monitor all the cranes’ to help troubleshoot.”<sup>1217</sup> As a result, advance notice may also have provided the CCP an opportunity to spy on law enforcement and the USCG when they inspected the cranes. Further, a recent congressional report concluded:

ZPMC has repeatedly requested remote access to its STS cranes operating at various U.S. ports, with a particular focus on those located on the West Coast. If granted, this access could potentially be extended to other PRC government entities, posing a significant risk due to the PRC’s national security laws that mandate cooperation with state intelligence agencies.<sup>1218</sup>

However, DHS also told the Committee that although law enforcement and the USCG did not find any vulnerabilities with the cranes, it is important to remain vigilant.<sup>1219</sup> DHS was unable to explain to the Committee how the USCG worked with the U.S. Maritime Administration (MARAD) at the nation’s ports to address the ZPMC crane threat, even though MARAD wrote the report about the cybersecurity and national security threats posed to U.S. infrastructure by ZPMC cranes.<sup>1220</sup>

DHS focuses on port and maritime infrastructure more than other critical infrastructure,<sup>1221</sup> but the agency is at a standstill with respect to communications and outreach to private sector stakeholders about the CCP threat. In fact, a recent congressional report which highlighted security risks to port and terminal operators posed by ZPMC cranes.<sup>1222</sup> Specifically, the report reads: “[t]he Committees were told by security stakeholders that it is an open secret among ports and terminal operators that throughout the process of procuring a ZPMC crane, they will be pressured to provide remote access—under the auspices of monitoring and diagnostics. Some ports insist on securing their assets, but many cave to the pressure.”<sup>1223</sup> Although DHS participated in two maritime-focused meetings between DHS and Indonesia and Japan to close vulnerabilities in their systems, it appears that private sector stakeholders have not been engaged.<sup>1224</sup> When the Committee asked the agency about its outreach to port and maritime stakeholders, DHS told the Committee that the risk tolerance and priorities about

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<sup>1216</sup> DHS Briefing.

<sup>1217</sup> Viswanatha, et al., *supra* note 1206.

<sup>1218</sup> H. Homeland Sec. Comm. and H. Select Comm. on the CCP, Handling Our Cargo: How the People’s Republic of China Invests Strategically in the U.S. Maritime Industry, Majority Staff Report, at 7 (Sept. 12, 2024) (“Report: How the PRC Invests Strategically in the U.S. Maritime Industry”).

<sup>1219</sup> DHS Briefing.

<sup>1220</sup> *Id.*; U.S. Dep’t of Transp., Maritime Admin., Off. Of Chief Counsel, 2024 MARAD Study of Cybersecurity and Nat’l Security Threats, *Study Of Cybersecurity and Nat’l Sec. Threats Potentially Posed By Foreign Manufactured Cranes At United States Ports*, (last accessed Sept. 22, 2024).

<sup>1221</sup> DHS Briefing.

<sup>1222</sup> Report: How the PRC Invests Strategically in the U.S. Maritime Industry, *supra* note 1218, at 29.

<sup>1223</sup> *Id.*

<sup>1224</sup> *Id.*

protecting critical infrastructure differ, depending on the ownership structure at ports.<sup>1225</sup> DHS explained that many private stakeholders in the port and maritime industry are unlikely to view CCP cyberattacks as one of their biggest threats, but noted that government entities might feel differently.<sup>1226</sup> Further, when the Committee asked the agency about its plans to address the impacts of a cyber-attack at a port and its potential to have a cascading impact across a number of critical infrastructure sectors, including highways and railroads, especially since the CCP has a monopoly on the production of shipping containers,<sup>1227</sup> DHS admitted that it had not considered the cascading impact and that it was an interesting point and something to consider.<sup>1228</sup> DHS's statements are especially concerning in light of a recent CISA report, which warned "[p]hishing, stolen credentials, and other lapses in basic cybersecurity continue to be a primary avenue available to hackers, including China-linked threat groups such as 'Volt Typhoon,' looking to infiltrate U.S. critical infrastructure networks."<sup>1229</sup> Further, on September 23, 2024, the Biden-Harris Administration raised the alarm about the serious threat posed by CCP cyber warfare.<sup>1230</sup> Based on a U.S. government investigation that began in February 2024,<sup>1231</sup> the Commerce Department proposed "a ban on the sale or import of smart vehicles that use specific Chinese [] technology because of national security concerns[.]"<sup>1232</sup> According to Secretary of Commerce Gina Raimondo, "[i]n extreme situations, a foreign adversary could shut down or take control of all their vehicles operating in the United states, all at the same time, causing crashes (or) blocking roads."<sup>1233</sup>

While DHS deserves credit for not adopting a country agnostic approach to China related to cybersecurity and U.S. critical infrastructure, its failure to execute an effective strategy to thwart CCP cyber warfare is unacceptable.

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<sup>1225</sup> *Id.*

<sup>1226</sup> *Id.*

<sup>1227</sup> Fed. Mar. Comm'n, *Assessment of P.R.C. Control of Container and Intermodal Chassis Manufacturing Final Report*, at 3 ("[t]he fact that the PRC controls an industry that has a near de facto worldwide monopoly in the production of shipping containers should be deeply concerning.")

<sup>1228</sup> *Id.*

<sup>1229</sup> Justin Doubleday, *CISA review: 'Low hanging' cyber lapses plague critical infrastructure*, Fed. News Network (Sept. 13, 2023) ("One of the challenges we have is to change the mindset, particularly within organizations that are not associated with national security, typically that are outside of the federal or even state governments.") (statement of Chris Hilde, chief of risk insights within CISA's vulnerability management branch); *see also* CISA Analysis: Fiscal Year 2023 Risk and Vulnerability Assessments (Sept. 2024) (last accessed Sept. 16, 2024).

<sup>1230</sup> Sean Lyngaas & Kyle Feldscher, *US proposes ban on smart cars with Chinese and Russian tech*, CNN Business (updated Sept. 23, 2024).

<sup>1231</sup> *Id.* ("A US government investigation that began in February found a range of national security risks from embedded software and hardware from China [] in US vehicles, including the possibility of remote sabotage by hacking and the collection of personal data on drivers, Secretary of Commerce Gina Raimondo told reporters Sunday in a conference call.")

<sup>1232</sup> *Id.* ("The Commerce Department's proposed rule is on 'connected vehicles,' a broad term for virtually any modern car, bus or truck that uses network connections for roadside assistance, satellite communications or a range of other features. *It covers hardware and software that interact with key technology that allows a vehicle to communicate with the outside world, such as Bluetooth, WiFi and cellular technology.*") (emphasis added).

<sup>1233</sup> *Id.*

## DHS Has Placed the CCP in a Position of Trust When Combatting CCP Chemical Warfare.

DHS is naive about the CCP's deadly chemical warfare against the United States. Although DHS told the Committee the world is a different and more dangerous place due to the proliferation of synthetic drugs such as fentanyl, the agency's approach to solving the nation's fentanyl overdose crisis is to place the CCP in a position of *trust*.<sup>1234</sup> DHS told the Committee that the PRC's reputation is a leverage point on the world stage, and the agency's engagement with the PRC to stop the flow of fentanyl from China to other nations was facilitated through trust-building and exchanging information.<sup>1235</sup> While the Committee agrees that engaging with the PRC to stop the flow of fentanyl is necessary, DHS must adopt a trust but verify approach with China. As former Secretary of State Mike Pompeo warned, "[t]he old paradigm of blind engagement with China simply won't get it done."<sup>1236</sup>

DHS has also adopted a country agnostic approach to this critical issue, making a point to emphasize to the Committee that although China is a key part of the drug problem, other parts of the world are involved as well.<sup>1237</sup> While other nations have a direct role in the fentanyl crisis,<sup>1238</sup> DHS should consider calling out the PRC for its role in creating and maintaining the fentanyl supply chain. DHS informed the Committee the agency has formed a coalition of 100 nations to address the fentanyl crisis on a global scale.<sup>1239</sup> According to DHS, China first engaged with the United States about the PRC's involvement in the fentanyl crisis in late 2023.<sup>1240</sup> In early 2024, DHS successfully brought the PRC to the negotiating table to discuss how to reduce the manufacturing and sale of synthetic precursor chemicals and pill presses which originate in China.<sup>1241</sup> DHS admitted, however, that China only agreed to participate in the global fentanyl coalition, because the PRC was concerned about its image as an outsider and did not want to be known as the world's drug supplier.<sup>1242</sup> According to DHS, the PRC has issued notices to private industries in China alerting these companies they will be shut-down if they are involved in manufacturing or supplying fentanyl to other nations.<sup>1243</sup>

Despite DHS's statements about the agency's efforts to address the fentanyl crisis and the PRC's promises to cooperate with DHS to stem the tide of deadly fentanyl from China, the crisis has continued unabated. It has been reported that as recently as April 2024, a bipartisan congressional report confirmed "that the Chinese government bureaucracy is aiding the production and export of fentanyl-related substances," and "researchers found companies making fentanyl precursors and analogues could apply for state tax rebates and other financial benefits after exporting the product."<sup>1244</sup> In fact, according to these same reports, "[r]ather than investigating drug traffickers, [Chinese] security services have not cooperated with U.S. law

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<sup>1234</sup> DHS Briefing.

<sup>1235</sup> *Id.*

<sup>1236</sup> Matthew Lee, *At Nixon library, Pompeo declares China engagement a failure*, Associated Press (July 23, 2020).

<sup>1237</sup> DHS Briefing.

<sup>1238</sup> *See supra*, Section III. B. Drug Enforcement Administration.

<sup>1239</sup> DHS Briefing

<sup>1240</sup> *Id.*

<sup>1241</sup> *Id.*

<sup>1242</sup> *Id.*

<sup>1243</sup> *Id.*

<sup>1244</sup> Brian Mann & Emily Feng, *Report: China continues to subsidize deadly fentanyl exports*, NPR (Apr. 16, 2024); *see also* Select Comm. on the CCP: The CCP's Role in the Fentanyl Crisis, *supra* note 377.

enforcement, and have even notified targets of U.S. investigations when they received requests for assistance.”<sup>1245</sup>

DHS’s “trust and information exchange” and country agnostic response to CCP-backed chemical warfare has given the Party implicit permission to continue facilitating the fentanyl crisis. Although DHS told the Committee that China has a role in the crisis,<sup>1246</sup> the agency neglected to mention the CCP’s role at the front end of the fentanyl supply chain.<sup>1247</sup> According to DHS, fentanyl moves on the back of legitimate supply chains and not all entities involved in the synthetic drug supply chain are aware that what they are doing might be illegal.<sup>1248</sup> As an example of this, DHS pointed to entities that manufacture and sell pill presses.<sup>1249</sup> The agency also mentioned that many entities involved in the synthetic drug supply chain never meet face-to-face because the transactions occur online.<sup>1250</sup> DHS also pointed to its own successes related to the fentanyl supply chain. DHS told the Committee the agency has seized more fentanyl in the last three years than in the last five years combined.<sup>1251</sup> Specifically, DHS has seized 2,200 pill presses and 738 million doses of fentanyl.<sup>1252</sup>

DHS’s claims, however, reinforce the continued severity of the fentanyl crisis and do not adequately address the reality that China bears great responsibility for the synthetic fentanyl drug supply chain. Specifically, the CCP helped create and continues to facilitate and maintain the deadly fentanyl supply chain that killed 74,702 Americans in 2023.<sup>1253</sup> According to the DEA, in 2016 and 2017, “China was the source of 97 percent of inbound shipments of high-purity fentanyl.”<sup>1254</sup> Recent DEA reporting highlights the close relationship between China and Mexican drug cartels,<sup>1255</sup> explaining, “China-based suppliers are still the main source for the

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<sup>1245</sup> *Id.*

<sup>1246</sup> DHS Briefing.

<sup>1247</sup> *Id.*

<sup>1248</sup> *Id.*

<sup>1249</sup> *Id.*

<sup>1250</sup> *Id.*

<sup>1251</sup> *Id.*

<sup>1252</sup> *Id.*

<sup>1253</sup> See *supra*, Section III. B. Drug Enforcement Administration; Office of Communication, *U.S. Overdose Deaths Decrease in 2023, First Time Since 2018*, DEA (May 15, 2024); see also Select Comm. on the CCP: The CCP’s Role in the Fentanyl Crisis, *supra* note 377, at 2; U.S. Dep’t of Justice, Drug Enforcement Admin., Nat’l Drug Threat Assessment 2018, at 35 (Oct. 2018).

<sup>1254</sup> George Serletis, *Deadly High-purity Fentanyl from China is Entering the U.S. through E-commerce Channels*, U.S. Int’l Trade Comm’n, at 1 (2019); see also U.S. Dep’t of Justice, Drug Enforcement Admin., Nat’l Drug Threat Assessment 2018, at 33 (Oct. 2018) (“DEA reporting also indicates Mexican traffickers order fentanyl from China, adulterate it, and smuggle it into the United States themselves, meaning an unknown amount of seized Mexican parcels containing fentanyl are ultimately of Chinese origin. In addition, Mexican traffickers’ primary source of supply for fentanyl precursor chemicals is also China.”); see also Zongyuan Zoe Lie, *On Fentanyl, Biden Should Look to Work With China*, Council on Foreign Relations (Apr. 1, 2024) (“Since 2019, the supply of fentanyl from China directly to the United States has ‘decreased substantially,’ as noted in the U.S. 2020 National Drug Threat Assessment. However, chemicals used to synthesize and produce fentanyl (known as fentanyl precursors or pre-precursors) in Mexico and other Central American countries have continued to originate from China, as reported in the 2023 International Narcotics Control Strategy Report published by the U.S. Department of State.”).

<sup>1255</sup> U.S. Dep’t of Justice, Drug Enforcement Admin, Nat’l Drug Threat Assessment 2024, at 5, 7 (“[t]he Sinaloa Cartel has built a mutually profitable partnership with China-based precursor chemical suppliers to obtain the ingredients they need to make synthetic drugs, and with Chinese money laundering organizations (MLOs) to return



precursor chemicals used by the cartels in Mexico to produce illicit fentanyl and methamphetamine[.]”<sup>1256</sup> Further, the Biden-Harris Administration’s wide-open southern border has enabled the constant flow of these deadly drugs into the nation.<sup>1257</sup> According to former DEA official Derek Maltz, the CCP is “taking total advantage of the weaknesses in our country – the lack of security and policies that would otherwise keep this stuff [fentanyl] out of our country.”<sup>1258</sup> For example, *Reuters* found that “[s]ome Chinese chemical suppliers are so confident the precursors they sell will evade detection [from U.S. authorities] that they offer a free replacement if authorities nab a shipment.”<sup>1259</sup>

DHS must hold the Party accountable for its direct role in contributing to the deaths of hundreds of thousands of Americans. The consequences of failing to do so are dire. It has been reported that “[o]verdose deaths from the fentanyl crisis, which began about a decade ago, . . . keep climbing.”<sup>1260</sup> *Reuters* recently reported that “[b]y the end of this year, the synthetic opioid epidemic is expected to have claimed nearly half a million American lives, according to the latest government forecast. That death toll already exceeds the number of U.S. soldiers killed in the Second World War.”<sup>1261</sup>

### DHS’s Failure to Address Illegal Immigration Enables CCP Unrestricted Warfare on American Soil.

DHS’s “trust the PRC” attitude has carried over to the agency’s efforts to combat the illegal immigration crisis, of which the Chinese population is among the fastest growing nationality.<sup>1262</sup> DHS blamed other nations and the rise in new technology and new transportation methods for the Biden-Harris Administration’s failure to protect the nation’s borders and the

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‘clean’ drug proceeds to the cartel in Mexico.” and “[d]espite controls levied by both the Mexican and Chinese governments, the flow of precursor chemicals into Mexico continues unabated.”).

<sup>1256</sup> *Id.* at 7 (“India is also emerging as a major source country for these chemicals.”).

<sup>1257</sup> *Id.* at 20 (“China-based chemical suppliers are the main source of the chemicals used in the production of illicit fentanyl. The Sinaloa and Jalisco cartels manufacture fentanyl in clandestine labs they oversee in Mexico, in both powder form and pressed into fake pills, and traffic it into the United States through any of the many entry points they control.”).

<sup>1258</sup> *See supra*, section III. B. Drug Enforcement Administration; *see also The Cartel Connection: Derek Maltz Sheds Light on the Border & Fentanyl Pandemic*, Federal Newswire (Oct. 26, 2023) (“That’s why we’re seeing the death rates going up because the cartels are operating with impunity at the border. They have the entire border controlled and they’re bombing our cities with a tsunami of these deadly substances. Not just the fake pills but the powder that they’re making in the labs in Mexico that is now being mixed and made into pills in America.”).

<sup>1259</sup> Drazen Jorgic, et al., *Fentanyl Express, Part 2: How fentanyl traffickers are exploiting a U.S. trade law to kill Americans*, *Reuters* (Oct. 1, 2024).

<sup>1260</sup> *Id.*

<sup>1261</sup> *Id.*

<sup>1262</sup> Sharyn Alfonsi, *Chinese migrants are the fastest growing group crossing from Mexico into U.S. at southern border*, CBS News (Feb. 4, 2024) (“The number of migrants arriving at the southern border is unprecedented. Last year, U.S. Customs and Border Protection recorded two-and-a-half million instances of detaining or turning away people attempting to cross into the United States from Mexico. So what’s the fastest growing group among them? Chinese migrants. Yes, you heard that right. . . . Chinese” and “We were surprised to see the number of people coming through from China...nearly 7,000 miles away. Our cameras, and at one point this armed Border Patrol agent standing 25 feet away.... did not deter them.”); *see also* News, H. Comm. on Homeland Sec’y, STARTLING STATS FACTSHEET: Encounters of Chinese Nationals Surpass All Fiscal Year 2023 at the Southwest Border (Apr. 18, 2024) (“Encounters of Chinese nationals in March 2024 increased over 8,000 percent compared to March 2021, and have surpassed all of last fiscal year—just six months into FY24.”).

American homeland from CCP unrestricted warfare. Further, the “overwhelming majority of these Chinese migrants are military-age males.”<sup>1263</sup> According to news reports, as of May 2024, “the San Diego sector in Southern California has encountered more than 30,000 Chinese illegal immigrants at the border since October 1.”<sup>1264</sup> This number represents “a 8,600 [percent] increase over all fiscal year 2021, when only 342 Chinese nationals were nabbed across the entire southern border.”<sup>1265</sup>

Despite these alarming numbers, DHS has refused to acknowledge or take action to address the dire situation at the nation’s borders. In fact, DHS Secretary Mayorkas’s actions have aided the CCP’s unrestricted warfare on American soil,<sup>1266</sup> creating a humanitarian crisis that is a direct threat to national security.<sup>1267</sup> DHS claimed that according to U.S. Customs and Border Protection, no Chinese terrorists have come across the border and that none of the Chinese nationals crossing the border are on the terror watch list.<sup>1268</sup> The CCP, however, through its united front work, regularly targets Chinese immigrants in the United States to further its agenda and undermine America’s security.<sup>1269</sup> It has been explained that “to maintain power, the CCP needs the soft power United Front efforts offer to expand and maintain its support, both among the people of China and those outside its borders.”<sup>1270</sup> Further, public reports confirm the Biden-Harris Administration’s DHS has failed to properly share information about illegal immigrants with U.S. immigration courts<sup>1271</sup> and has released “[n]early 100 illegal immigrants on the terror watch list [] into the United States[.]”<sup>1272</sup> There are also serious questions about

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<sup>1263</sup> Jeremy Hunt, *Chinese Illegal Border Crossings Spike by 7,000 Percent. Only China Knows Why*, Hudson Inst. (May 1, 2024).

<sup>1264</sup> Bradford Betz & Bill Meguin, *CBP nabs more Chinese illegal immigrants at California border*, Fox News (May 26, 2024); see also *National Encounters*, U.S. Cust. & Border Prot. (last accessed Sept. 16, 2024).

<sup>1265</sup> *Id.*

<sup>1266</sup> Simon Hankinson, *Alejandro Mayorkas’s designed failure at the border is disgraceful*, The Hill (Dec. 15, 2023) (“Despite his repeated public claims that ‘the border is closed’ or ‘secure,’ everything Mayorkas has done since assuming office has ensured the opposite. First, he dropped agreements with Mexico and other countries that had effectively deterred fraudulent asylum claims by keeping applicants out of the country while their claims were evaluated. Second, he stopped work on physical barriers at the border that could control and channel illegal entry. Then he took the highly limited parole power in immigration law and abused it to mass-import aliens from favored countries.”); Caroline Downey, *San Diego Declares Humanitarian Crisis as Federal Government Drop Thousands of Migrants on Streets*, Nat’l Review (Sept. 28, 2023) (“The San Diego board of supervisors voted unanimously on Tuesday to declare a humanitarian crisis as thousands of illegal immigrants flooded into the city, courtesy of the federal government.”).

<sup>1267</sup> *Id.*

<sup>1268</sup> DHS Briefing.

<sup>1269</sup> See *supra*, Section II. B. United Front; Section II. E. Protecting the Chinese Diaspora.

<sup>1270</sup> Martin Purbrick, *United Front Work and Beyond: How the Chinese Communist Party Penetrates the United States and Western Societies*, Jamestown Found. (Apr. 12, 2023) (“This can be characterized as a ‘Strategy of Sowing Discord,’ a Chinese proverb that refers to efforts to make internal disputes amongst the enemy so deep that they become distracted from the conflict.”).

<sup>1271</sup> Jennie Taer, *Biden Admin scrambles after at least 6 men on terror watchlist were let into US over the last 2 years*, N.Y. Post (May 28, 2024) (“DHS is supposed to disclose information on even possible terror ties in court, but it appears they failed to do so in certain recent cases. ‘What I suspect happened here is that the current administration’s lax approach to national security bit it in the posterior and in a desperate ‘cover your ass’ move it’s now trying to make it look like it’s closing a loophole that never existed in the first place,’ [former immigration judge Matt] O’Brien said.”).

<sup>1272</sup> Adam Shaw, *Scathing report reveals Biden-Harris admin has released dozens of migrants on terror watchlist into US*, Fox News (Aug. 5, 2024).

whether illegal immigrants can be properly vetted before entering the United States, as background check databases may come up empty if an individual has not been arrested by U.S. law enforcement or is not known by U.S. intelligence agencies. These gaps are especially pronounced in cases where countries, such as the PRC, do not share intelligence information with the United States.

DHS has attempted to mitigate its failures at the border with a litany of excuses. For example, DHS told the Committee the agency's infrastructure was not built to process the number of illegal immigrants crossing the U.S. border.<sup>1273</sup> DHS said the reason for the massive influx of illegal immigrants is that more people are on the move than at any time since World War II.<sup>1274</sup> DHS claimed that historically, the majority of individuals at the border were single males from countries in the Western Hemisphere countries.<sup>1275</sup> The agency explained that this has shifted to family units, and that processing a single family can take an entire border patrol station offline.<sup>1276</sup> DHS also claimed there is more information online about how to travel, as well as increased methods of transportation, such as charter flights.<sup>1277</sup> Finally, DHS blamed countries such as Brazil, Nicaragua and Ecuador<sup>1278</sup> for their visa agreements with the PRC, telling the Committee these visa-free and extended stay visa programs have caused Chinese nationals to cross illegally into the United States.<sup>1279</sup>

DHS informed the Committee the PRC makes it difficult, if not impossible, to remove Chinese nationals from America once they have crossed the border.<sup>1280</sup> DHS considers China uncooperative with respect to removals, and the PRC has refused to abide by international law in this respect.<sup>1281</sup> DHS told the PRC that responsible countries take back their nationals.<sup>1282</sup> Given that the CCP exploits weaknesses in countries it considers a threat to its destructive agenda,<sup>1283</sup> DHS should pay special attention to the alarming rise in illegal immigration of Chinese nationals, and the fact that the majority of the people coming across the border are single, military-aged men.<sup>1284</sup>

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<sup>1273</sup> DHS Briefing.

<sup>1274</sup> *Id.*

<sup>1275</sup> *Id.*

<sup>1276</sup> *Id.*

<sup>1277</sup> *Id.*

<sup>1278</sup> Gonzalo Solano & Didi Tang, *Ecuador stops waiving visas for Chinese nationals because of an increase in irregular migration*, AP News (June 18, 2024) (“The Washington-based think tank Niskanen Center, citing official data by the Ecuadorian government, said that Chinese nationals entered Ecuador 48,381 times in 2023 but only left 24,240 times. The difference of 24,141 was the highest of any nationality, according to Niskanen.”).

<sup>1279</sup> DHS Briefing.

<sup>1280</sup> *Id.*

<sup>1281</sup> *Id.*

<sup>1282</sup> *Id.*

<sup>1283</sup> News, Fed. Bureau of Invest., *The Threat Posed by the Chinese Government and the Chinese Communist Party to the Economic and National Security of the United States* (July 7, 2020) (FBI Director Wray listing the many ways that the CCP seeks to exploit the United States and our openness).

<sup>1284</sup> Hunt, *supra* note 1263.

Illegal immigration also enables CCP transnational repression of Chinese nationals in the United States,<sup>1285</sup> furthering the Party’s goals. Through the UFD and the Ministry of Public Security (MPS), the CCP’s “national police service and domestic security force,”<sup>1286</sup> the PRC engages in campaigns of transnational repression on U.S. soil.<sup>1287</sup> Together, the UFD and the MPS target the Chinese diaspora in the United States through harassment, stalking, and intimidation if they dare to speak out against the PRC or express views that are opposed by the CCP.<sup>1288</sup> Notably, Secretary Mayorkas met with MPS leadership on two occasions in the past year to discuss relations between the United States and the PRC, omitting very important topics such as illegal immigration and transnational repression.<sup>1289</sup> Whether by choice or coercion, Chinese nationals and diaspora are under the constant threat of being co-opted by the CCP to carry out the Party’s goals in the United States.

### Committee Recommendations

DHS leadership has placed the CCP, a communist regime whose goal is to destroy the United States, in a position of trust with respect to America’s national security interests. Although DHS named the PRC as a direct threat to U.S. critical infrastructure and cybersecurity, the agency undercut this effort by also naming climate change as a top priority for “improving the security and resilience of our nation’s critical infrastructure[.]”<sup>1290</sup> Further, the agency has adopted a country agnostic approach to the deadly fentanyl crisis, minimizing the CCP’s direct role in creating and maintaining the fentanyl supply chain. Finally, DHS has empowered the CCP’s unrestricted warfare on American soil by refusing to take action to address the nation’s open borders and failing to properly vet illegal immigrants.

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<sup>1285</sup> Didi Kirsten Tatlow, *China’s Global Repression a Risk for the US: Commission Advising Congress*, Newsweek (Dec. 13, 2023) (According to a report from the U.S.-China Economic and Security Review Commission, “China’s global efforts to suppress dissent, forcibly repatriate people, and engage in extraterritorial law enforcement actions violate the sovereignty of countries around the world, threaten the rights of their citizens and residents, and undermine international law enforcement organizations and agreements.”).

<sup>1286</sup> Jordan Link, *The Expanding International Reach of China’s Police*, Center for American Progress (Oct. 17, 2022) (“The Chinese Communist Party (CCP) is using China’s Ministry of Public Security (MPS), its national police service and domestic security force, across the globe in ways that threaten U.S. national security interests by influencing security sector governance to undermine respect for the rule of law and human rights. Under Chinese President Xi Jinping, the MPS has significantly expanded its overseas activities, increasingly using security cooperation as a tool to expand its influence and shape global norms.”).

<sup>1287</sup> Press Release, U.S. Dept. of Just., 40 Officers of China’s National Police Charged in Transnational Repression Schemes Targeting U.S. Residents (Apr. 17, 2023); *Living outside China has become more like living inside China*, Economist (Feb. 26, 2024) (“The influence of the party on Chinese abroad takes three overlapping forms: direct intimidation of potential critics, propaganda aimed at the diaspora and pressure on people to censor themselves when discussing Chinese affairs.”).

<sup>1288</sup> Press Release, U.S. Dept. of Just., 40 Officers of China’s National Police Charged in Transnational Repression Schemes Targeting U.S. Residents (Apr. 17, 2023); *see generally* Joske, *The party speaks for you*, *supra* note 158; *see also infra*, Section III. P. U.S. Department of Justice.

<sup>1289</sup> Press Release, Readout of Secretary Mayorkas’ Meeting with People’s Republic of China Minister of Public Security Wang Xiaohong, Dept. of Homeland Sec. (Jan. 10, 2024); *see also* Press Release, Readout of Secretary Mayorkas’s Bilateral Meeting with People’s Republic of China State Councilor and Minister of Public Security Wang Xiaohong in Vienna, Austria (Feb. 18, 2024).

<sup>1290</sup> DHS Guidance, *supra* note 1176.

DHS told the Committee the agency is not in a position to stop the CCP.<sup>1291</sup> Rather, DHS has resigned itself to, as it described to the Committee, striving to build American resilience to the CCP's tactics.<sup>1292</sup> America will not defeat its most dangerous adversary with such resignation. DHS needs a clear and cohesive strategy, part of a whole-of-government approach, to combat CCP unrestricted warfare.

- Develop a cohesive strategy that takes seriously the threat that CCP unrestricted warfare poses to America that falls within DHS's broad purview.
  - DHS must proactively protect U.S. critical infrastructure from CCP cyber warfare with solid strategies. As such, DHS must remove climate change from its cybersecurity guidance so that public and private sector stakeholders understand the significant threat posed by the PRC.
  - DHS must take a "trust but verify" approach when engaging with the CCP. DHS should specifically call out the PRC for its role in creating and maintaining the global drug supply chain with fentanyl precursors.
  - DHS must close the nation's borders to protect America from CCP unrestricted warfare.
- Train DHS and component agency employees about CCP unrestricted warfare, how to recognize it, sound the alarm, and respond to it.
- Implement CCP-specific initiatives and foster the expertise necessary to successfully deter CCP infiltration and influence operations.
  - Prioritize proactive emergency planning measures to disseminate department-wide and to the public.
- Work with Mexican and Canadian authorities to identify attempts by Chinese nationals to immigrate across borders in an illegal manner.
- Develop better intelligence sharing mechanisms with federal, state, and local law enforcement to combat Chinese transnational criminal organizations working within the Americas to harm the United States.
  - Update systems to identify persons within these categories to prohibit entry into the United States.

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<sup>1291</sup> DHS Briefing.

<sup>1292</sup> *Id.*

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF HOMELAND SECURITY

Subject

Grade

Strategy and Response to CCP  
Unrestricted Warfare, Political Warfare  
or Other Relevant Form(s) of Warfare



Expertise/Knowledge to Identify, Counter,  
and Deter CCP Unrestricted Warfare



Outreach to American People About  
CCP Unrestricted Warfare, Political  
Warfare or Other Relevant Form(s) of  
Warfare



Collaboration with Relevant Partners  
to Combat CCP Unrestricted Warfare,  
Political Warfare or Other Relevant  
Form(s) of Warfare



Comment

Although DHS made the deliberate decision to call out the PRC as one of the top five threats to U.S. critical infrastructure, the agency undercut its effort to protect America from CCP cyber warfare by also naming climate change as a top threat. Further, DHS has placed China in a position of trust with respect to its deadly role in chemical warfare waged through fentanyl that is targeting America and has minimized the CCP's role in creating and maintaining the fentanyl supply chain.

## P. U.S. Department of Justice

The Department of Justice has Failed to Effectively Enforce National Security Laws Against the CCP and its Proxies.

- The CCP conducts aggressive unrestricted warfare to weaken America—including by targeting the American justice system, American businesses, and the Chinese diaspora—yet the Department of Justice (DOJ) has insufficient expertise, initiative, and rigor to address it.
- The CCP’s warfare efforts have compromised DOJ’s already insufficient strategy to curtail America’s greatest strategic threat: communist China.

There is a dangerous inconsistency between what DOJ says about the CCP threat and the actions DOJ takes to curtail CCP unrestricted warfare. The resulting morass of mixed signals regarding the threat posed by the CCP leaves DOJ attorneys without the requisite knowledge and agency to enforce federal national security laws to combat CCP political warfare. This reality appears, in part, to be the result of united front influence operations<sup>1293</sup> seeking to compromise DOJ itself through elite capture.<sup>1294</sup>

On March 13, 2024, the Committee requested a briefing from DOJ regarding DOJ’s efforts to protect Americans from CCP unrestricted warfare through its enforcement of national security laws and outreach to the American people.<sup>1295</sup> On April 22, 2024, DOJ provided the Committee a briefing, attended by the National Security Division (NSD) and the Criminal Division.<sup>1296</sup> During the DOJ Briefing, NSD categorized the threat from the PRC as increasingly brazen and damaging, and asserted DOJ has no higher priority than opposing this threat.<sup>1297</sup> However, DOJ lacks specific trainings and expertise about the CCP and the tactics the Party and its proxies use to violate federal national security levels at an alarming pace.<sup>1298</sup> DOJ briefers noted its personnel can learn through experience how to recognize, investigate, and prosecute illicit actions tied to the CCP warfare tactics.<sup>1299</sup> This “learn on the job” approach lacks both the requisite urgency and necessary expertise to confront what DOJ itself characterizes as a serious threat. Peter Mattis, President of the Jamestown Foundation and former CIA Counterintelligence Analyst, testified before the Committee that “we have a shortage of China expertise for all of the

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<sup>1293</sup> United front efforts by the CCP utilize engagement, malign influence, and intelligence operations to influence thought and policy as it relates to the CCP and to gain access to foreign technologies. *See supra*, Section II. B. United Front.

<sup>1294</sup> *See supra*, Section II. C. Elite Capture.

<sup>1295</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Merrick A. Garland, Attorney General, Dep’t of Justice (Mar. 13, 2024) (“DOJ Letter”).

<sup>1296</sup> Briefing from DOJ Officials to Oversight & Accountability Committee staff (Apr. 22, 2024) (“DOJ Briefing”). At the DOJ Briefing, representatives from the FBI’s Counterintelligence Division and Foreign Influence Task Force were also in attendance.

<sup>1297</sup> *Id.*

<sup>1298</sup> *Id.*

<sup>1299</sup> *Id.*

different departments in the government.”<sup>1300</sup> This problem will not be ameliorated by efforts like DOJ’s that do not prioritize and specify the unique threat posed by the CCP.

DOJ does not appear concerned about the major gap in expertise. And worse, the Biden-Harris Administration’s DOJ closed the only federal program designed to enforce U.S. laws to hold the CCP accountable for its political warfare tactics. DOJ expertise on the CCP’s tactics and its rigor when enforcing national security laws to combat the threat are critical to addressing what former DNI Ratcliffe has described as “the greatest threat to America today, and the greatest threat to democracy and freedom world-wide since World War II.”<sup>1301</sup> DOJ must confront the CCP’s efforts to undermine American sovereignty; weaken American prosperity through, for example, its theft of intellectual property; and intimidate people on American soil, as most apparent in its targeting of the Chinese diaspora based in America.<sup>1302</sup>

The CCP is Targeting the American Justice System, and DOJ has Failed to Put into Action an Adequate Response.

CCP psychological warfare<sup>1303</sup> and its manipulative effects appear to have influenced how those responsible for safeguarding and carrying out the American justice system understand and respond to CCP political warfare. The CCP and its proxies have fostered the false premise that “[c]riticizing the CCP is racist” across the country and among the people charged with enforcing our nation’s national security laws.<sup>1304</sup> General Rob Spalding, former Senior Director for Strategic Planning at the National Security Council, has explained that social issues surrounding race are “precisely the type of American vulnerability that [the CCP] is eager to exploit.”<sup>1305</sup>

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**The CCP and its proxies have fostered the false premise that “[c]riticizing the CCP is racist” across the country and among the people charged with enforcing our nation’s national security laws.**

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While briefing the Committee, DOJ failed to assuage Committee concerns regarding DOJ’s own vulnerabilities to manipulation by the CCP. DOJ acknowledged the CCP’s efforts to sow discontent within America and exploit the American system of government and conceded the CCP is capable of aggravating and exploiting issues such as race in America.<sup>1306</sup>

However, DOJ operations do not reflect a serious effort to grapple with these tactics; the record instead indicates DOJ itself may have succumbed to them. For example, in 2018, the Trump Administration introduced the China Initiative to address evolving national security

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<sup>1300</sup> CCP Political Warfare Hearing I (testimony of Mr. Mattis).

<sup>1301</sup> Ratcliffe, *supra* note 5.

<sup>1302</sup> See Speech, Attorney General Jeff Sessions Announces New Initiative to Combat Chinese Economic Espionage, Dep’t of Justice (Nov. 18, 2018).

<sup>1303</sup> See *supra*, Section II. A. Unrestricted and Other Forms of Warfare.

<sup>1304</sup> Newsham, When China Attacks: A Warning to America, at 65.

<sup>1305</sup> Spalding, *Stealth War*, at 208-09.

<sup>1306</sup> DOJ Briefing.



priorities including identifying trade secret theft, applying national security laws to agents advancing the CCP's agenda, and evaluating whether additional authorities were required to protect national assets from CCP economic aggression.<sup>1307</sup> If not “for the aggressiveness of China’s more than five hundred national, provincial, and municipal talent programs, set against the backdrop of the massive open source science and technology (S&T) collection and processing apparatus, there would never have been a need for the China Initiative in the first place.”<sup>1308</sup>

In February 2022, the Biden-Harris Administration terminated DOJ’s China Initiative after receiving uncorroborated claims of racial bias.<sup>1309</sup> Despite finding no evidence of racial motivation in a single prosecution brought under the initiative,<sup>1310</sup> DOJ was persuaded by these unsubstantiated allegations and ceased prosecutions under it, resulting in a “wholesale abandonment of a national security initiative.”<sup>1311</sup> The DOJ Office of the Inspector General (OIG) has given no indication that prosecutions under the China Initiative were racially motivated. DOJ’s willingness to shutter the initiative due to specious claims of bias is concerning and raises the question about the origins of such claims. However, DOJ briefers would neither confirm nor deny to the Committee whether DOJ has investigated the origins of the unverified accusations.<sup>1312</sup>

DOJ acknowledged to the Committee that the CCP threat is varied and complex.<sup>1313</sup> Yet, DOJ has combined the PRC, Russia, Iran, and North Korea in the China Initiative’s replacement: “Strategy for Countering Nation-State Threats.”<sup>1314</sup> Assistant Attorney General Matt Olsen, referencing DOJ’s national security priorities, said “it is clear that the government of China stands apart” but he also claimed that the termination of the China Initiative was because “the current threat landscape demands a broader approach.”<sup>1315</sup> A broader approach that groups a threat described by DOJ as varied and complex, and more brazen and damaging than ever,

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<sup>1307</sup> Nat’l Sec. Div., *Information About the Department of Justice’s China Initiative and a Compilation of China-Related Prosecutions Since 2018*, Dep’t of Justice (Nov. 19, 2021).

<sup>1308</sup> Evan S. Medeiros & James Mulvenon, *Cold Rivals: The New Era of US-China Strategic Competition* (2023) (citing Report: Threats to the U.S. Research Enterprise, *supra* note 1091) (identifying 200 talent programs).

<sup>1309</sup> Despite allegations that cases brought under the China Initiative, NSD leadership maintained that its decisions were not racially motivated. Assistant Attorney General Matthew Olsen, *Remarks on Countering Nation-State Threats*, Dep’t of Justice (Feb. 23, 2022) (“I want to emphasize my belief that the department’s actions have been driven by genuine national security concerns.”); *see generally* Emi Tuyetnhi Tran, *Over 150 Penn faculty rebuke U.S. government for racial profiling of Chinese academics*, *The Daily Pennsylvanian* (Feb. 11, 2022); Julie Tang & John Walsh, *The DOJ’s China Initiative is a xenophobic threat to America’s economy and our core ideals*, *San Francisco Chronicle* (Jan. 22, 2022); Vincent Ni, *Abolish Trump-era ‘China Initiative’, academics urge, amid racial profiling criticism*, *The Guardian* (Sept. 14, 2021).

<sup>1310</sup> Notably, U.S. Assistant Attorney General Matthew Olsen stated that he “never saw any indication, none, that any decision that the Justice Department made was based on bias or prejudice of any kind.” Hadley Baker, *Lawfare No Bull: The DOJ’s Role in Combatting Nation State Threats*, *LAWFARE* (Feb. 25, 2022) (emphasis added) (audio replay of question and answer portion of Olsen’s February 23, 2022, remarks).

<sup>1311</sup> Letter from Sen. Marco Rubio, et. al, to Hon. Merrick Garland, Attorney General, Dep’t of Justice (Mar. 24, 2022).

<sup>1312</sup> DOJ Briefing.

<sup>1313</sup> *Id.*

<sup>1314</sup> Assistant Attorney General Matthew Olsen, *Remarks on Countering Nation-State Threats*, Dep’t of Justice (Feb. 23, 2022).

<sup>1315</sup> *Id.*

together with three other foreign adversaries detracts from what DOJ should be prioritizing: combatting CCP unrestricted warfare and its threat to national security.

Attorney General Merrick Garland has said, “I have not seen a more dangerous threat to democracy,”<sup>1316</sup> which one would think describes the CCP or another adversary.<sup>1317</sup> However, the Attorney General’s comments reference the protest at the U.S. Capitol on January 6, 2021, about which he states DOJ has “engaged in what has become one of the largest and most complex and resource-intensive investigations in our history.”<sup>1318</sup> DOJ does not apply the same dedication when it comes to using national security laws to deter CCP unrestricted warfare.

DOJ’s unwillingness to underscore the unique threats posed by the CCP, America’s most dangerous adversary,<sup>1319</sup> is inconsistent with its approach to other foreign threats. One week after the termination of the China Initiative, Attorney General Garland launched “Task Force KleptoCapture,” which relies on targeted law enforcement efforts to combat “the crimes of Russian officials, government-aligned elites, and those who aid or conceal their unlawful conduct.”<sup>1320</sup> Likewise, while comfortable referencing the “unjust war”<sup>1321</sup> between Russia and Ukraine, DOJ has been loath to publicly draw similar normative characterizations of the CCP. The contrast is troubling, and DOJ’s timid approach to the CCP that fails to squarely address CCP subterfuge marks a departure from one of the China Initiative’s most valuable assets: frank and essential messaging to the CCP that its political warfare is being confronted and to the American people that they are being targeted.

The united front specifically seeks to “[c]o-opt[] and manipul[at]e elites, influential individuals and organisations [a]s a way to shape discourse and decision-making.”<sup>1322</sup> DOJ’s inexplicable strategic decisions to not prioritize enforcement of federal national security laws against the CCP and its proxies appears to demonstrate that DOJ leadership succumbed to CCP elite capture efforts.

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<sup>1316</sup> Testimony of Merrick B. Garland, Attorney General, Dep’t of Justice, *Domestic Violence Extremism in America*, Sen. Approp. Hearing (May 12, 2021).

<sup>1317</sup> See 2023 ODNI Director Haines Testimony, *supra* note 846 (“In brief, the CCP represents both the leading and most consequential threat to U.S. national security. . .”).

<sup>1318</sup> Speech, Office of Public Affairs, Dep’t of Justice, Attorney General Merrick B. Garland Delivers Remarks on Combating Violent Crime (Jan. 5, 2024); Press Release, Office of Public Affairs, Dep’t of Justice, Attorney General Merrick B. Garland Statement on the Second Anniversary of the January 6 Attack on the Capitol (Jan. 5, 2023); Speech, Office of Public Affairs, Dep’t of Justice, Attorney General Merrick B. Garland Delivers Remarks on the First Anniversary of the Attack on the Capitol (Jan. 5, 2022).

<sup>1319</sup> “China vies to surpass the United States in comprehensive national power and secure deference to its preferences from its neighbors and from countries around the world. . . .” 2024 ODNI Annual Threat Assessment, *supra* note 694; Newsham, *When China Attacks, A Warning to America*, at 60 (The CCP “seeks global domination” and “will fight its main enemy, the United States, to achieve it.”).

<sup>1320</sup> Press Release, Dep’t of Justice, Attorney General Merrick B. Garland Announces Launch of Task Force KleptoCapture (Mar. 2, 2022).

<sup>1321</sup> *Id.*

<sup>1322</sup> Joske, *The party speaks for you*, *supra* note 158, at 6.

## DOJ Must Contend with CCP Unrestricted Warfare Targeting the American Business Community.

The CCP targets America’s business community when conducting economic warfare<sup>1323</sup> to weaken America’s economy through means such as coercion, espionage, and disregard for the law. The Party’s use of elite capture is meant to manipulate leaders across all American communities, including the business community. Elite capture consists of “co-opting and manipulating elites, influential individuals and organisations is a way to shape discourse and decision-making” to play in the CCP’s favor.<sup>1324</sup> The CCP also uses proxies to attain its goals outside the PRC. CCP proxies act on behalf of the Party and seek to infiltrate American businesses and they can spend money without oversight or regulatory flags that would otherwise be triggered through the PRC’s direct activities.<sup>1325</sup> This influence tactic is part of the Party’s economic warfare and aims to weaken the American economy through economic espionage, trade secret theft, and illegal technology transfers—all of which DOJ has the responsibility, authority, and tools to protect against.

Many American companies are coerced by lucrative business prospects offered by PRC markets but, by CCP design, those same companies are not made aware of deceptive business incentives and practices inherent to those opportunities.<sup>1326</sup> Mary Kissel, former Senior Advisor to Secretary of State Mike Pompeo, testified before the Committee that the PRC is a “Party state,” and “[a]ll activity done by Chinese companies or within the Chinese borders . . . accrues to the power of the Party.”<sup>1327</sup> Former DNI Ratcliffe has warned that the PRC’s “major public initiatives and prominent companies offer only a layer of camouflage to the activities of the [CCP].”<sup>1328</sup> Despite PRC entities having unavoidable entanglement with the communist regime, Wall Street, Silicon Valley, and other financial institutions continue to promote investment in PRC-backed companies,<sup>1329</sup> including PRC companies that produce the communist regime’s military aircraft, aerospace technology, and advanced nuclear technologies.<sup>1330</sup> As noted in the Committee’s second hearing, Representative Scott Perry (PA-10) cautioned to the Committee that “we are funding our own demise.”<sup>1331</sup>

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<sup>1323</sup> See *supra*, Section II. A. Unrestricted and Other Forms of Warfare.

<sup>1324</sup> Joske, *The party speaks for you*, *supra* note 158, at 6; see also *supra*, Section II. C. Elite Capture.

<sup>1325</sup> Peter Mattis, written testimony for the U.S.-China Economic and Security Review Commission, Hearing on China’s Global Influence and Interference Activities, at 6 (Mar. 23, 2023).

<sup>1326</sup> See GAO-24-107189, China: Managing the Economic Relationship Requires Balancing Benefits and Risks, U.S. Gov’t Accountability Office (Apr. 29, 2024); The Chinese Communist Party: Threatening Global Peace and Stability, Dep’t of State (Oct. 2020) (last accessed Sept. 16, 2024).

<sup>1327</sup> CCP Political Warfare Hearing II (testimony of Ms. Kissel).

<sup>1328</sup> Ratcliffe, *supra* note 5.

<sup>1329</sup> See Fanell & Thayer, Embracing Communist China, America’s Greatest Strategic Failure, at 5 (“Deng [Xiaoping] made the US Chamber of Commerce, US industry, US investors, and Wall Street, and even the US government partners with the PRC, and all benefited handsomely. For a generation, the PRC masked their intentions and framed their expansion as economic rather than strategic, and an unalloyed good that would benefit the world.”).

<sup>1330</sup> See Mike Gallagher, *Americans are unwittingly financing the CCP. It has to stop.*, Wash. Post (Aug. 29, 2023).

<sup>1331</sup> CCP Political Warfare Hearing II (statement of Rep. Perry).

The CCP capitalizes off easy access to American markets and consumers, including by profiting from the U.S. stock market and benefitting from U.S. pensions tied to PRC investments.<sup>1332</sup> Erik Bethel, former Executive Director of the World Bank, testified to the Committee about the troubling reality of Chinese companies: “You may ask yourself, how do there exist private companies in China when the government can strip you of your CEO and disappear your senior leadership.”<sup>1333</sup> Moreover, American companies doing business with PRC companies become subject to the CCP’s expansive “clampdown on security,” which allows the CCP to acquire a broad range of sensitive data and information at a time of the Party’s choosing.<sup>1334</sup> DOJ can mitigate the economic risks posed by CCP economic warfare operations by engaging with the business community about associated risks and applying rigor to its enforcement of national security laws.

The CCP, along with those the CCP coerces or uses as proxies, is increasingly using its access to the American business community to steal assets that American businesses cannot afford to lose.<sup>1335</sup> Former DNI Ratcliffe has characterized the CCP’s economic warfare strategy as “rob, replicate, and replace”: “China robs U.S. companies of their intellectual property, replicates the technology, and then replaces the U.S. firms in the global marketplace.”<sup>1336</sup> DOJ told the Committee that over the last year, out of five intellectual property theft cases brought by NSD, all five of them involved the CCP.<sup>1337</sup> Though DOJ’s admission demonstrates the CCP’s dominance in intellectual property theft, the number of cases is low, raising further questions about whether DOJ is using the national security tools at its disposal to protect Americans from CCP economic warfare.

#### DOJ Must Protect Chinese Americans from CCP Warfare that is Infiltrating the Nation.

The CCP targets Chinese people around the world,<sup>1338</sup> including those in the United States, to coerce and co-opt them into obscuring the CCP’s violent and manipulative ideology. The united front’s use of transnational repression (TNR) is the primary means of accomplishing this objective. The U.S. Human Rights Commission has described transnational repression as “the practice of governments reaching across national borders to silence criticism and dissent by individuals in diaspora and exile communities, in violation of their human rights.”<sup>1339</sup> The CCP uses transnational repression to “silence the voices of their citizens (or non-citizens connected to [the PRC]), get information from them, or coerce them to return to the country of origin.”<sup>1340</sup> General Secretary Xi and the CCP view members of the Chinese diaspora, including those in the United States, as a “special priority” to assert influence abroad and achieve global

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<sup>1332</sup> See Kia Kokalitcheva, *Mapped: U.S. public pensions have a lot of investments in China*, Axios (Dec. 27, 2023).

<sup>1333</sup> CCP Political Warfare Hearing II (testimony of Mr. Bethel).

<sup>1334</sup> Austin Ramzy, *China Expands State-Secrets Law, Highlighting Risks for Foreign Businesses*, Wall St. J. (Feb. 27, 2024).

<sup>1335</sup> See FBI Director Christopher Wray, *Countering Threats Posed by the Chinese Government Inside the U.S.*, Remarks delivered at the Ronald Reagan Presidential Library and Museum (Jan. 31, 2022).

<sup>1336</sup> Ratcliffe, *supra* note 5.

<sup>1337</sup> DOJ Briefing.

<sup>1338</sup> See *supra*, Section II. E. Protecting the Chinese Diaspora.

<sup>1339</sup> Hearing Notice, *Transnational Repression and the U.S. Response*, Human Rights Commission, U.S. Congress (Feb. 15, 2024).

<sup>1340</sup> FBI, *Transnational Repression* (last accessed Sept. 16, 2024).

domination.<sup>1341</sup> As a vehicle for pushing CCP infiltration and influence operations, the united front aggressively surveils Chinese diaspora communities to ensure the communist regime’s legitimacy, or illegitimacy, is not threatened by exposure to foreign ideas.<sup>1342</sup> These operations seek to drive “wedge narratives,” through methods such as “framing racism and violence as targeted at the [Chinese] diaspora,” ultimately seeking to divide diaspora communities from participating and thriving in America.<sup>1343</sup>

DOJ engages with academia and the private sector to warn them about threats related to the united front and transnational repression, and DOJ also recognized that Chinese Americans remain particularly vulnerable to CCP warfare tactics.<sup>1344</sup> DOJ acknowledged that the CCP violates U.S. laws to conduct transnational repression,<sup>1345</sup> and suppresses First Amendment rights, through “campaigns” such as Operation Fox Hunt. Operation Fox Hunt is a CCP extralegal repatriation campaign that includes influence operations, and seeks to “harass, stalk, and coerce certain residents of the U.S. to return” to the PRC.<sup>1346</sup> This operation, along with others employed by the CCP, are “effectively attempts to export the Chinese legal system beyond the country’s physical borders.”<sup>1347</sup>

DOJ is not immune to such influence operations—as is demonstrated by its termination of the China Initiative and questions about the department’s enforcement of the Foreign Agents Registration Act (FARA). For example, it has come to the Committee’s attention that serious concerns have been raised about DOJ’s exercise of prosecutorial discretion in *United States v. Michael McMahon*.<sup>1348</sup> The Committee’s March 13, 2024 letter to DOJ referenced the conviction of Michael McMahon, who was prosecuted under FARA for activity DOJ considered part of Operation Fox Hunt.<sup>1349</sup> Recent public reporting<sup>1350</sup> raises a number of questions as to DOJ’s enforcement of FARA against an individual who reportedly was unaware that his client

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<sup>1341</sup> Diamond & Schell, *China’s Influence & America’s Interests: Promoting Constructive Vigilance*, at xiii.

<sup>1342</sup> See Wong, *supra* note 271, at 608.

<sup>1343</sup> See *id.*

<sup>1344</sup> DOJ Briefing.

<sup>1345</sup> *Id.*

<sup>1346</sup> See FBI Director Christopher Wray, *Remarks Regarding China’s Operation Fox Hunt*, FBI News (Oct. 28, 2020).

<sup>1347</sup> Yana Gorokhovskaia, *How to Resist China’s Campaign of Transnational Repression*, Freedom House (July 28, 2022).

<sup>1348</sup> *United States v. Michael McMahon*, No. 21-CR-265 (E.D.N.Y., filed Oct. 27, 2020).

<sup>1349</sup> See DOJ Letter; U.S. Attorney’s Office, Eastern District of N.Y., *Federal Jury Convicts Three Defendants of Interstate Stalking of Chinese Nationals in the U.S. and Two of Those Defendants Acting or Conspiring to Act on Behalf of the People’s Republic of China* (June 20, 2023).

<sup>1350</sup> See The National Security Hour Podcast, *FBI appears to collude with Chinese Intelligence* (Martha Byrne McMahon stating “there’s public records of the DOJ negotiating his [the subject of Mr. McMahon’s surveillance, who the DOJ knew was a Chinese fugitive and was involved in a U.S. civil lawsuit] return, and his wife’s, several times.”); Isabel Vincent, *Former NYC sergeant says FBI scapegoated him in China spying scandal*, N.Y. Post (June 24, 2023) (“McMahon had not heard of Operation Fox Hunt until he was arrested . . . Two weeks after he was arrested, the FBI, under FBI Director Christopher Wray, ordered urgent, nationwide action against Operation Fox Hunt.”) (Nichols Eftimiades, an expert on Chinese intelligence and senior fellow at the Atlantic Council, said, “I don’t know how anyone could come to the conclusion that McMahon was knowingly working on behalf of the Chinese government.”); The Dinesh D’Souza Podcast, *Diversity in the Sky* (Mar. 12, 2024) (Peter Schweizer stating that “there’s no evidence that he was spying for China, there’s no evidence, in my mind, that he was aware of Operation Fox Hunt . . . then you have this added factor, that McMahon had sort of functioned as a whistleblower, as it were, in another case where the FBI was accused of using, let’s say excessive tactics.”).

for private investigation services, a translation company in New York, was involved with the Chinese government—calling into question whether the individual should have been prosecuted as an agent for an undisclosed foreign principal.<sup>1351</sup> These questions further demonstrate what this investigation has made clear—DOJ is insufficiently enforcing national security laws against the CCP and its proxies. Mr. McMahon has not yet been sentenced, and it remains to be known whether DOJ will address valid concerns that it is engaging in “weaponization of the federal government,”<sup>1352</sup> while many CCP-related cases escape prosecution. Notably, FARA’s purpose is “to protect the national defense, internal security, and foreign relations of the United States,”<sup>1353</sup> and it is paramount that DOJ’s priorities and prosecutions advance the statute’s explicit national security purpose.

## Committee Recommendations

DOJ’s enforcement of national security laws against the CCP must be lawful, rigorous, and proper. Mr. Mattis, who testified to the Committee in this investigation, counsels that:

Only by being clear in public about the actions and intentions of the Chinese party-state, and being publicly accountable for the actions the U.S. government takes in response, will the United States be able to address Beijing’s challenges while upholding our democratic commitment to fair, transparent justice for all Americans.<sup>1354</sup>

Charged with enforcing national security laws for America, DOJ must uphold the rule of law against the authoritarian regime seeking to undermine U.S. sovereignty. The Committee recommends the following:

- DOJ must strengthen its enforcement of national security laws against the PRC, its agents, and proxies.
  - DOJ should reinstate the China Initiative to protect Americans from CCP unrestricted warfare and enhance messaging to the public about CCP targeting of their communities and businesses. The renewed China Initiative should be expanded with prosecutors from each of the relevant DOJ offices placed in decision-making positions. Such offices could include counternarcotics, public corruption, civil fraud, and civil rights.
  - DOJ terminated the China Initiative based on what it found to be unsubstantiated allegations of bias and racial motivation. If it has not already done so, DOJ should investigate the origins of these accusations, including the role that the CCP

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<sup>1351</sup> Vincent, *Former NYC sergeant says FBI scapegoated him in China spying scandal*, *supra* note 1350; (McMahon “registered with the local police, letting them know his whereabouts, the license plate of his vehicle and the identities of the other private investigators he was working with,” and “was not told that [the subject of his private investigatory work] was a former official in Wuhan, who had fled China amid allegations of corruption.”).

<sup>1352</sup> Liz Collin, *Actress: The DOJ wrongly convicted my ex-cop husband as a ‘Chinese spy’*, *Law Officer* (Apr. 9, 2024).

<sup>1353</sup> Pub. L. No. 77-532, 56 Stat. 248, 248-249 (1942).

<sup>1354</sup> Peter Mattis & Matt Schrader, *America Can’t Beat Beijing’s Tech Theft With Racial Profiling*, *War on the Rocks* (July 23, 2019).

or any of its proxies may have played in instigating or fueling the false allegations that these prosecutions were racially motivated. It should publicize the results of that investigation.

- As Ambassador Cella testified to the Committee, DOJ should increase its monitoring and enforcement of FARA filings from agents of PRC-based companies.<sup>1355</sup>
- DOJ must prioritize—and make public its prioritization of—the CCP threat.
  - DOJ should broadcast a strong message to the American public and to the CCP, reflecting the U.S. government’s reinvigorated strategy against the CCP threat. Specifically, the Attorney General should make a public address (or a series of addresses) warning Americans about the threat of CCP unrestricted warfare. Honesty from DOJ leadership will highlight to Americans that the CCP is an aggressive communist regime, and that DOJ will assist Americans in protecting themselves if federal agencies do not step up to do so.
  - Using existing authorities, DOJ should support this messaging with CCP-specific priorities within DOJ as well as internal, CCP-specific training to strengthen DOJ’s efforts to counter the CCP.
- DOJ must defend the national security interests of the American people.
  - ODNI has appropriately identified the CCP as both the “leading and most consequential threat to U.S. national security.”<sup>1356</sup> DOJ’s priorities, messaging, expertise, and allocation of significant existing resources should reflect that reality.
  - DOJ should hold the PRC accountable for fueling the fentanyl crisis that is killing tens of thousands of Americans each year<sup>1357</sup> and aggressively prosecute related cases. Deaths in America from fentanyl poisoning reached an all-time high in 2023.<sup>1358</sup> The DEA requires DOJ’s support to stop CCP-backed fentanyl pouring into the country and poisoning Americans.
- DOJ should communicate to the American people about CCP unrestricted warfare targeting them.
  - DOJ should publicly designate the CCP as a threat through understandable and substantive public events hosted around the country to all communities targeted by the CCP.
  - DOJ should offer an anonymous tipline for members of the American public to report CCP threats and concerns about unlawful CCP activity such as united front work and TNR. These tips should be investigated by DOJ employees who have received CCP-specific training.

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<sup>1355</sup> Ambassador Cella offered recommendations for federal agencies to consider, which includes the recommendation to “[s]trictly police FARA filings from agents of PRC-based companies, commensurate with the threat from the CCP.” CCP Political Warfare Hearing III (written testimony of Ambassador Cella).

<sup>1356</sup> 2023 ODNI Director Haines Testimony, *supra* note 846.

<sup>1357</sup> *See supra*, Section III. B. Drug Enforcement Administration.

<sup>1358</sup> *See Families Against Fentanyl Issue Brief, US Fentanyl Deaths Reach New High*, at 1 (Sept. 2023).

- Using existing significant resources, DOJ must strengthen China expertise amongst personnel.
  - DOJ should train its employees to identify and counter CCP unrestricted warfare, including the many forms of warfare discussed throughout the Committee's report, such as political, psychological, and economic warfare; the united front; Military-Civil Fusion; talent programs; human trafficking; fentanyl; and transnational repression. CCP-specific training will assist DOJ prosecutors in enforcing national security laws against the CCP.
  
- DOJ must foster increased agency among trial attorneys and empower the field to recognize and counter the CCP.
  - DOJ should give its prosecutors, both in Washington, D.C. and across the nation, the agency necessary to address CCP warfare efforts in a manner consistent with upholding their constitutional duties and doing so without fear of repercussion from DOJ or elsewhere.
  - A disconnect between federal agencies and the field is significant and detrimental to federal government operations. In confronting the CCP threat, DOJ should ensure there is no disconnect between NSD and U.S. Attorney's Offices throughout the country.



# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF JUSTICE

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	●
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●

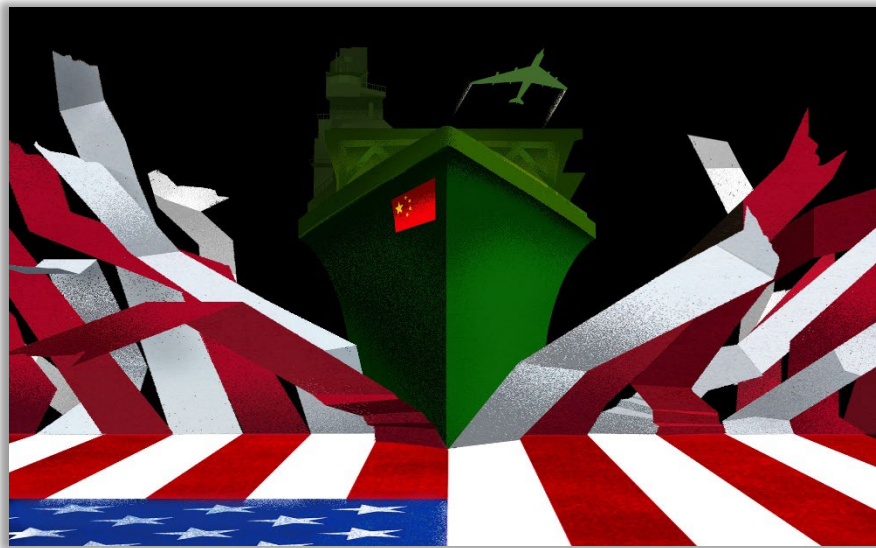
### Comment

The U.S. Department of Justice has an inadequate strategy to counter CCP unrestricted warfare and lacks rigor to enforce national security laws to protect Americans from the CCP.

## Q. U.S. Department of the Navy

### The Department of the Navy Has Delayed Prioritizing and Securing the Country from the CCP.

- For decades, the Department of the Navy (Navy) failed to recognize the CCP’s global intentions present the greatest national security threat of this generation.
- The Navy now recognizes the Party’s aggressive tactics to surpass America and is attempting to remedy the years that allowed the CCP to enhance its global power.
- The Navy must address pressing national security risks, including the CCP’s efforts to exploit supply chain vulnerabilities and domestic shipbuilding and deployed carrier shortcomings.
- The Navy has a critical responsibility to “defend freedom, preserve economic prosperity, and keep the seas open and free.”<sup>1359</sup> To meet this mission, the Navy must defend America from CCP unrestricted warfare.



Source: Michael Hirsh, *The Pentagon Is Freaking Out About a Potential War With China*, Politico (June 9, 2023).

The Navy’s mission is to protect America’s interests around the globe,<sup>1360</sup> and the CCP actively seeks to exploit those interests. As General Spalding has explained, the CCP has been “fighting a strategic war for decades,” which has led to “ceding gains—strategic, geographical, technological, and digital,” ultimately fueling the PRC’s military.<sup>1361</sup> Captain James Fanell, former Director of Intelligence and Information Operations for the U.S. Pacific Fleet, testified to

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<sup>1359</sup> *Mission*, America’s Navy, <https://www.navy.mil/About/Mission/> (last accessed Sept. 16, 2024) (“Navy Mission”).

<sup>1360</sup> *See id.*

<sup>1361</sup> Spalding, *Stealth War*, at 80-81.

the Committee that this threat has been “ignored for far too long” and that “senior officials ignored valid indications and warning[s] and failed to forcefully alert decision makers.”<sup>1362</sup> The gap between the reality of the CCP’s adversarial activity and how bureaucratic officials have addressed the CCP has put America at a disadvantage. A whole-of-government strategy is overdue, and the Navy plays an important role in defending America’s freedom from the CCP threat.

On June 21, 2024, the Committee requested a briefing from the Navy regarding its efforts to safeguard America and its shores from CCP unrestricted warfare.<sup>1363</sup> On August 1, 2024, the Navy provided the Committee a joint briefing with the DoD.<sup>1364</sup>

### The Navy Overlooked the Authoritarian Regime That Has Become America’s Greatest Adversary.

While America is facing a new cold war with the CCP, Captain Fanell asks what he describes as the “dispositive question of the age”—namely, “whether the world will be free and protected by the U.S. or fall into a totalitarian abyss as sought by the PRC.”<sup>1365</sup> Over several decades, the CCP cultivated a narrative that the communist regime’s political reform was “just around the corner,” as it would “inevitably” follow the PRC’s economic reform.<sup>1366</sup> The mistaken belief that the CCP would democratize prompted many federal officials to pursue reckless engagement with the PRC, which the CCP recognized and exploited. The Party took advantage of the notion that “self-interested concern for profits [would] shape behavior.”<sup>1367</sup> The CCP’s use of the strategy of elite capture<sup>1368</sup> brings short-term financial profit to captured U.S. politicians and officials, as well as leaders from American businesses, think tanks, academics, financiers, and more—while facilitating CCP infiltration and influence operations in the United States.<sup>1369</sup> Due to elite capture, America has essentially funded and supported the growth of the PRC military and CCP unrestricted warfare against America.<sup>1370</sup>

Captain Fanell and Dr. Bradley Thayer explain that, to the detriment of America’s national security, the IC “never seems to have conducted analyses of the CCP and PRC’s grand

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<sup>1362</sup> CCP Political Warfare Hearing II (testimony of Captain Fanell).

<sup>1363</sup> See Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Carlos Del Toro, Sec’y, U.S. Dep’t of the Navy (June 21, 2024).

<sup>1364</sup> Briefing from Department of the Navy Officials to Oversight & Accountability Committee staff (Aug. 1, 2024) (“Navy Briefing”); see also *supra*, Section III. L. Department of Defense.

<sup>1365</sup> CCP Political Warfare Hearing II (written testimony of Captain Fanell).

<sup>1366</sup> Fanell & Thayer, *Embracing Communist China, America’s Greatest Strategic Failure*, at 38-39.

<sup>1367</sup> *Id.* at 9.

<sup>1368</sup> See *supra*, Section II. C. Elite capture.

<sup>1369</sup> Fanell & Thayer, *Embracing Communist China, America’s Greatest Strategic Failure*, at 8.

<sup>1370</sup> See generally *id.*; see also, Investigative Report, *How American Financial Institutions Provide Billions of Dollars to PRC Companies Committing Human Rights Abuses and Fueling the PRC’s Military*, The Select Comm. on the Strategic Competition Between the United States and the Chinese Communist Party (Apr. 18, 2024) (“American financial institutions are facilitating investments worth billions of dollars in People’s Republic of China (PRC) companies that advance the PRC’s military ambitions. . .”).

strategy and intentions through the lens of power politics.”<sup>1371</sup> During the rise and fall of the Soviet Union, the United States increased engagement with the PRC to circumvent Beijing and Moscow’s “early-Cold War entente,” that would increase the threat to America and its allies.<sup>1372</sup> The United States’ decisions to engage with the CCP and allow the regime access to the world’s free trade system, along with the CCP’s empty assurances that it would reach the point of political reform, have contributed to the harmful rise of the communist regime. The IC delayed “conveying accurate intelligence, including unhappy truths,” about how and why engagement with the PRC was aiding the CCP’s advancements and capabilities.<sup>1373</sup>

The People’s Liberation Army Navy (PLAN) was previously invited to Rim of the Pacific Exercise (RIMPAC), “the world’s largest and premier joint combined maritime training opportunity,” hosted by the Commander of the U.S. Navy’s 3rd Fleet.<sup>1374</sup> The RIMPAC exercise allows foreign nations to “see American naval platforms, tactics and capabilities up close.”<sup>1375</sup> The U.S. military hoped that engagement with the PRC would slow the CCP’s militarization of the South China Sea and ease global tensions.<sup>1376</sup> When the PLAN participated in its first RIMPAC in 2014, the PLAN sent an uninvited spy ship, designed to monitor ship signals and collect intelligence.<sup>1377</sup> Nonetheless, the PLAN received an invitation to the following RIMPAC. The PLAN’s access to American naval intelligence was overlooked, which could facilitate CCP development or theft of high-end, military capabilities with no deterrent.

While the CCP has been aggressively taking over islands in the South China Sea,<sup>1378</sup> the Party has continued to claim that it is for non-military purposes.<sup>1379</sup> However, the Pentagon reported “strong evidence” that the PRC was deploying missiles from the islands, violating international norms and taking advantage of free and open seas.<sup>1380</sup> The Navy acknowledged to the Committee that the PRC’s participation in RIMPAC exercises were not beneficial to U.S. national security.<sup>1381</sup> The ramifications of CCP influence and infiltration operations extend beyond the PLAN’s attendance at RIMPAC. Just this year, groups gathered in San Diego to protest the 2024 RIMPAC, including groups that have “condemned U.S. alliances with Japan, South Korea, and the Philippines as well as support for Taiwan,” and that have claimed that RIMPAC is conducted to “contain and isolate China.”<sup>1382</sup> These protests are evidence of CCP

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<sup>1371</sup> Fanell & Thayer, *Embracing Communist China, America’s Greatest Strategic Failure*, at 70, 19-20 (“The logic of power politics is that great powers are determined by the correlation of forces and the distribution of power in the international system. That is, how much power they have and how much their rivals possess. Thus, relative power is key—how much power a great power possesses in relation to its rivals—rather than absolute power—how much power it possesses.”).

<sup>1372</sup> *Id.* at 33.

<sup>1373</sup> *Id.* at 92.

<sup>1374</sup> See *RIMPAC 2024 Kicks Off in Hawaii*, America’s Navy (June 28, 2024).

<sup>1375</sup> Ben Werner, *China’s Past Participation in RIMPAC Didn’t Yield Intended Benefits of Easing Tensions*, USNI News (May 24, 2018).

<sup>1376</sup> See *id.*

<sup>1377</sup> See Sam Lagrone, *China Sends Uninvited Spy Ship to RIMPAC*, USNI News (July 18, 2014).

<sup>1378</sup> See *China’s Military Aggression in the Indo-Pacific Region*, Dep’t of State.

<sup>1379</sup> Tara Copp, *China was just uninvited from a massive naval exercise. Here’s why.*, Military Times (May 23, 2018).

<sup>1380</sup> See Megan Eckstein, *China Disinvited from Participating in 2018 RIMPAC Exercise*, USNI News (May 23, 2018).

<sup>1381</sup> Navy Briefing.

<sup>1382</sup> Gershaneck, *China’s Second Battlefield*, *supra* note 3, at 153.

political warfare/united front<sup>1383</sup> efforts to recruit and use “foreign enablers”<sup>1384</sup> to alter global and military perceptions of the CCP and its aggressive ambitions.

The CCP’s access to America’s military led Congress to take action as early as 1999, through the 2000 National Defense Authorization Act (NDAA).<sup>1385</sup> The 2000 NDAA prohibited the Secretary of Defense from authorizing military-to-military (mil-to-mil) engagement between the U.S. military and the PRC’s military that would “create a national security risk due to an inappropriate exposure.”<sup>1386</sup> Yet, despite Congressional recognition of the CCP’s influence and infiltration operations, troubling engagement continued. Perhaps most notably, in 2016, the Permanent Court of Arbitration (PCA), an intergovernmental organization at the Hague, told China that it had “no possible entitlement” to the PLA’s environmental and resource destruction of the Philippines, portraying the CCP’s aggressive capabilities.<sup>1387</sup> Just days after, the U.S. Chief of Naval Operations met with the Commander of the PLA in Beijing, who warned that “China has no intention of stopping its island building campaign in the South China Sea. . .”<sup>1388</sup> The encounter displays the Navy’s previous short-sighted perspective that engagement with the CCP will change the communist regime into a democratic society.

#### After Decades of Inaction, the Navy is Attempting to Change Course.

The Navy, following decades of being “numbed into inactivity against China,”<sup>1389</sup> has come to confront the CCP’s destructive ambitions and has attempted to remedy America’s miscalculations about the regime’s intentions. The Navy told the Committee that the CCP’s strategies will never cease and are increasing in terms of capacity and sophistication.<sup>1390</sup> In 2020, the PRC threat was recharacterized as a “pacing threat,”<sup>1391</sup> which is a vague term to define the top threat to U.S. national security.<sup>1392</sup> The Navy recently heightened its efforts to change course and address the CCP threat by creating with Japan the Joint Forces Command, designed to counter “China’s expansion of its nuclear arsenal.”<sup>1393</sup>

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<sup>1383</sup> See *supra*, Section II. B. United Front.

<sup>1384</sup> Jonas Parelo-Plesner & Belinda Li, *The Chinese Communist Party’s Foreign Interference Operations: How the U.S. and Other Democracies Should Respond*, Hudson Inst., at 13 (June 2018) (“Sometimes economic incentives can create what has been correctly labelled ‘preemptive obedience’ among willing foreign enablers who tout the Chinese party line even without direct inducements or nudging.”).

<sup>1385</sup> See Caitlin Campbell, *China Primer: U.S.-China Military-to-Military Relations*, Cong. Research Service (Jan. 4, 2021).

<sup>1386</sup> *Id.*; see also Caitlin Campbell, *China’s Military: The People’s Liberation Army (PLA)*, Cong. Research Service (June 4, 2021).

<sup>1387</sup> South China Sea Arbitration (The Republic of the Philippines v The People’s Republic of China), PCA Award of July 12, 2016, at 260 (Perm. Ct. Arb. 2016).

<sup>1388</sup> Sam Lagrone, *PLAN’s Wu to CNO Richardson: Beijing Won’t Stop South China Sea Island Building*, USNI News (July 18, 2016).

<sup>1389</sup> CCP Political Warfare Hearing II (written testimony of Captain Fanell).

<sup>1390</sup> Navy Briefing.

<sup>1391</sup> Transcript, Secretary of Defense Mark T. Esper Message to the Force on Accomplishments in Implementation of the National Defense Strategy, U.S. Dep’t of Defense (July 7, 2020).

<sup>1392</sup> See *supra*, Section III. L. U.S. Department of Defense (describing discussion with DoD officials about the meaning of “pacing threat” in the NDS).

<sup>1393</sup> Navy Briefing; C. Todd Lopez, *U.S. Intends to Reconstitute U.S. Forces Japan as Joint Forces Headquarters*, U.S. Dep’t of Defense (July 28, 2024).

The Navy must rectify its decades of passivity and failure to safeguard America from the Party’s destructive ambitions. In 2020, to address national security concerns around the CCP’s Military-Civil Fusion strategy,<sup>1394</sup> President Trump created the Communist Chinese Military Companies List (CCMC);<sup>1395</sup> the list was subsequently implemented through the 2021 NDAA.<sup>1396</sup> Notably, the 1999 NDAA required the creation of the list, but its creation was delayed for two decades.<sup>1397</sup> The CCMC prohibits investment in companies that directly support the PRC’s military, intelligence, and security apparatuses, particularly those that “appear to be civilian entities.”<sup>1398</sup> The list was created to protect the United States from the CCP—“an unusual and extraordinary threat . . . to the national security, foreign policy, and economy of the United States.”<sup>1399</sup> When executing contracts, the Navy must abide by transaction restrictions for companies on the CCMC list.<sup>1400</sup> There are additional regulations under §889 of the 2019 NDAA, which prohibits the federal government from using certain telecommunications equipment, such as equipment from Huawei, DJI,<sup>1401</sup> or ZTE.<sup>1402</sup> Mandated national security protections under the CCMC or §889 are critical to supply chain risk management, although the Navy should implement internal practices that further the same goal of eliminating U.S. military reliance on the CCP.

Sensitive U.S. military information is of particular interest to the regime’s global ambitions. The Navy told the Committee that U.S. servicemembers are targeted by the CCP to gain illicit access to sensitive military information.<sup>1403</sup> The CCP uses non-traditional collection methods to acquire sensitive information, such as offering money for white papers on topics that reference or include confidential information.<sup>1404</sup> The Navy indicated that its outreach has improved and that it has joined forces with other members of the IC to remind current and former servicemembers that espionage will be met with harsh consequences.<sup>1405</sup> For example, the Navy, along with the DoD, coordinated with ODNI to release a public bulletin entitled, “Safeguarding Our Military Expertise: Foreign Companies Continue to Recruit Current and Former Western Service Members to Bolster the PRC’s Military.”<sup>1406</sup> Bulletins of this kind help ensure that Americans are aware of the sophistication behind CCP unrestricted warfare tactics.

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<sup>1394</sup> See *Military-Civil Fusion and the People’s Republic of China*, U.S. Dep’t of State (May 2020) (“MCF [Military-Civil Fusion] is the CCP’s strategy to develop the People’s Liberation Army (PLA) into a ‘world class military’ by 2049. Under MCF, the CCP is systematically reorganizing the Chinese science and technology enterprise to ensure that new innovations simultaneously advance economic and military development.”).

<sup>1395</sup> Exec. Order 13959, Addressing the Threat From Securities Investments That Finance Communist Chinese Military Companies (Nov. 12, 2020) (“Exec. Order 13959”).

<sup>1396</sup> William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283, § 1260H (Jan. 1, 2021).

<sup>1397</sup> See 1999 NDAA § 1237, *supra* note 1049; Press Release, U.S. Dep’t of Defense, DOD Releases List of Additional Companies, In Accordance With Section 1237 of FY99 NDAA (Dec. 3, 2020).

<sup>1398</sup> *Id.*

<sup>1399</sup> Exec. Order 13959, *supra* note 1395.

<sup>1400</sup> This list was originally created through President Trump’s executive order 13959 (Nov. 12, 2020) and was subsequently included in § 1260H of the National Defense Authorization Act for fiscal year 2021.

<sup>1401</sup> See *supra*, Section II. C. Elite Capture.

<sup>1402</sup> 2019 NDAA § 889, *supra* note 727.

<sup>1403</sup> Navy Briefing.

<sup>1404</sup> *Id.*

<sup>1405</sup> *Id.*

<sup>1406</sup> Safeguarding Our Military Expertise, *supra* note 861.

The Navy must continue to work in tandem with the IC to prioritize combatting the CCP's influence and infiltration tactics and share the threat with targeted Americans.

Training military servicemembers on the CCP's ideological illegitimacy is critical to ensuring the Navy can detect and deter CCP unrestricted warfare. Joint Professional Military Education (JPME) serves as the United States' main method of strategic education. Captain Fanell has argued that current JMPE is insufficient to portray the threat by the CCP in comparison to JPME offered during the Cold War.<sup>1407</sup> Captain Fanell has also said that today, complex analysis is difficult to teach if students do not understand "the basic governmental, political, military, ideology, history, or grand strategy of the PRC."<sup>1408</sup> The Navy reported to the Committee that the Department's military curriculum over the last four years has increased focus on the threat posed by the CCP, both tactically and technically.<sup>1409</sup> However, a DoD official confirmed that courses related to CCP unrestricted and political warfare, and the Party's ideology, are not mandatory for students at the U.S. Naval War College, Air Force Academy, or Military Academy West Point.<sup>1410</sup> Rather, these courses are only mandatory if a specific educational track requires them.<sup>1411</sup> Professor Kerry Gershaneck, a former counterintelligence officer who wrote a book on combatting PRC Political Warfare, reiterates that "[m]eaningful study of PRC political warfare requires a broad curriculum of extended duration."<sup>1412</sup> Mandatory coursework on the CCP for U.S. military students will "fulfill a vital national security niche that has been effectively ignored in U.S. national security strategy and operational practice."<sup>1413</sup>

#### Continued Vulnerabilities Hamper the Navy's Defense Against the CCP.

The CCP's deceptive efforts to sustain military power across the globe<sup>1414</sup> should make clear the legitimate concerns around unconstrained, mil-to-mil engagement with the communist regime. However, the Navy told the Committee that it continues engagement with the CCP, though engagement is decided on a case-by-case basis.<sup>1415</sup>

The Navy's focus on defending America from the CCP should not be hindered by social or political prerogatives, such as diversity, equity, and inclusion (DEI) rhetoric and programs. The 2024 NDAA implemented DEI requirements within the Navy,<sup>1416</sup> detracting from the focus on naval warfighting that is critical to safeguarding America from the PLAN. Retired Navy SEAL Mike Sarraille has argued that the Biden-Harris administration's DEI policies have contributed to the Navy's smallest force in 80 years.<sup>1417</sup> A professor for over 30 years at the

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<sup>1407</sup> Fanell & Thayer, *Embracing Communist China, America's Greatest Strategic Failure*, at 81.

<sup>1408</sup> *Id.* at 82.

<sup>1409</sup> Navy Briefing.

<sup>1410</sup> Call with Comm. on Oversight & Accountability Committee staff and Dep't of Defense (Aug. 29, 2024).

<sup>1411</sup> *Id.*

<sup>1412</sup> Gershaneck, *China's Second Battlefield*, *supra* note 3, at 165.

<sup>1413</sup> *Id.* at 164.

<sup>1414</sup> *See* China's Military Aggression in the Indo-Pacific Region, Dep't of State.

<sup>1415</sup> Navy Briefing.

<sup>1416</sup> National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 1101 (Dec. 22, 2023).

<sup>1417</sup> *See* Bailee Hill, *Military experts blame Biden's DEI push as US military enters 2024 with smallest fighting force in 80 years*, Fox News (Dec. 18, 2023).

U.S. Naval Academy (USNA) served on the USNA Admissions Board and discovered that, at times, race was prioritized over the school’s academic requirements.<sup>1418</sup> The USNA professor warned that students who spoke out against DEI-focused promotions were punished, and midshipmen became resentful toward leadership positions awarded based on DEI metrics.<sup>1419</sup> The Navy cannot afford distractions while America is under assault by CCP unrestricted warfare.

Moreover, concerns remain around the CCP’s efforts to disrupt and infiltrate the U.S. defense industry.<sup>1420</sup> Military equipment, materials, and supplies remain vulnerable to infiltration amid the CCP’s efforts to compromise America’s supply chains and national security. PRC-manufactured technologies used by the U.S. military may leave sensitive technology and information vulnerable to CCP access.<sup>1421</sup> In 2021, the State Department reported that entities listed on the CCMC had more than 1,100 subsidiaries.<sup>1422</sup> The CCMC does not address all affiliations with listed companies, leaving subsidiaries and subcontractors associated with the CCP open to involvement in U.S. military contracts.

Shipbuilding discrepancies pose grave threats to U.S. national security, particularly because the Navy is “facing a shortfall of deployed carriers in the Pacific as the buildup in the Middle East continues.”<sup>1423</sup> In 2023, Navy Secretary Del Toro recognized that the PRC is “the world’s largest builder of commercial, ocean going ships, with over forty percent of the global market being built in Chinese shipyards.”<sup>1424</sup> In 2022, the Naval Navigation Plan stated that the PRC’s offensive warfighting systems “are aimed at the heart of America’s *maritime* power.”<sup>1425</sup> The PRC’s fleet outnumbers the United States, and the Navy must ensure that the United States can “pursue a coalition strategy to balance the numbers.”<sup>1426</sup> Moreover, as Captain Fanell testified to the Committee, there are serious problems with American shipyard capabilities, as “[j]ust one of China’s [shipyards] is greater than all seven of [America’s].”<sup>1427</sup>

## Committee Recommendations

Today, the PLAN has many advantages over the Navy, including being the largest Navy in the world and its number of warships, submarines, and raw tonnage.<sup>1428</sup> The Navy must recognize its delayed and failed efforts to treat the CCP as America’s top adversary, and act aggressively to combat CCP unrestricted warfare. An agency-wide strategy is overdue, and the Navy must effect its mission to defend America’s freedom, preserve economic prosperity, and

<sup>1418</sup> Shawn Fleetwood, *30-Year Naval Academy Teacher Details Depth Of DEI Rot In America’s Military Institutions*, The Federalist (Apr. 8, 2024).

<sup>1419</sup> *Id.*

<sup>1420</sup> See *supra*, Section III. L. U.S. Department of Defense; see also Greg Hadley, *China ‘Actively’ Working to Disrupt U.S. Defense Industry*, Air & Space Forces Magazine (June 27, 2024).

<sup>1421</sup> See Jeffrey J. Nadaner & Tara M. Dougherty, *Numbers Matter: Defense Acquisition, U.S. Production Capacity, and Deterring China*, Govini, at 4 (2024).

<sup>1422</sup> Under Secretary for Economic Growth, Energy, and the Environment, *Communist China Military Companies Listed Under E.O. 13959 Have More Than 1,100 Subsidiaries*, U.S. Dep’t of State (Jan. 14, 2021).

<sup>1423</sup> Carter Johnson, *No U.S. Navy Aircraft Carriers Deployed In The Pacific*, NavalNews (Aug. 25, 2024).

<sup>1424</sup> Press Office, SECNAV Delivers Remarks at Harvard Kennedy School (Sept. 26, 2023).

<sup>1425</sup> M.M. Gilday, Chief of Naval Operations, *Navigation Plan 2022*, U.S. Dep’t of the Navy, at 4 (July 26, 2022).

<sup>1426</sup> James Stavridis, *China Has 350 Warships. The US Has 290. That’s a Problem.*, Bloomberg (May 1, 2024).

<sup>1427</sup> CCP Political Warfare Hearing II (written testimony of Captain Fanell).

<sup>1428</sup> See *id.*



keep the seas open and free<sup>1429</sup>—all of which the CCP seeks to exploit. The Committee makes the following recommendations:

- The Navy should proactively and publicly communicate that the CCP is America’s number one enemy.
  - Navy messaging must be clear and consistent on this point.
  - The Navy should assist other military and executive departments to inspire and equip America with the fortitude to address America’s top foreign adversary—the CCP.
- The Navy should take heed of warnings from service members who are forward deployed.
  - The Navy should not meet justified warnings or insight from Navy personnel about CCP unrestricted warfare tactics with retaliation or ignorance.
  - The Navy should, in coordination with all military departments, offer a reporting mechanism to active and retired servicemembers, as well as the general public, to report concerns about CCP infiltration and influence operations, and unrestricted, political, and economic warfare against America.
- As discussed above, the Department of Education is unprepared and lacks CCP expertise to warn academics of the risks associated with CCP unrestricted warfare.<sup>1430</sup> The Navy should offer Professional Military Education in public institutions focused on the CCP threat to provide education and warnings.
- To aggressively deter CCP economic warfare, the Navy, along with DoD, should strengthen and harmonize economic sanctions, restrictions, and prohibitions across federal agencies.
  - A government-wide strategy to counter CCP unrestricted warfare should eliminate any gaps in existing tools, including the CCMC, the Non-SDN Chinese Military-Industrial Complex Companies List,<sup>1431</sup> the Treasury Department’s Office of Foreign Assets Control, CFIUS,<sup>1432</sup> and the Commerce Department’s Entity List.<sup>1433</sup> Federal government use of such tools should be coordinated as a whole-of-government effort to safeguard America.
- The Navy should continue to enforce heightened warnings, regulations, and security relating to CCP nationals attempting to access U.S. military bases.<sup>1434</sup>

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<sup>1429</sup> Navy Mission, *supra* note 1359.

<sup>1430</sup> See *supra*, Section III. M. U.S. Department of Education.

<sup>1431</sup> See Office of Foreign Assets Control, *OFAC Sanctions List Service*, U.S. Dep’t of the Treasury.

<sup>1432</sup> See The Committee on Foreign Investment in the United States (CFIUS), U.S. Dep’t of the Treasury.

<sup>1433</sup> See Bureau of Industry and Security, *Entity List*, U.S. Dep’t of Commerce (The “Entity List” is a U.S. government compilation of foreign individuals, companies, and organizations deemed a national security concern. . .”).

<sup>1434</sup> See *U.S. Navy Bases are Ejecting Foreign Nationals 2-3 Times a Week*, *The Maritime Executive* (May 26, 2024).

- The Navy should coordinate with the State Department to heighten PRC travel warnings, particularly for current or former servicemembers, as both are targeted by the CCP for illicit access to sensitive information.<sup>1435</sup>

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<sup>1435</sup> See Safeguarding Our Military Expertise, *supra* note 861.





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF THE NAVY

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

The Navy was late to recognize the threat posed by CCP unrestricted warfare, and has much to do to address remaining vulnerabilities.

## R. U.S. Department of State

### The Department of State Must Focus on Advancing Americans' Interests Relative to China, Not on Appeasement of the CCP.

- The U.S. Department of State (State Department) refused to acknowledge to the Committee that America is in a new cold war with the PRC.
- The CCP is infiltrating and influencing local and state governments and communities, including religious and ethnic groups, and the State Department is neglecting its responsibilities to safeguard U.S. “security, prosperity, and democratic values[.]”<sup>1436</sup>
- State Department officials repeatedly downplayed to the Committee its authority to combat CCP political warfare. One official demonstrated ignorance about the term political warfare.
- The State Department should determine the number and nature of all the memoranda of understanding (MOU) it has signed with the PRC or Chinese-owned entities—and drastically decrease the number of these agreements.

On May 6, 2024, the Committee requested a briefing from the State Department regarding the CCP’s interference with religion in America and what the Department is doing to ensure strong leadership to effectively deter CCP political warfare.<sup>1437</sup> On June 4, 2024, the State Department provided a briefing to Committee staff.<sup>1438</sup>

The Committee’s investigation into the State Department’s handling of CCP political warfare revealed that the State Department is insufficiently recognizing, understanding, and employing reciprocal diplomatic tools to protect America from CCP unrestricted warfare. Although the State Department has several offices that could be useful in countering CCP unrestricted warfare—including, but not limited to the Subnational Diplomacy Unit,<sup>1439</sup> the Office of China Coordination (China House),<sup>1440</sup> and the Office of International Religious Freedom (IRF Office)<sup>1441</sup>—these offices need more targeted strategies to combat the CCP’s widespread interference and influence efforts.

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<sup>1436</sup> U.S. Dep’t of State, About the U.S. Department of State: Our Mission, <https://www.state.gov/about/> (last accessed Sept. 16, 2024).

<sup>1437</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Antony Blinken, Sec’y, Dep’t of State (May 6, 2024) (“Dep’t of State Letter”).

<sup>1438</sup> Briefing from Department of State Officials to Oversight & Accountability Committee staff (June 4, 2024) (“State Dep’t Briefing”).

<sup>1439</sup> U.S. Dep’t of State, Subnational Diplomacy Unit, Our Mission (“Subnational Diplomacy Unit Mission”) (last accessed Sept. 16, 2024).

<sup>1440</sup> Press Release, U.S. State Dep’t, Secretary Blinken Launches the Office of China Coordination (Dec. 16, 2022) (“China House Press Release”).

<sup>1441</sup> U.S. Dep’t of State, Office of International Religious Freedom, Our Mission (“IRF Office Mission”) (last accessed Sept. 16, 2024).

Overall, the State Department is unwilling to acknowledge the full scale of the threat posed by the CCP to the United States. For example, when briefing the Committee, a State Department official demonstrated an inadequate understanding of CCP unrestricted warfare operations designed to destroy America.<sup>1442</sup> The State Department official acknowledged that the PRC is the only country with the determination and wherewithal to change the international order since World War II<sup>1443</sup> and that the PRC has more economic power and ties to the United States. The official refused to admit that the United States is engaged in a new cold war with the CCP.<sup>1444</sup> However:

[t]he U.S. is now in a new Cold War. The Sino-American security competition is the great struggle of the 21st Century and promises to resolve the dispositive question of the age—whether the world will be free and protected by the U.S. or fall into a totalitarian abyss as sought by the PRC.<sup>1445</sup>

#### The Subnational Diplomacy Unit Must Help Inform and Safeguard Local and State Affairs from CCP Influence Operations at State and Local Levels.

According to ODNI, “as tensions between Beijing and Washington have grown, the government of the People’s Republic of China (PRC) under General Secretary Xi has increasingly sought to exploit these China-U.S. subnational relationships to influence U.S. policies and advance PRC geopolitical interests.”<sup>1446</sup> The State Department’s Subnational Diplomacy Unit must proactively conduct outreach to state and local government officials and groups necessary to protect them from CCP political warfare and targeting of these groups in many ways, including by exploiting sister city relationships.<sup>1447</sup> The State Department’s Subnational Diplomacy Unit and its Special Representative for City and State Diplomacy, Ambassador Nina Hachigian, are tasked with “lead[ing] and coordinat[ing] the State Department’s engagement with mayors, governors, and other local officials in the United States and around the world.”<sup>1448</sup> The creation of this office demonstrates that the State Department recognizes a role in domestic affairs. According to the Department, it “recognize[s] the importance of delivering benefits to local communities as well as integrating the ideas of our cities and communities into our policymaking.”<sup>1449</sup> Further, the Department contends that “Ambassador Hachigian will spearhead the Department’s efforts to engage local partners, *foster connections among cities in the United States and abroad*, develop solutions and partnerships to

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<sup>1442</sup> State Dep’t Briefing.

<sup>1443</sup> *Id.*

<sup>1444</sup> State Dep’t Briefing.

<sup>1445</sup> CCP Political Warfare Hearing II (written testimony of Captain Fanell).

<sup>1446</sup> Nat’l Counterintelligence and Sec. Ctr., Safeguarding Our Future: Protecting Government and Business Leaders at the U.S. State and Local Level from People’s Republic of China (PRC) Influence Operations, Off. of the Dir. of Nat’l Intelligence, at 2 (July 6, 2022) (“NCSC: Protecting Government and Business Leaders at the U.S. State and Local Level”); *see also* Nathan Picarsic & Emily de La Bruyère, *How China is Trying to Turn the U.S. Against Itself*, Found. for Defense of Democracies (Nov. 23, 2021).

<sup>1447</sup> *See* Sister Cities International, What is a Sister City, <https://sistercities.org/about-us/what-is-a-sister-city-3/> (“Sister Cities International Definition”) (last accessed Sept. 16, 2024).

<sup>1448</sup> Subnational Diplomacy Unit Mission, *supra* note 1439.

<sup>1449</sup> Press Release, U.S. Dep’t of State, Naming Ambassador Nina Hachigian as Special Representative for Subnational Diplomacy (Oct. 3, 2022) (“Ambassador Hachigian Press Release”).

key issues facing local actors, and fundamentally strengthen the Department’s ties to our cities and communities.”<sup>1450</sup>

According to the State Department, “the Subnational Diplomacy Unit, in coordination with other State Department offices, serves as a resource for state and local governments seeking advice on international engagement to help ensure these engagements benefit U.S. communities and further U.S. foreign policy goals.”<sup>1451</sup> According to the Department, the Subnational Diplomacy Unit, in coordination with the China House, “work[s] with state and local officials to raise awareness of and bolster resilience to PRC influence.”<sup>1452</sup> A State Department official suggested that the State Department only conducts outreach to state and local governments if requested to do so by the state or local entity.<sup>1453</sup> The Subnational Diplomacy Unit should conduct proactive outreach to state and local entities and governments. To fully combat CCP unrestricted warfare, federal agencies must be on the offensive—not just the defensive. The State Department, however, did not make Ambassador Hachigian or anyone from the Subnational Diplomacy Unit available to brief the Committee.

The State Department informed the Committee that the Department *has no role in sister city relationships and therefore has no data on the number of existing sister city relationships*.<sup>1454</sup> Yet, the State Department’s denial of a role in city sister relationships is incorrect. A sister city relationship is a “broad-based, long-term partnership between two communities in two countries.”<sup>1455</sup> According to the NCSC, “[t]he PRC may also exploit city-to-city partnerships between the United States and China, which are managed on the Chinese side by [China People’s Association for Friendship with Foreign Countries (CPAFFC)].”<sup>1456</sup> NCSC elaborated that “U.S. localities that participate in these formal agreements may be pressured by the PRC or CPAFFC to sever ties to foreign governments, cities, and people whom the PRC regards as problematic.”<sup>1457</sup> Despite NCSC’s warning, “[t]he State Department endorsed a summit co-hosted by the Chinese People’s Association for Friendship with Foreign Countries,” and U.S. ambassador to China Nicholas Burns described the event as “heartening.”<sup>1458</sup>

In 2020, the State Department withdrew the United States from a formal agreement supporting the U.S.-China National Governors Forum in Salt Lake City because of concerns relating to the PRC-based sponsor, the CPAFFC.<sup>1459</sup> CPAFFC, the CCP’s tool for establishing

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<sup>1450</sup> *Id.* (emphasis added).

<sup>1451</sup> Email from U.S. State Dep’t to H. Comm. on Oversight & Accountability Committee staff (July 26, 2024) (“State Dep’t Email”).

<sup>1452</sup> *Id.*

<sup>1453</sup> State Dep’t Briefing.

<sup>1454</sup> State Dep’t Email.

<sup>1455</sup> Sister Cities International Definition, *supra* note 1447.

<sup>1456</sup> NCSC: Protecting Government and Business Leaders at the U.S. State and Local Level, *supra* note 1446.

<sup>1457</sup> *Id.*

<sup>1458</sup> Jimmy Quinn, *Chinese ‘Friendship’ Group Ramps Up U.S. Outreach with Government Blessing, Despite Intel Warning*, Nat’l Review (Aug. 13, 2024) (a State Department spokesman emphasized the importance of sister city relationship with China, but claimed the Department is “clear-eyed” about the PRC).

<sup>1459</sup> Alan Suderman & Sam Metz, *Amid strained ties with U.S., China finds unlikely friend — in Utah*, Associated Press (Mar. 27, 2023); NCSC: Protecting Government and Business Leaders at the U.S. State and Local Level, *supra* note 1446 (citing Press Release, U.S. Dep’t of State, Designation of the National Association for China’s

and maintaining sister city relationships, according to the State Department, “undermined the Governors Forum’s original well-intentioned purpose.”<sup>1460</sup> In fact, State identified CPAFFC as “a Beijing-based organization tasked with co-opting subnational governments” which “has sought to directly and malignly influence state and local leaders to promote the PRC’s global agenda.”<sup>1461</sup> Additionally, according to the Department, the China House proactively provides briefings to city, state, and local actors to inform them of PRC tactics, best practices for state and local officials when interacting with or traveling to the PRC, and opportunities to use these engagements to advance domestic interests<sup>1462</sup>—all of which demonstrates that sister city relationships fit squarely within the purview of Department work.

Clearly, then, the State Department has both the power to withdraw the United States from engagements with united front groups that are engaging in political warfare—and are doing so via sister city relationships—and the power to offer briefings and trainings to inform local and state governments and groups about CCP infiltration of American communities. Recognizing that the CCP understands that state and local officials can exert pressure on the federal government and often become federal leaders themselves, the State Department’s Subnational Diplomacy Unit should conduct outreach to state and local governments and officials warning them of these efforts to exploit relationships to promote the Party’s communist ambitions, including through united front work and sister city relationships.

#### The China House Needs a Clear China Strategy and Lacks Sufficient Expertise.

The Department’s China House could fulfill a useful department-wide need to identify and counter CCP political warfare, but currently needs additional China-focused expertise and lacks sufficient leadership. The China House was created in 2022 to “ensure the U.S. government is able to responsibly manage our competition with the People’s Republic of China (PRC) and advance our vision for an open, inclusive international system.”<sup>1463</sup> To do so, “China House brings together a group of China experts from throughout the Department and beyond it to work shoulder to shoulder with colleagues from every regional bureau and experts in international security, economics, technology, multilateral diplomacy, and strategic communications.”<sup>1464</sup> While the State Department’s China House does have some China expertise, in addition to Asia and Middle East experts, concerns remain that the State Department has not successfully pivoted from its focuses during the Cold War with the Soviet Union to bolster the strategies and expertise needed for the United States to win this new cold war against the PRC.

Further, the Department’s leadership over the China House is lacking. When asked how the State Department understands political warfare, the Department official who oversees the China House was unable to explain what political warfare is and asked the Committee for a

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Peaceful Unification (NACPU) as a Foreign Mission of the PRC) (Oct. 28, 2020) (“State Department Press Release”).

<sup>1460</sup> State Department Press Release, *supra* note 1459.

<sup>1461</sup> *Id.*

<sup>1462</sup> State Dep’t Email.

<sup>1463</sup> China House Press Release, *supra* note 1440.

<sup>1464</sup> *Id.*

definition.<sup>1465</sup> Committee staff defined political warfare for the State Department official, and noted that a definition was provided on the first page of the Chairman’s May 6, 2024, letter to Secretary Blinken—which also served as the basis for briefing.<sup>1466</sup> This interaction underscores a fundamental lack of understanding about how the communist regime seeks to infiltrate and influence America and a lack of preparation for the briefing itself. A State Department official who cannot define political warfare should not oversee an office that exists to “ensure the U.S. government is able to responsibly manage our competition with the [PRC] and advance our vision for an open, inclusive international system.”<sup>1467</sup>

The CCP uses nationalism—or specifically “Han-centrism” to shape society within the PRC and foreign policy<sup>1468</sup>—and the State Department should not promote or facilitate these objectives. According to Dr. Bradley Thayer, Founding Member on the Committee on the Present Danger: China, and Dr. John M. Friend, an Assistant Professor of Political Science at the College of St. Benedict, the CCP has a “Han-centric narrative:”

Within this Han-centric narrative, to be Chinese is to be Han such that Han culture, in contrast to the backward cultures of the non-Han, is the authentic character of the nation, and to pollute or deviate from the Han identity will only tarnish Chinese exceptionalism and impede China’s rise.<sup>1469</sup>

When briefing the Committee, a State Department official referred to Han Chinese as “normal” Chinese.<sup>1470</sup> This type of framework is unhelpful to approaching and resisting CCP unrestricted warfare and the PRC’s efforts to establish narrative dominance.<sup>1471</sup> It is essential that the person who oversees the China House understand Chinese culture to properly advance American interests vis-à-vis the communist regime that is oppressing many minority groups within China and seeking to harm Americans of all races and religions. State Department officials should not advance, even inadvertently, the CCP’s Han-centric nationalism.

The State Department’s description of the Han Chinese as “normal” Chinese feeds the CCP’s ethnic nationalism-based narrative and elevates concerns that the China House lacks the leadership necessary to expose and defeat CCP propaganda and unrestricted warfare. As described by Dr. Thayer and Dr. Friend:

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<sup>1465</sup> State Dep’t Briefing.

<sup>1466</sup> *Id.*; Dep’t of State Letter (Footnote 3 states, “[p]olitical warfare ‘seeks to influence emotions, motives, objective reasoning, and behavior of foreign governments, organizations, groups, and individuals in a manner favorable to one’s own political-military objectives.’ Mark Stokes, Project 2049, *The People’s Liberation Army General Political Department: Political Warfare with Chinese Characteristics* (Oct. 14, 2013).”).

<sup>1467</sup> China House Press Release, *supra* note 1440.

<sup>1468</sup> John M. Friend & Bradley A. Thayer, *The Rise of Han-Centrism and What It Means for International Politics* at 107, in *Studies in Ethnicity and Nationalism*: Vol. 17, No. 1, 2017.

<sup>1469</sup> *Id.*

<sup>1470</sup> State Dep’t Briefing.

<sup>1471</sup> *See supra*, Section II. D. Narrative Dominance; *see also* Bethany Allen, et al., ‘Northern frontier culture’: How China is erasing ‘Mongolia’ from Mongolian culture, Australian Strategic Policy Institute, *The Strategist* (Aug. 29, 2024) (“Under Chinese leader Xi Jinping, the party has increasingly equated the culture and language of the dominant Han ethnic group, which comprises more than 90 percent of the country’s population, with being a loyal member of the ‘Chinese nation’ (Zhonghua minzu).”).



It is a lamentable fact that this form of ethnic nationalism has served the PRC well, enabling the government to politically mobilize the population against international criticism as the country goes through profound economic and social changes. In particular, the racism, xenophobia, and nativism embedded within the Han-centric narrative have made possible a strong ‘us versus them’ mentality that the PRC uses to promote its national interests, be it territorial disputes with Uyghurs and Tibetans or stirring up patriotic sentiment in opposition to the West, all of which can be seen as part of China’s attempt to reassert Chinese exceptionalism in international politics.<sup>1472</sup>

State Department leadership, particularly those responsible for the China House, must be informed and knowledgeable about the rise of Han-centrism in the PRC<sup>1473</sup>—and the ways in which the CCP uses this narrative to abuse human rights in China and engage in unrestricted warfare in the United States. The United States cannot effectively combat CCP unrestricted warfare if it does not properly understand the CCP’s motivation and tactics.

#### The IRF Office Must Conduct Outreach to Safeguard Religious Freedom in the United States.

The State Department’s IRF Office should immediately expand its outreach to domestic-faith based actors and institutions to address CCP efforts to infiltrate and influence religion,<sup>1474</sup> including its “insist[ence] on the sinicization of Chinese religions” so that religion and socialism “coexist” in America and around the world.<sup>1475</sup> The Committee believes the State Department has an essential role in understanding and combatting CCP influence operations targeting religious and ethnic groups, including through transnational repression.

The CCP seeks to influence religion by targeting global religions as well as practitioners of many faiths in the United States.<sup>1476</sup> On a global scale, the PRC is seeking to rewrite the Bible, which could affect Bibles that are imported to the United States—given that America’s largest Bible publishing companies are responsible for printing more than 20 million Protestant and Catholic Bibles each year, and most of these are printed in the PRC.<sup>1477</sup> Additionally, the CCP has also influenced decision-making in both the Catholic Church and Tibetan Buddhism.<sup>1478</sup> Domestically, the CCP has fostered relationships with individuals inside the Church of Jesus Christ of Latter-Day Saints (LDS) in an effort to influence decision-making at the state level.<sup>1479</sup> Concerningly, the CCP reportedly used these relationships and interactions to influence

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<sup>1472</sup> *Id.* (emphasis added).

<sup>1473</sup> *See generally id.*

<sup>1474</sup> State Dep’t Briefing.

<sup>1475</sup> Mike Gallagher, *The Chinese Communist Party is rewriting the Bible*, Fox News (July 17, 2023).

<sup>1476</sup> *See* Dep’t of State Letter.

<sup>1477</sup> *See generally* Gallagher, *supra* note 1475; Nina Shea, *China’s Threat to the Bible*, First Things (Dec. 22, 2020).

<sup>1478</sup> *See* Dep’t of State Letter.

<sup>1479</sup> Thomas Kika, *China Using Mormon Church to Influence U.S. Politics, Investigation Finds*, Newsweek (Mar. 27, 2023).

legislation in the United States, and the PRC portrays these relationships and interactions with American politicians and elites as conveying support for the CCP within China.<sup>1480</sup>

The State Department told the Committee that the IRF Office and the Bureau of Democracy, Human Rights, and Labor (DRL) engage with:

domestic-based and international civil society – including religious groups and secular rights advocacy organizations – to understand their circumstances, to ensure their views and recommendations are effectively incorporated into all aspects of U.S. foreign policy, and to amplify their voices and expand opportunities for them in international and multinational fora.<sup>1481</sup>

However, according to the Department, “[i]n matters involving foreign actors and their actions on U.S. soil against U.S.-based individuals, including but not limited to transnational repression, the IRF office communicates with federal agencies like DOJ and DHS, in coordination with relevant State Department colleagues.”<sup>1482</sup> Further, individuals from the IRF Office and the DRL Bureau have joined, as observers, DOJ and DHS briefings on transnational repression for religious and ethnic minority groups in the United States, including for individuals born in the PRC, and for foreign governments.<sup>1483</sup> Given increasing concerns of transnational repression and CCP interference in religious freedom in the United States, the Chairman’s letter to the State Department focused on these issues.

It is disappointing that the State Department was not prepared to address the IRF Office or CCP infiltration or influence in religious communities in the United States during the Department’s briefing with the Committee.<sup>1484</sup> Further, information the State Department provided to the Committee following the briefing failed to illuminate outreach initiated by the IRF Office to these communities—especially given the Department’s apparent awareness of transnational repression and collaboration with other federal agencies on the issue. The IRF Office should initiate more outreach to these communities to inform them of the PRC’s intentions globally and within the United States.

In an official strategy document charting the plan for America to secure freedom in the face of the CCP’s “authoritarian goals and hegemonic ambitions,” the State Department in the Trump Administration emphasized the importance of “educat[ing] American citizens about the scope and implications of the China challenge,” noting that “[o]nly an informed citizenry can be expected to back the complex mix of demanding policies that will enable the United States to secure freedom.”<sup>1485</sup> Yet, it is apparent that the State Department is insufficiently conducting necessary outreach to the American people.

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<sup>1480</sup> *Id.*; Suderman & Metz, *supra* note 1459.

<sup>1481</sup> State Dep’t Email.

<sup>1482</sup> *Id.*

<sup>1483</sup> *Id.*

<sup>1484</sup> State Dep’t Briefing.

<sup>1485</sup> The Policy Planning Staff, Office of the Secretary of State, The Elements of the China Challenge, U.S. Dep’t of State, at 1, 48 (Dec. 2020).

## State Department MOUs With the PRC Should Be Easily Quantifiable and Reigned In.

The State Department cannot determine the number and nature of the many MOUs it has entered into with the PRC, CCP, and Chinese-owned entities. During its briefing with the Committee, the State Department did not express any concern to the Committee about engaging in so many engagements—an unquantified number—with an authoritarian regime seeking to destroy America.<sup>1486</sup>

The Chairman’s May 6, 2024, letter to Secretary Blinken requested: “[a] description of all existing [MOUs] between the State Department and the PRC and Chinese-owned entities, particularly agreements regarding the sending of U.S. delegations to the PRC, including but not limited to the following: a. [t]he legal team’s justifications for establishing the aforementioned MOUs; b. [t]he parties to these MOUs; c. [t]he purpose of these MOUS[.]”<sup>1487</sup> When asked by Committee staff to address this request, a State Department official suggested that there are close to one million MOUs between the United States and the PRC given that they are the world’s number one and number two largest economies, respectively. When pressed, the State Department official did not have an answer—and the Department’s Bureau of Legislative Affairs suggested that such information might not fall into the Department’s ambit.<sup>1488</sup>

The answer provided by the State Department official is unacceptable. As described by Dr. Robert Atkinson, Founder and President of the Information Technology and Innovation Foundation during his testimony before the Committee, there must be a culture shift.<sup>1489</sup> Dr. Atkinson explained that the State Department must put “American economic interests first,” and be “more willing to challenge China and other foreign governments whose policies hurt U.S. advanced-industry competitiveness.”<sup>1490</sup> If the U.S. government intends to continue entering into MOUs with the PRC, the State Department must implement guardrails and establish a clearly defined strategy that advances U.S. strategic interests. Concerningly, MOUs with the PRC and Chinese-owned entities frequently provide a vessel for the CCP to engage in unrestricted warfare against the United States—and are quiet ways for the CCP to propagandize Americans —by, for example, inviting students at U.S. institutions, members of Congress and their staff, and local and state officials and groups, to travel to the PRC. Additionally, it is not clear that the State Department engages in any outreach to federal and state government officials, civic groups, associations, or select professions, such as journalists, regarding the motivation behind invitations to study tours of the PRC and the risks associated with such tours to personal safety, data security, and influence. Despite the Committee requesting such information in its May 6, 2024 letter,<sup>1491</sup> the State Department refused to provide an answer. The State Department must adequately inform and guide these communities to ensure that their engagements promote U.S. interests abroad.

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<sup>1486</sup> See Liang & Xiangsu, *Unrestricted Warfare: China’s Master Plan to Destroy America*.

<sup>1487</sup> Dep’t of State Letter.

<sup>1488</sup> State Dep’t Briefing.

<sup>1489</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>1490</sup> *Id.*

<sup>1491</sup> Dep’t of State Letter (The Committee requested this information in its May 6, 2024 letter to Secretary Blinken, during the Committee’s briefing with the Department, and on several instances via email between June and September 2024.).

Additionally, although the United States and China are the two largest economies, the PRC does not compete fairly. In part, there are no private companies in the PRC<sup>1492</sup> and the CCP targets key technologies through “investment in private industries, talent recruitment programs, directing academic and research collaboration to military gain, forced technology transfer, intelligence gathering, and outright theft.”<sup>1493</sup> The United States should not provide the PRC—an authoritarian adversary that seeks to destroy the United States<sup>1494</sup>—an opportunity to access sensitive government or private entity-owned data, IP, technologies, or other resources. As such, the State Department should, at a minimum, be aware of the number and nature of existing MOUs between the Department and the PRC or Chinese-owned entities to help safeguard critical technologies and American interests.

### The State Department Should Raise the Travel Warning.

The State Department should increase the travel warning to the PRC—and do so without fear of reprisal—as ensuring the safety of Americans should be the Department’s priority. The State Department releases travel advisories for global destinations to ensure that U.S. citizens are aware of any safety risks associated with the traveler’s intended destination.<sup>1495</sup> The State Department has classified the PRC<sup>1496</sup> as a Level 3, which recommends that visitors “[r]econsider travel due to the arbitrary enforcement of local laws, including in relation to exit bans, and the risk of wrongful detentions.”<sup>1497</sup> Not only has the Department determined that the risk of wrongful detention exists, but the CCP is also using “restrictions on travel or departure from the PRC, so-called exit bans, to: compel individuals to participate in PRC government investigations; pressure family members of the restricted individual to return to the PRC from abroad; resolve civil disputes in favor of PRC citizens; and gain bargaining leverage over foreign governments.”<sup>1498</sup> Importantly, the number of individuals that are subject to exit bans in the PRC is not insignificant<sup>1499</sup> and the travel advisory should reflect that.

Additionally, the travel advisory should factor in the risks posed to businesses operating in the PRC—something about which the State Department is well aware. For example, on September 6, 2024, the State Department, in coordination with the Treasury, Commerce Department, USDA, and DHS, issued a *Hong Kong Business Advisory*, which states that “[b]usinesses should be aware that the risks they face in the PRC are now increasingly present in Hong Kong.”<sup>1500</sup> This recent advisory highlights the similarities between Hong Kong’s and the PRC’s national security laws, which contain both overly broad and vague language “regarding the criminalization of ‘colluding with external forces,’ activities involving ‘state secrets,’ and

<sup>1492</sup> Dezenski & Rader, *supra* note 139 (“[i]t is safe to assume that Chinese companies – whether they are state-owned or not, whether their CEO is a party member or not, or whether they are in the intelligence service or not – are obligated under Chinese law to pass on any and all information they collect to the Chinese government.”).

<sup>1493</sup> U.S. Dep’t of State, Military-Civil Fusion and the People’s Republic of China (last accessed Sept. 16, 2024).

<sup>1494</sup> See Liang & Xiangsu, *Unrestricted Warfare: China’s Master Plan to Destroy America*.

<sup>1495</sup> See U.S. Dep’t of State, Travel Resources, <https://www.state.gov/travelers/> (last accessed Sept. 16, 2024).

<sup>1496</sup> The State Department has classified “mainland China” as a Level 3.

<sup>1497</sup> U.S. State Dep’t, China Travel Advisory (Apr. 12, 2024).

<sup>1498</sup> *Id.*

<sup>1499</sup> The State Department provided this information to the Committee. However, Committee staff decided to exclude the number in order to protect American citizens and dual nationalities.

<sup>1500</sup> Press Release, U.S. Dep’t of State, Hong Kong Business Advisory (Sept. 6, 2024).

‘espionage,’ among other acts, that could affect or impair routine business activities in, or travel to, Hong Kong.”<sup>1501</sup>

Further, the United States should not alter the travel advisory based on pressure from the PRC. During the State Department’s briefing with the Committee, a State Department official confirmed to Committee staff that there is significant pressure from the PRC to lower the travel warning, and that the PRC raises the issue every time the State Department engages with its PRC counterpart.<sup>1502</sup> The State Department must prioritize safeguarding the safety of American citizens.



Source: U.S. Dep’t of State, China Travel Advisory (Apr. 12, 2024), (last accessed [Sept. 16, 2024](#)).

As Mary Kissel, former Senior Advisor to Secretary of State Mike Pompeo, testified to the Committee in this investigation, “[t]he State Department should be at the forefront of America’s efforts to combat Chinese Communist Party influence operations.”<sup>1503</sup>

### Committee Recommendations

Yet, as Professor Gershaneck has explained, “[f]or many years, key State Department officials [have] seemed quite deferential to the PRC and, to put it charitably, inattentive to malign activities such as political warfare.”<sup>1504</sup> The State Department should change course and implement the following recommendations:

- The State Department must engage with the PRC in a reciprocal manner.
  - The United States should no longer permit the PRC to engage in ways that allow the CCP to “engage with our societies on non-reciprocal terms—and Beijing [to] exploit[] the imbalance.”<sup>1505</sup>

<sup>1501</sup> *Id.*

<sup>1502</sup> State Dep’t Briefing.

<sup>1503</sup> CCP Political Warfare Hearing II (written testimony of Ms. Kissel).

<sup>1504</sup> Gershaneck, Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting,” at xiv.

<sup>1505</sup> David R. Stilwell, Assistant Sec’y, Bureau of E. Asia and Pac. Affairs, U.S Dep’t of State, *Covert, Coercive, and Corrupting: Countering the Chinese Communist Party’s Malign Influence in Free Societies* (Oct. 30, 2020).

- The State Department should track the number and nature of sister city relationships with Chinese cities and their locations—and conduct outreach about these relationships.
  - The State Department’s Subnational Diplomacy Unit and China House should understand how many sister city relationships exist between state and local governments within the United States and the PRC. Given how the CCP exploits these relationships, these offices must be equipped to engage in open and continuous dialogue with state and local governments and groups to limit or eradicate CCP exploitation and ensure that any partnerships with the PRC advance U.S. interests.
  
- The Subnational Diplomacy Unit and China House should engage in proactive outreach about the united front and CCP-backed groups that target state and local governments and groups to influence U.S. decision-making.
  - The Subnational Diplomacy Unit and China House should proactively *initiate* outreach to communities affected by CCP unrestricted warfare, which may include state and local entities and governments participating in sister city relationships with the PRC, and people targeted for transnational repression, to ensure that efforts undertaken by these offices champion U.S. interests.
  - State Department officials should “address the public regularly and forthrightly about China’s conduct and intentions, and about the policies the U.S. government must implement to secure freedom at home and preserve the established international order.”<sup>1506</sup>
  
- The State Department should work with partners “to ensure that government officials, as well as the public, have access to English language translations of CCP officials’ major speeches and writings along with important publications and broadcasts from China’s state-run domestic media, scholarly community, and worldwide propaganda machine.”<sup>1507</sup>
  
- The State Department should conduct a review of all MOUs with the PRC and Chinese-owned entities.
  - Following a review, the Department should establish a cross-agency system to monitor MOUs and eliminate any agreements that no longer serve American interests vis-à-vis communist China.
  
- The Consular Affairs Bureau should increase the travel warning to the PRC and issue clear and complete travel warnings.
  - The Department must increase the travel warning for China to safeguard the privacy and physical safety of Americans.

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<sup>1506</sup> The Policy Planning Staff, Office of the Secretary of State, The Elements of the China Challenge, *supra* note 1485, at 48.

<sup>1507</sup> *Id.*

- The State Department should scrutinize Chinese Consulates in the United States to ensure that the PRC is not using them as vehicles to exploit diplomatic exchange for political warfare purposes.<sup>1508</sup>
  - Given previous concerns and evidence that the PRC improperly used a Chinese Consulate in the United States to conduct unrestricted warfare, the State Department should conduct a review to ensure that all Chinese consulates in the United States are engaging in proper, reciprocal diplomatic purposes.
- As Ambassador Cella testified to the Committee, the State Department should update and improve the “curriculum at the Foreign Service Institute by incorporating a rigorous curriculum on countering CCP political warfare featuring the foremost experts in this realm.”<sup>1509</sup>
- The State Department should “tailor plans for each embassy to combat political warfare within the host country.”<sup>1510</sup>
- As Ms. Kissel testified to the Committee, the Bureau of Economics and Business Affairs should issue regular guidance on the risks of operating in China and the benefits of diversifying supply chains.<sup>1511</sup>
  - The Bureau of Economic and Business Affairs, among other things, “makes America more secure.”<sup>1512</sup> To do so, the Bureau should inform American businesses of the risks associated with operating in China, given the PRC’s extremely broad counterespionage laws,<sup>1513</sup> and the importance of diversifying supply chains.

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<sup>1508</sup> See Edward Wong, et al., *U.S. Orders China to Close Houston Consulate, Citing Efforts to Steal Trade Secrets*, N.Y. Times (July 22, 2020) (The United States ordered the PRC to shut its Houston consulate based on concerns that the PRC was engaging in economic espionage and potential theft of scientific research.).

<sup>1509</sup> CCP Political Warfare Hearing III (written testimony of Ambassador Cella).

<sup>1510</sup> *Id.*

<sup>1511</sup> CCP Political Warfare Hearing II (written testimony of Ms. Kissel).

<sup>1512</sup> U.S. Dep’t of State, Bureau of Econ. and Bus. Affairs, *Our Mission* (last accessed Sept. 16, 2024).

<sup>1513</sup> See Nat’l Counterintelligence and Sec. Ctr., *Safeguarding Our Future: U.S. Business Risk: People’s Republic of China (PRC) Laws Expand Beijing’s Oversight of Foreign and Domestic Companies*, Off. of the Dir. of Nat’l Intelligence (June 30, 2023) (“Safeguarding Our Future: U.S. Business Risk”).





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF STATE

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

The State Department does not have a strategy to address CCP political warfare against America.



## S. U.S. Department of Transportation

The Department of Transportation is Aware the CCP Targets America’s Critical Maritime and Transportation Networks and Infrastructures, Yet the Agency has Failed to Conduct Oversight of Grants to State and Local Governments and Refuses to Acknowledge its Cybersecurity Duties, Enriching the PRC at the Direct Expense of American Taxpayers, and Empowering the Party.

- The U.S. Department of Transportation (DOT) does not have a plan to protect American national security interests against the CCP’s unrestricted warfare targeting the nation’s critical maritime and transportation networks and infrastructures.
- DOT has failed to conduct oversight of federal grants to state and local governments, enriching the PRC at the direct expense of American taxpayers.
- DOT has allowed and emboldened CCP unrestricted warfare against America’s critical maritime and transportation supply chains by refusing to acknowledge or fulfill the agency’s cybersecurity responsibilities.

National security officials are reportedly alarmed by “[t]he intrusion of Chinese hackers into US maritime and transportation networks,” and believe these “hackers are there not to collect intelligence but to potentially cripple computer networks in the event of a US-China conflict.”<sup>1514</sup> As recently as April 18, 2024, FBI Director Wray warned that the PRC “has made it clear that it considers every sector that makes our society run as fair game in its bid to dominate on the world stage, and that its plan is to land low blows against civilian infrastructure to try to induce panic and break America’s will to resist.”<sup>1515</sup>

The collapse of the Francis Scott Key Bridge in Baltimore is a reminder that America’s roads, bridges, and ports are inextricably linked to both national and global supply chains.<sup>1516</sup> According to DOT, under the Infrastructure Investment and Jobs Act, the agency is responsible for awarding \$1.2 trillion for transportation and infrastructure spending,<sup>1517</sup> with \$550 billion going toward “new” investments and programs.<sup>1518</sup> As such, DOT has an important role in securing the nation’s maritime and transportation networks and infrastructures from CCP unrestricted warfare.

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<sup>1514</sup> Sean Lyngaas & Evan Perez, *FBI and Justice Department use court order to try to disrupt Chinese hacking targeting key US infrastructure*, CNN (Jan. 31, 2024).

<sup>1515</sup> Wray, *Chinese Government Poses ‘Broad and Unrelenting’ Threat to U.S. Critical Infrastructure*, *supra* note 489.

<sup>1516</sup> Ryan Petersen, *I Work in Supply Chain Logistics. Here’s What I Advise After the Tragedy in Baltimore*, N.Y. Times (Mar. 27, 2024).

<sup>1517</sup> Briefing from DOT Officials to Oversight & Accountability Committee staff (Aug. 19, 2024) (“DOT Briefing”).

<sup>1518</sup> U.S. Dep’t of Transp., Pipeline and Hazardous Materials Safety Admin., *Legislative Mandates, Bipartisan Infrastructure Law (BIL) / Infrastructure Investment and Jobs Act (IIJA)* (updated Feb. 16, 2023) (last accessed Sept. 16, 2024).



Source: Viraj Shah, *US-China Trade War Is Dragging the Global Economy into Unpredictability*, LearnBonds (July 1, 2019).

On June 21, 2024, the Committee requested a briefing from DOT about the agency’s efforts to protect America’s maritime and transportation networks and infrastructures from CCP unrestricted warfare.<sup>1519</sup> On August 19, 2024, DOT provided the Committee a briefing attended by subject matter experts from DOT’s Office of Research, Data, & Innovation, Federal Railroad Administration, Office of Railroad Systems and Technology, Deputy Chief Counsel, Federal Transportation Administration (FTA), Office of Maritime Security (MARAD), Sector Cyber Coordination, and Office of the Secretary.<sup>1520</sup> The Committee’s investigation included an examination of what steps DOT is taking to stem the tide of the CCP’s relentless attacks on the nation’s critical maritime and transportation networks and infrastructures.

The CCP has deployed disintegration warfare, supply chain interdiction, and cyber warfare to disrupt and capture the nation’s critical maritime and transportation networks and infrastructures.<sup>1521</sup> Disintegration warfare involves “ideas of deception, disruption, and subduing the enemy without fighting.”<sup>1522</sup> Through its Belt and Road Initiative, the PRC has spent the last three decades building access and influence in the open seas, strategic shipping lanes, and

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<sup>1519</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Pete Buttigieg, Sec’y, U.S. Dep’t of Transportation (June 21, 2024).

<sup>1520</sup> DOT Briefing.

<sup>1521</sup> Liz Sly & Julia Ledur, *China has acquired a global network of strategically valuable ports*, Wash. Post (Nov. 6, 2023) (“China is now the world’s premier commercial maritime power, and its strategic hold over the world’s supply routes could be used to interdict or restrict U.S. trade, troop movements and freedom of navigation in a range of different ways. ‘It’s an asymmetrical threat.’”).

<sup>1522</sup> Fumio Ota, *Sun Tzu in Contemporary Chinese Strategy*, 2 J. Force Q. 76, 78 (Apr. 1, 2014); *see supra*, Section II. A. Unrestricted and Other Forms of Warfare.

foreign ports throughout the world.<sup>1523</sup> Launched in 2013, the Belt and Road Initiative is “predicated on the weaponization of global supply chains.”<sup>1524</sup> It includes investments in 139 countries,<sup>1525</sup> with over 100 ports in 63 countries.<sup>1526</sup> When General Secretary Xi took power, he instructed top CCP leaders to turn the country into a “maritime superpower” and reminded them that “throughout history the most powerful nations were those that controlled the seas.”<sup>1527</sup> The CCP has used the Belt and Road Initiative to entrench the Party on American shores and burrow into critical maritime and transportation networks and infrastructures.

**DOT Must Protect the Nation’s Critical Maritime and Transportation Networks and Infrastructures from the CCP’s Relentless and Aggressive Unrestricted Warfare.**

The CCP’s unfettered access to and increasing ownership of American ports and, therefore, its critical maritime and transportation networks and infrastructures is highly concerning. For decades, government entities at the local, state, and federal levels have *invited* China into the nation’s ports, aiding and abetting the CCP in its unrestricted warfare against America. For example, California’s ports appear to be inextricably intertwined with the CCP. In 2012, the Obama Administration approved a 40-year container terminal lease between the Port of Long Beach and Hong Kong-based Orient Overseas International Ltd. (OOIL), further ceding control of America’s second largest container port to the CCP.<sup>1528</sup> Then, in 2017, Chinese state-owned shipping giant COSCO Shipping Holdings (COSCO) announced its intent to purchase OOIL.<sup>1529</sup> Although the Trump Administration’s DOJ and DHS intervened and conducted a national security review, forcing the newly acquired COSCO subsidiary OOIL to sell its Long Beach container terminal business,<sup>1530</sup> the CCP prevailed. The new buyer, Macquarie Infrastructure Partners, immediately entered into a deal that “*require[d]* OOIL to continue to use the Long Beach Terminal for a 20-year period.”<sup>1531</sup> In September 2023, the Ports of Los Angeles, Long Beach, and Shanghai announced a Green Shipping Corridor Plan intended to

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<sup>1523</sup> Elaine Dezenski & David Rader, *How China Uses Shipping for Surveillance and Control*, Foreign Policy (Sept. 20, 2023).

<sup>1524</sup> Gerard M. Acosta, *China’s One Road One Belt Grand Strategy: Founded on the Weaponization of the Global Supply Chain*, NDTA, at 2 (Dec. 1, 2020) (“China’s investment in significant global points of transportation nodes, including ports, canals, rail systems, and storage, has established the foundation to control global commercial lines of distribution a key strategic tactic to gain control of the global market.”).

<sup>1525</sup> Jacob J. Lew, et al., *China’s Belt and Road: Implications for the United States*, Council on Foreign Relations (Mar. 2021).

<sup>1526</sup> See generally John Xie, *China’s Global Network of Shipping Ports Reveal Beijing’s Strategy*, Voice of America (Sept. 13, 2021); see generally James McBride, et al., *China’s Massive Belt and Road Initiative*, Council on Foreign Relations (Feb. 2, 2023).

<sup>1527</sup> Michael Roberts, *A U.S. ‘Ships Act’ Would Break China’s Control of the Seas*, N.Y. Times (Oct. 3, 2022).

<sup>1528</sup> See Jared Vineyard, *U.S. Forces China out of Port of Long Beach Terminal Ownership*, Universal Cargo (Oct. 15, 2019).

<sup>1529</sup> *Id.*; “Newsweek’s reporting, and an internal COSCO publication, show how the Communist Party operates inside a company that presents itself as a modern business partner abroad but proclaims at home it ‘follows the party’s direction and sails for the motherland.’” Didi Kirsten Tatlow, *China’s Stake in World Ports Sharpens Attention on Political Influence*, Newsweek (Oct. 9, 2022).

<sup>1530</sup> Costas Paris & Joanne Chiu, *U.S. Questions Cosco’s Takeover of Cargo Terminal in Long Beach*, Wall St. J. (Apr. 20, 2018); Tatlow, *supra* note 1529 (“so COSCO would not acquire more [U.S.] infrastructure”).

<sup>1531</sup> Enoch Yu, *US security concerns force Cosco-owned Orient Overseas to sell Long Beach port in California*, South China Morning Post (Apr. 30, 2019) (emphasis added).

expedite emissions reductions.<sup>1532</sup> This partnership includes PRC state-owned entities, such as COSCO.<sup>1533</sup> One month later, the Ports of Los Angeles and Guangzhou “signed a Memorandum of Understanding [MOU] to further their relationship and cooperation.”<sup>1534</sup> Given FBI Director Wray’s serious warnings about the CCP’s plans to launch low blows against civilian infrastructure,<sup>1535</sup> the CCP’s unfettered access to the nation’s ports presents clear national security risks for America’s maritime and transportation networks and infrastructures.

The CCP’s successful efforts to hide behind foreign companies to infiltrate America are alarming. For example, the CCP has secured majority ownership positions in U.S. ports and related critical infrastructure by hiding behind a French company called CMA CGM, which has been controlled by the CCP since 2015.<sup>1536</sup> In fact, CMA CGM has been referred to as a “*de facto* French vassal company financed by China’s state owned lenders.”<sup>1537</sup> The partnership between the Chinese and French CMA CGM has entrenched the CCP on American shores and empowered the Party.<sup>1538</sup> The alliance began in 2013 when China Merchants Group (CMG), a subsidiary of PRC state-owned China Merchants Holdings (CMH), purchased a 49 percent stake in the commercial terminal operator Terminal Link, with interests in the ports of Miami and Houston.<sup>1539</sup> The other 51 percent stake in Terminal Link is held by CMA CGM.<sup>1540</sup> Since the inception of their alliance, the Chinese and CMA CGM have secured majority interests in key container terminals across the country and around the world, including the Fenix Marine Services container terminal at the Port of Los Angeles, “the third-largest container terminal at

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<sup>1532</sup> Ports of Los Angeles, Long Beach, Shanghai Unveil Outline For First Trans-Pacific Green Shipping Corridor, Port of L.A. (Sept. 22, 2023) (carrier partners include [French] CMA CGM and COSCO Shipping Lines).

<sup>1533</sup> *Id.*

<sup>1534</sup> *Ports of Los Angeles and Guangzhou to Partner On Digital Technology and Green Shipping Corridor*, Port of L.A. (Oct. 24, 2023) (The MOU calls for collaboration on supply chains, digital technology, and “the sharing of lessons learned from the Port Optimizer, the revolutionary digital community system developed by the Port of Los Angeles and in use since 2017.”).

<sup>1535</sup> Wray, *Chinese Government Poses ‘Broad and Unrelenting’ Threat to U.S. Critical Infrastructure*, *supra* note 489.

<sup>1536</sup> See Christopher R. O’Dea, *How China Weaponized the Global Supply Chain*, *The Nat’l Review* (June 20, 2019) (“in 2015 a Chinese state bank injected more than \$1 billion into CMA CGM, in a deal that included an undisclosed strategic investment in the company and required CMA CGM to buy ships and containers from Chinese suppliers.”)

<sup>1537</sup> *Id.* (emphasis added).

<sup>1538</sup> See *id.* (“COSCO’s leverage is multiplied through the Ocean Alliance, one of three space-sharing arrangements that container lines formed in 2016 to help one another avoid sailing partially filled vessels. COSCO’s major ally in the Ocean Alliance is CMA CGM”).

<sup>1539</sup> *Id.*; China Merchants Group, *About Us* (“China Merchants Holding (International) Company Ltd. and CMA CGM Group from France signed a stock purchase agreement, in which CMA CGM Group agreed to sell 49% of its wholly-owned subsidiary company Terminal Link’s stock to China Merchants Holding (International) for 400 million Euros in cash, including 15 ports overseas.”) (last accessed Sept. 16, 2024); China Merchants Port Holdings Company Limited, *France* (“Terminal Link operates a network of terminals with a global reach including Far East, North Europe, Mediterranean, West Africa and North America, among them, Terminals including Malta Freeport Terminal are important hubs along the ‘One Belt and Road’ layout.”) (last accessed Sept. 16, 2024).

<sup>1540</sup> O’Dea, *supra* note 1536 (“in 2015 a Chinese state bank injected more than \$1 billion into CMA CGM, in a deal that included an undisclosed strategic investment in the company and required CMA CGM to buy ships and containers from Chinese suppliers.”).

Los Angeles,”<sup>1541</sup> as well as the Ports of New York and New Jersey.<sup>1542</sup> Further, in 2019, CMA CGM purchased almost 90 percent of the voting shares in CEVA Logistics AG, a company that runs the largest freight network in the United States.<sup>1543</sup> *This gave control of a major U.S. logistics network “to a company that is financed by Chinese state banks and whose principal ally is the logistics arm of the Chinese navy.”*<sup>1544</sup> DOT told the Committee the agency regularly flags these ownership issues to CFIUS.<sup>1545</sup>

DOT refuses to acknowledge, participate in, or implement its critical cybersecurity responsibilities. When DOT briefed the Committee, the agency pointed the finger at the Transportation Security Administration (TSA), DHS, U.S. Customs and Border Protection (CBP), and the U.S. Coast Guard (USCG), insisting DOT had few, if any, cybersecurity responsibilities.<sup>1546</sup> However, a January 2024 Government Accountability Office (GAO) report, titled “Critical Infrastructure Protection: Agencies Need to Enhance Oversight of Ransomware Practices and Assess Federal Support,” contradicts DOT’s claims, identifying DOT as a sector risk management agency (SRMA).<sup>1547</sup> GAO explained:

[a]s leads for facilitating and supporting the security and resilience programs and associated activities of their designated critical infrastructure sectors, SRMAs’ specific responsibilities include assessing sector risk, facilitating sector coordination and information sharing, and contributing to incident management and emergency preparedness. SRMAs maintain the day-to-day relationships with the private industry in their sectors and provide sector-specific expertise and programs to help mitigate risk.<sup>1548</sup>

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<sup>1541</sup> *Shipping group CMA CGM to buy Los Angeles’ FMS container terminal*, Reuters (Nov. 3, 2021) (“CMA CGM currently has a 10% stake in FMS and it is to buy the remaining 90%” and “[the] Los Angeles port handles massive freight volumes between China and the United States”).

<sup>1542</sup> *CMA CGM completes the acquisition of GCT Bayonne and New York container terminals*, CMA CGM (Aug. 31, 2023) (CMA CGM described the New Jersey and New York ports as “flagship terminal operations at a critical entry point on the U.S. East coast.”); *France’s CMA CGM to buy New York, New Jersey terminals from Canada’s GCT*, Reuters (Dec. 7, 2022) (“CMA CGM said [the] acquired ports in Staten Island, New York, and Bayonne, New Jersey, have a combined capacity of 2 million twenty-foot-equivalent units per year, and has a potential for further expansion, up to almost double capacity.”).

<sup>1543</sup> O’Dea, *supra* note 1536; CEVA Logistics, *Responsive Logistics For You* (CEVA Logistics is a fully-owned subsidiary of the CMA CGM Group, a world leader in shipping and logistics), *available at* <https://www.cevalogistics.com/en/who-we-are/about-ceva-logistics> (last accessed Sept. 16, 2024).

<sup>1544</sup> O’Dea, *supra* note 1536 (emphasis added); CEVA Logistics, *Breaking News* (“CEVA Logistics, a subsidiary of CMA CGM Groups, has completed the acquisition of Ingram Micro Commerce & Lifecycle Services.”) (Mar. 23, 2023).

<sup>1545</sup> *See infra*, Section III. T. U.S. Department of the Treasury (describing Treasury’s failure to effectively use CFIUS to protect U.S. national security from the CCP).

<sup>1546</sup> DOT Briefing.

<sup>1547</sup> GAO-24-106221, Gov’t Accountability Off., *Critical Infrastructure Protection: Agencies Need to Enhance Oversight of Ransomware Practices and Assess Federal Support*, at 8-10 (Jan. 2024) (transportation systems were “co-led by DHS’s Coast Guard and Transportation Security Administration, and the Department of Transportation.”).

<sup>1548</sup> *Id.* at 8.

Similar to DOT’s statements to the Committee, GAO found “DOT did not participate in the sector risk analysis with its co-SRMAs [TSA and the USCG]. Further, the department [DOT] did not identify other efforts to assess risks or plans to assess risks in the transportation systems sector.”<sup>1549</sup> To date, DOT has failed to implement GAO’s recommendations to protect the nation’s critical maritime and transportation networks and infrastructures from ransomware attacks.<sup>1550</sup> When the Committee asked DOT about China-specific cybersecurity training for its grantees, DOT was unable to identify any China-specific training, although a newly hired cybersecurity DOT employee informed the Committee the agency was working on a risk assessment training that is actor agnostic.<sup>1551</sup>

CCP state-owned enterprises dominate the shipping container industry, giving the communist regime direct access to the nation’s critical networks and infrastructures.<sup>1552</sup> PRC state-owned companies, including CMG and COSCO, both shareholders of major Chinese shipping container producer China International Marine Containers, “manufacture over 95 percent of containers in the world’s market, including U.S. domestic train and truck intermodal containers.”<sup>1553</sup> Federal Maritime Commissioner Carl W. Bentzel wrote, “[t]he fact that the PRC controls an industry that has a near de facto worldwide monopoly in the production of shipping containers should be deeply concerning.”<sup>1554</sup> Further, PRC state-owned entities are also the *sole* manufacturers of the 53-foot containers used by U.S. domestic intermodal rail and trucking companies.<sup>1555</sup>

DOT told Committee staff that cyber threats would only be an issue for refrigerated containers.<sup>1556</sup> However, when pressed about all shipping containers manufactured in China, DOT conceded that if the shipping containers had any type of embedded technology or were filled with products from China, this would present a cybersecurity risk.<sup>1557</sup> DOT then told the Committee that solving this problem comes down to good cybersecurity hygiene.<sup>1558</sup> However, DOT has failed to carry out its cybersecurity responsibilities, instead pointing the finger at other agencies.<sup>1559</sup> When the Committee asked DOT how it handles the cybersecurity threat from these shipping containers once they are transferred from ports to the nation’s highways and

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<sup>1549</sup> *Id.* at 36. (“DOT did not demonstrate that it assessed ransomware risks for the transportation systems sector. DOT noted that its co-SRMAs assessed ransomware risks for the sector. For instance, as mentioned earlier, TSA assessed threats across the sector based on its analysis of ransomware incidents and Coast Guard assessed risks in the maritime environment.”).

<sup>1550</sup> U.S. Gov’t Accountability Off., Dep’t of Transp., Open Recommendations, Critical Infrastructure Protection: Agencies Need to Enhance Oversight of Ransomware Practices and Assess Federal Support (last accessed Sept. 16, 2024).

<sup>1551</sup> DOT Briefing.

<sup>1552</sup> Mercy A. Kuo, *Shipping, Ports, and China’s New Maritime Empire*, *The Diplomat* (Feb. 6, 2024) (“Beijing’s state-owned shipping and port companies have built a new maritime empire that enables China to achieve national strategic aims that previous global empires had to achieve through military conquest.”).

<sup>1553</sup> Fed. Mar. Comm’n, Assessment of P.R.C. Control of Container and Intermodal Chassis Manufacturing Final Report, at 3 (Mar. 2022).

<sup>1554</sup> *Id.* (emphasis added).

<sup>1555</sup> *Id.* at 9.

<sup>1556</sup> DOT Briefing.

<sup>1557</sup> *Id.*

<sup>1558</sup> *Id.*

<sup>1559</sup> *Id.*

railroads, DOT alleged it was up to CBP to scan and inspect the containers at the ports, and DOT does not have a role.<sup>1560</sup>

The PRC's global maritime operations are known to “double as intelligence-gathering outposts.”<sup>1561</sup> PRC-state-owned companies, including COSCO, China Merchants Port Holdings Group Co., Ltd.,<sup>1562</sup> and Shanghai Zhenhua Heavy Industries Co. Ltd. (ZPMC), reportedly “build, install, finance, and operate an integrated system connecting any economy to the world's [global] logistics network.”<sup>1563</sup> A *Foreign Policy* article warned, “First, China has introduced massive and little-understood information-gathering infrastructure at critical ports worldwide. Second, Chinese laws require that all Chinese companies operating overseas—both private and state-owned—must gather and report intelligence on foreign entities to the Chinese government.”<sup>1564</sup> According to a 2020 DHS advisory, “[t]hese laws may be used to compel PRC firms to illicitly provide the PRC government with data, logical access, encryption keys, and other vital technical information[.]”<sup>1565</sup>

In February 2024, MARAD issued an advisory to “alert maritime stakeholders of potential vulnerabilities to maritime port equipment, networks, operating systems, software, and infrastructure” posed by three PRC companies.<sup>1566</sup> One of those companies is the National Transportation and Logistic Public Information Platform (LOGINK), a PRC state-owned and led integrated platform for the transmission of data, which advances and expands the goals of the Belt and Road Initiative.<sup>1567</sup> The U.S.-China Economic and Security Review Commission concluded that “LOGINK's visibility into global shipping and supply chains could also enable the Chinese government to identify U.S. supply chain vulnerabilities and to track shipments of U.S. military cargo on commercial freight.”<sup>1568</sup> LOGINK recently became a member of the International Port Community Systems Association, which “plays a role in global trade

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<sup>1560</sup> *Id.*

<sup>1561</sup> Dezenski & Rader, *supra* note 139.

<sup>1562</sup> *China Merchants Port Holdings Co., Ltd.*, Nikkei Asia (China Merchants Port Holdings is China's state-owned port operator. Its parent company China Merchants Group was the first Chinese company to operate commercial vessels, establish an insurance company and a bank. The company's predecessor was founded in 1991 in Hong Kong and in 1997 changed to its current name.”), <https://asia.nikkei.com/Companies/China-Merchants-Port-Holdings-Co.-Ltd2> (last accessed Sept. 16, 2024).

<sup>1563</sup> Kuo, *supra* note 1552 (“In strategic terms, China's SOEs, primarily COSCO Shipping Group, China Merchants Port Holdings Company Limited and Shanghai International Port (Group) Co., Ltd., are modern versions of the Dutch East India Company[.]”).

<sup>1564</sup> Dezenski & Rader, *supra* note 139.

<sup>1565</sup> Data Security Business Advisory: Risks and Considerations for Businesses Using Data Services and Equipment from Firms Linked to the People's Republic of China, Dep't of Homeland Sec., at 2 (Dec. 22, 2020) (emphasis added).

<sup>1566</sup> U.S. Dep't of Transp., Maritime Admin., *MSCI Advisory 2024-002: Worldwide-Foreign Adversarial, Technological, Physical, and Cyber Influence* (alerting maritime stakeholders about the following companies: (1) National Transportation and Logistics Public Information Platform (LOGINK), developed by the PRC Ministry of Transport; (2) Nuctech Company Ltd. (Nuctech), a PRC State-controlled entity; and (3) Shanghai Zhenhua Heavy Industries Co. (ZPMC), a subsidiary of China Communications Construction Company).

<sup>1567</sup> U.S.-China Economic & Security Review Comm'n, LOGINK: Risks from China's Promotion of a Global Logistics Management Platform, at 3, 7 (Sept. 20, 2022).

<sup>1568</sup> *Id.*

facilitation across every region of the world.”<sup>1569</sup> Despite issuing the February 2024 warning, MARAD relies on other agencies to find solutions for threats posed by the CCP. For example, although MARAD confirmed that LOGINK is a cybersecurity risk, when asked about its role in the federal working group formed to come up with an alternative to LOGINK, MARAD stressed it was just a participant in the working group, not the lead, and pointed the finger at the USCG, DHS, and other federal agencies to solve the problem.<sup>1570</sup>

MARAD has not taken seriously the agency’s role investigating potential national security threats posed by ZPMC container cranes at America’s ports. DOT’s website explains the vital role of container cranes as follows: “Container cranes are the critical link between the waterside and the landside, including truck and rail connections and container yards used for short-term storage.”<sup>1571</sup> Further, MARAD’s website identifies the agency’s responsibilities as follows: “The Office of Maritime Security (MAR-420) supports the U.S. maritime transportation system, the U.S. Merchant Marine, and other elements of the U.S. maritime industry. We facilitate the development and implementation of effective maritime security policies, procedures, practices, statutes, and training to protect U.S. citizens and maritime interests from maritime security threats such as piracy, terrorism, criminal activity, and cyber-attack.”<sup>1572</sup> Chinese-built cargo cranes installed at ports throughout the United States and the communications equipment in these cranes may pose a national security risk and be used to spy on America.<sup>1573</sup> These giant cranes, built by CCP-owned ZPMC, supply almost 80 percent of ship-to-shore (STS) cranes in use at U.S. ports.<sup>1574</sup> Importantly:

Section 3529 of the 2023 [NDAA] directed the Maritime Administrator, in consultation with the Secretary of Homeland Security, the Secretary of Defense, and the Director of the Cybersecurity and Infrastructure Security Agency, to conduct a study to assess whether there are cybersecurity or national security threats posed by foreign manufactured cranes at United States ports (the MARAD Study).<sup>1575</sup>

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<sup>1569</sup> Rep. Michelle Steel, *Defense authorization bill takes important steps to fight China’s growing influence*, The Hill (July 25, 2023); *NDAA FY 2024*, H. Sel. Comm. on the Chinese Communist Party (Dec. 14, 2023) (noting that the FY 2024 National Defense Authorization Act contains provisions to “counter[] the threat posed by CCP’s LOGINK logistics management platform at home and abroad.”).

<sup>1570</sup> DOT Briefing.

<sup>1571</sup> Bureau of Transp. Stat., U.S. Dep’t of Transp., *Annual Report 2024: Port Performance Freight Statistics*, at 28 (2024).

<sup>1572</sup> U.S. Dep’t of Transp., Maritime Admin., *Office of Maritime Security* (last updated Dec. 17, 2020) (last accessed Sept. 16, 2024).

<sup>1573</sup> Dustin Volz, *Espionage Probe Finds Communications Device on Chinese Cranes at U.S. Ports*, Wall St. J. (Mar. 7, 2024).

<sup>1574</sup> Press Release, H. Comm. on Homeland Security, WTAS: Joint Investigation Into CCP-Backed Company Supplying Cranes to U.S. Ports Reveals Shocking Findings (Mar. 12, 2024); Isaac Kardon, *Washington Tackles a New National Security Threat: Chinese Made Cranes*, Carnegie Endowment for Int’l Peace (Feb. 28, 2024) (“[i]f the [ZMPC] cranes were to malfunction or cease to operate normally, they could cripple U.S. transportation capacity, creating dangerous shortages and cascading supply chain failures.”).

<sup>1575</sup> U.S. Dep’t of Transp., Maritime Admin., Office of Chief Counsel, 2024 MARAD Study of Cybersecurity and Nat’l Security Threats, *Study Of Cybersecurity and Nat’l Sec. Threats Potentially Posed By Foreign Manufactured Cranes At United States Ports* (“MARAD Study”) (Apr. 5, 2024).



At the outset, the MARAD Study reads, “MARAD lacks both the legal authorities and organic expertise to conduct on-site technical assessments of the potential threats posed by foreign manufactured cranes.”<sup>1576</sup> Further, the MARAD Study contains statements that suggest potential vulnerabilities, such as, “ZPMC (Shanghai Zhenhua Heavy Industries Company Limited) maintains the largest share, by sales revenue, of the STS [ship-to-shore] crane market worldwide. By design, these cranes may, depending on their individual configurations, be controlled, serviced, and programmed from remote locations, and those features potentially leave them open to exploitation” and “[p]revious Coast Guard engagements determined that, although foreign cranes represent a potential vulnerability, these risks were not determined to substantially outweigh concerns from other OT [operational technology] exposure.”<sup>1577</sup> Despite these statements, the MARAD Study, which is under two pages, concluded, “[i]n reviewing all available U.S. government reports on this subject and during each of the information gathering discussions that MARAD participated in over the course of this study, all participants were repeatedly asked if anyone was aware of any case of a foreign manufactured crane at a U.S. port being actively exploited. The answer was consistently ‘no.’<sup>1578</sup>

MARAD demonstrated to the Committee that the agency is indifferent, indecisive, and does not take seriously the threats posed by the PRC. When Committee staff used the term “spy crane” in the briefing, MARAD immediately interrupted, stating there is no such thing as a spy crane and the term spy crane does not exist.<sup>1579</sup> Further, the agency informed the Committee that it is normal for modems and other equipment installed in ZPMC container cranes in the United States to transmit data back to China because the equipment was made in China.<sup>1580</sup> At the same time, MARAD acknowledged the cranes should be monitored, but they should not be a higher priority than other infrastructure.<sup>1581</sup> MARAD then told the Committee that the U.S. government is not able to assess whether the data going back to China is problematic or merely for maintenance purposes.<sup>1582</sup> When asked about the MARAD Study, DOT restated its conclusions, insisting there was no evidence of foreign interference and that the answer from everyone about container cranes being used to spy was consistently “no.”<sup>1583</sup> When asked MARAD if the agency has regular meetings with stakeholders, MARAD responded “no,” because stakeholders do not provide them threat information.<sup>1584</sup> This response also calls into question the MARAD Study, which reads, “MARAD also led discussions with several maritime industry stakeholders [] on this subject.”<sup>1585</sup>

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<sup>1576</sup> *Id.* (emphasis added) (“This study, therefore, relies heavily on analysis that has been published by other agencies and the results of recent physical assessments of foreign manufactured cranes at U.S. ports executed by the U.S. Coast Guard and shared with MARAD.”).

<sup>1577</sup> *Id.*

<sup>1578</sup> *Id.* (“It is clear, however, that as with any other critical complex cyber-physical systems, foreign manufactured port cranes should be assessed for potential cybersecurity or other national security threats, they should be actively monitored whenever possible, and that interagency collaboration on this issue should continue.”).

<sup>1579</sup> DOT Briefing.

<sup>1580</sup> *Id.*

<sup>1581</sup> *Id.*

<sup>1582</sup> *Id.*

<sup>1583</sup> *Id.*

<sup>1584</sup> *Id.*

<sup>1585</sup> MARAD Study, *supra* note 1575.

MARAD's conflicting statements and its resistance to taking a proactive role in protecting the nation's critical maritime and transportation networks and infrastructures from the CCP is alarming.<sup>1586</sup> When the Committee continued to press MARAD about concerns with ZPMC container cranes, the agency pointed out that there are no alternatives to ZPMC container cranes since manufacturing has moved out of the United States.<sup>1587</sup> This challenge should not be used as an excuse by MARAD or other federal agencies to ignore or minimize China's aggressive actions against the United States.

### ZPMC has Infiltrated the Nation's Bridges and Highways.

In addition to ZPMC container cranes infiltrating America's ports, ZPMC has had a decades-long presence at the nation's bridges and highways, making these critical infrastructures vulnerable to CCP unrestricted warfare. In 2006, the California Department of Transportation (Caltrans) turned to China to construct the eastern span of the iconic San Francisco-Oakland Bay Bridge (Bay Bridge).<sup>1588</sup> According to a *New York Times* article, "California decided not to apply for federal funding for the project because the 'Buy America' provisos would probably have required purchasing more expensive steel and fabrication from United States manufacturers."<sup>1589</sup> The same article stated, "[t]he selection of the state-owned Shanghai Zhenhua Heavy Industries Company was a surprise, though, because the company made port cranes and had no bridge building experience."<sup>1590</sup> A Caltrans audit concluded "ZPMC, the Shanghai subcontractor that will assemble the steel deck pieces, lacks bridge experience."<sup>1591</sup> The selection of ZPMC was devastating as the Bay Bridge was \$5 billion over budget and delivered ten years late.<sup>1592</sup> Contractors who oversaw construction on the Bay Bridge "warned Caltrans officials that parts produced by Zhenhua Port Machinery Co. contained 'hundreds of cracks,' prohibited by the contract and by welding codes."<sup>1593</sup> Investigative reports concluded "the decision to hire ZPMC will haunt the new span and the traveling public for generations to come."<sup>1594</sup>

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<sup>1586</sup> Report: How the PRC Invests Strategically in the U.S. Maritime Industry, *supra*, note 1218, at 7 ("The contracting practices between PRC SOE's and U.S. ports, as well as other maritime stakeholders, fail to adequately prioritize security. During the Committees' investigation, we reviewed multiple contracts between ZPMC and U.S. ports and were alarmed to find no provisions prohibiting or limiting unauthorized modifications or access to equipment and technology bound for U.S. ports. Consequently, ZPMC and other PRC SOE's are not contractually barred from installing backdoors into equipment or modifying technology in ways that could allow unauthorized access or remote control, enabling them to compromise sensitive data or disrupt operations within the U.S. maritime sector at a later time.").

<sup>1587</sup> DOT Briefing.

<sup>1588</sup> Richard Gonzales, *California Turns to China for New Bay Bridge*, NPR (Sept. 16, 2011).

<sup>1589</sup> David Barboza, *Bridge Comes to San Francisco with a Made-China Label*, N.Y. Times (June 25, 2011).

<sup>1590</sup> *Id.* (emphasis added).

<sup>1591</sup> *A Timeline of the San Francisco-Oakland Bay Bridge East Span Replacement Project*, at 16, Julie Tunnell, Head Librarian, Metropolitan Transp. Commission (Oct. 2021) available at <https://files.mtc.ca.gov/library/pub/48083.pdf> (last accessed Sept. 16, 2024).

<sup>1592</sup> The San Francisco-Oakland Bay Bridge: Basic Reforms for the Future, Final Report, at 1 (July 2014) available at <https://files.mtc.ca.gov/library/pub/non/28785.pdf> (last accessed Sept. 16, 2024).

<sup>1593</sup> Charles Pillar, *Senate Report: Caltrans Ignored shoddy work on Bay Bridge in China and U.S.*, The Sacramento Bee (Jan. 22, 2014).

<sup>1594</sup> Charles Pillar, *Bay Bridge's Troubled China Connection*, The Sacramento Bee (June 6, 2014); Jeff Ferry, *CPA Interview: Bay Bridge 'Dangerous' Due to Chinese Steel*, Coalition for a Prosperous America (Jan. 11, 2017) ("The

## MARAD Must Take Immediate Action to Rebuild America’s Sealift.

MARAD has failed to secure America’s strategic sealift, despite being charged to fulfill this vital national security role.<sup>1595</sup> MARAD’s Office of Strategic Sealift is tasked with securing “America’s maritime interests through a series of programs that use government and commercial vessels to provide timely and scalable sealift capabilities in times of national emergency and to meet [DoD] strategic sealift needs during war.”<sup>1596</sup> MARAD’s strategic sealift includes the National Defense Reserve Fleet (NDRF), which is comprised of “approximately 100 government-owned vessels waiting in reserve to provide additional domestic or international logistic support, typically cargo and tanker ships.”<sup>1597</sup> The Ready Reserve Force (RRF), a subset of NDRF, “is comprised of 41 vessels available for additional ‘surge’ shipping or rapid deployment of U.S. military forces to support the DoD’s U.S. Transportation Command (USTRANSCOM).”<sup>1598</sup>

When questioned about whether the nation’s sealift is sufficient to support a war with China, MARAD stated “no.”<sup>1599</sup> MARAD was also unable to identify any proactive steps the agency is taking to address or remedy this clear national security threat.<sup>1600</sup> Severe deficiencies with the nation’s strategic sealift have been uncovered.<sup>1601</sup> According to a recently released report, “Sealift has long been an essential element of our national security strategy. . . Now, in the middle of a new Cold War, the United States finds itself with neither the sufficient military nor civil resources to meet our sealift objective.”<sup>1602</sup> The United States has a meager 60 ship military sealift fleet, and it currently has a total of 177 merchant ships, down from 600 merchant ships in 1990.<sup>1603</sup> China, however, has a 5,500-ship merchant fleet.<sup>1604</sup> Worse, the average U.S. sealift ship is 45 years old.<sup>1605</sup> A 2019 U.S. DoD exercise “revealed that only 40 percent of the then 61-ship fleet sealift fleet was ready for mobilization.”<sup>1606</sup> These facts demonstrate MARAD’s continued failure to recognize China as a threat and refusal to act to protect the nation from the CCP.

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original estimated cost was to be \$1.4 billion. With the cost overruns and mishaps, it ended up costing \$6.5 billion. It became the most costly single public works project in California history to date and one of the most costly bridges ever built. But remember, it’s more than one bridge. There are several separate structures. It’s the suspension bridge portion, with its iconic tower, that is most interesting. *That tower and the roadway it supports were built with horrifically substandard Chinese steel.*) (emphasis added).

<sup>1595</sup> See U.S. Dep’t of Transp., Maritime Admin, Off. Of Strategic Sealift, *The Mission* (updated Nov. 4, 2022), available at <https://www.maritime.dot.gov/national-security/strategic-sealift/strategic-sealift> (last accessed Sept. 16, 2024).

<sup>1596</sup> *Id.*

<sup>1597</sup> *Id.*

<sup>1598</sup> *Id.*

<sup>1599</sup> DOT Briefing.

<sup>1600</sup> *Id.*

<sup>1601</sup> Press Release, H. Sel. Comm. on the CCP, *Gallagher Exposes Growing Vulnerability in U.S. Sealift Capacity, Seeks Urgent Action To Ensure Military Equipment Deliveries to Indo Pacific U.S. Forces* (Feb. 7, 2024).

<sup>1602</sup> *Id.*

<sup>1603</sup> *Id.*

<sup>1604</sup> *Id.*

<sup>1605</sup> *Id.*

<sup>1606</sup> *Id.*

**DOT Must Conduct Oversight of its Grantees to Protect Taxpayer Dollars and the Nation's Critical Maritime and Transportation Networks and Infrastructures from the CCP.**

The CCP has weaponized its state-owned industries to devastate foreign competitors. Of particular concern is China Railway Rolling Stock Corporation Ltd. (CRRC), a CCP state owned railcar manufacturing company whose stated goal is global dominance. A deleted tweet from CRRC reads: “[s]o far, 83% of all rail products in the world are operated by #CRRC or are CRRC ones. How long will it take us for conquering the remaining 17%?”<sup>1607</sup> Although DoD has identified CRRC as a national security threat with direct ties to the CCP,<sup>1608</sup> CRRC has made aggressive and dangerous inroads into the U.S. rail sector. In 2015, under the guise of American job creation,<sup>1609</sup> CRRC opened a facility in Springfield, Massachusetts.<sup>1610</sup> Two years later, CRRC opened a second facility in Chicago, Illinois.<sup>1611</sup> From 2015 through 2020, CRRC won four passenger rail projects in the United States, in Boston, Chicago, Philadelphia, and Los Angeles,<sup>1612</sup> by significantly undercutting the competition through below market bids and CCP state-backed financing.<sup>1613</sup> Further, CRRC has followed the PRC's Belt and Road Initiative's “debt trap diplomacy” playbook for its rail projects in the United States.<sup>1614</sup> Senator Marco Rubio has described the Belt and Road Initiative as “a one-way ticket to broken power plants and collapsing infrastructure” and cautioned that “[i]t is not too late to learn the lesson that ‘Made in China’ projects are glorified money pits at best, and serious security threats at worst.”<sup>1615</sup>

DOT's FTA has failed to conduct oversight of federal grant dollars awarded to state and local governments for contracts with the CCP's CRRC, at the direct expense of the American taxpayers and national security. CRRC's use of “debt-trap diplomacy” in the United States has resulted in railcars plagued by delays and defects. In 2014, the Massachusetts Bay Transit Authority (MBTA) signed a \$566 million contract with CRRC for 284 subway cars.<sup>1616</sup> In 2017, the contract was expanded to \$870.5 million, bringing the total order to 404 cars.<sup>1617</sup> As of March 2024, only 130 cars have been delivered and they are permeated with serious safety and

<sup>1607</sup> *Policy Brief: China's Infrastructure Ambitions*, Alliance for Innovation and Infrastructure, at 6 (Oct. 2019).

<sup>1608</sup> Press Release, U.S. Dep't of Defense, DOD Releases List of People's Republic of China (PRC) Military Companies in Accordance With Section 1260H of the National Defense Authorization Act for Fiscal Year 2021 (Oct. 5, 2022).

<sup>1609</sup> Letter from Sam Graves, et al., Ranking Member, H. Comm. on Transp. & Infrastructure, to Eric Soskin, Inspector Gen., U.S. Dep't of Transp. (Sept. 21, 2022); Thomas Fitzgerald, *A first glimpse of SEPTA's new double-decker Regional Rail cars, under construction in China*, Phil. Inquirer (July 20, 2022).

<sup>1610</sup> Press Release, CRRC, CRRC Rail Company Breaks Ground In Springfield, Declares Global Ambitions Beyond China Merger (Sept. 4, 2015).

<sup>1611</sup> Press Release, Chicago Transit Authority, Mayor Emanuel, CTA, CRRC Sifang America Break Ground On New CTA Railcar Manufacturing Facility in Chicago (Mar. 16, 2017).

<sup>1612</sup> *Off Track: The role of China's CRRC in the global railcar market*, Oxford Economics, at 22 (July 2022).

<sup>1613</sup> *Id.*

<sup>1614</sup> See Michael Bennon & Francis Fukuyama, *China's Road to Ruin The Real Toll of Beijing's Belt and Road*, Foreign Affairs (Aug. 22, 2023).

<sup>1615</sup> Marco Rubio, *Made in China Infrastructure is often a glorified money pit*, Nikkei Asia (Feb. 9, 2023).

<sup>1616</sup> Gayla Cawley, *Timeline of MBTA's \$870.5M contract with Chinese-owned CRRC*, Boston Herald (Feb. 18, 2023) (“[c]ritics pointed to the Chinese-state-owned company significantly underbidding its competitors and its ties to the Communist Party, with some even asserting there was the potential for spyware installation in trains.”).

<sup>1617</sup> *Id.* (CRRC received an exemption from the National Defense Authorization Act for Fiscal Year 2020, “which bans mass transit agencies from using federal funds for the purchase of rail cars and buses from Chinese-owned companies.”).

design issues.<sup>1618</sup> MBTA recently amended CRRC’s contract, extending its deadline to 2027, providing additional funding, and waiving \$90 million in penalties.<sup>1619</sup> In April 2024, the Southeastern Pennsylvania Transportation Authority (SEPTA) terminated “for cause” a \$185 million contract with CRRC that had been in the works for seven years,<sup>1620</sup> based on “shoddy” work and the company’s failure to meet production deadlines.<sup>1621</sup> On February 24, 2023, DOT’s OIG initiated an audit of SEPTA’s compliance with FTA’s Buy America requirements.<sup>1622</sup> On July 31, 2024, the DOT-OIG issued its report, concluding “Weaknesses in FTA’s Buy America guidance hindered its oversight of SEPTA’s compliance with Buy America rolling stock requirements.”<sup>1623</sup> For example, the DOT-OIG found, “FTA does not require the retention of documentary support for pre-award Buy America audits—despite FTA regulations that pre-award audits include a review of the manufacturer’s rolling stock documentation” and although FTA has suspended funds for the CRRC MA contract, “the absence of policy on when to initiate an enhanced Buy America compliance review and take corrective action, limits the Agency’s ability to address delays or compliance issues on future FTA-funded projects.”<sup>1624</sup>

When questioned by the Committee about its grant program, FTA’s oversight lapses were clear. For example, the agency does not have any China-specific training for its grantees.<sup>1625</sup> With respect to cybersecurity compliance, FTA relies on grantees to self-certify that they are meeting cybersecurity requirements.<sup>1626</sup> When pressed about how self-certification is an effective oversight method, FTA said it would be a criminal false statement to lie in such certifications.<sup>1627</sup> Further, although FTA initiated an audit related to SEPTA and CRRC, this was the result of news reporting on the issue versus proactive oversight.<sup>1628</sup> This is especially troubling since FTA also informed the Committee about defects with CRRC railcars in Los Angeles and Chicago.<sup>1629</sup> Based on documents reviewed by Committee staff, FTA is “without confidence” that CRRC railcars manufactured for the Los Angeles County Metropolitan Transportation Authority (LACMTA) meet Buy America requirements.<sup>1630</sup> Concerningly, these documents also show that after more than one year and ten months of correspondence, site visits,

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<sup>1618</sup> James Paleologopoulos, *MBTA updates contract with CRRC to complete railcars at Springfield plant*, WAMC Public Radio Northeast (Mar. 29, 2024).

<sup>1619</sup> *Id.* (noting that officials in Los Angeles have also given CRRC production extensions).

<sup>1620</sup> Jessica MacAuley, *SEPTA hits the brakes on double-decker train cars for regional rail system*, CBS News (Apr. 14, 2024).

<sup>1621</sup> Elizabeth Brotherton-Bunch, *Philadelphia’s SEPTA Transit System Officially Cancels Its Disastrous Rail Car Contract with Chinese State-owned Firm CRRC*, Alliance for American Manufacturing (Apr. 15, 2024).

<sup>1622</sup> Memorandum from the Off. of Inspector Gen., U.S. Dep’t of Transp., to the Fed. Transit Admin. on Audit Announcement: FTA Oversight of the Southern Eastern Pennsylvania Transportation Authority’s Compliance with Buy America Requirements for Rolling Stock (Feb. 24, 2023) (“Per FTA’s Buy America requirements, the cost of the components and subcomponents for rolling stock produced in the United States must total more than 60 percent for fiscal years 2016 and 2017, more than 65 percent for fiscal years 2018 and 2019 and more than 70 percent for fiscal year 2020 and beyond. In addition, final assembly of rolling stock must occur in the United States.”).

<sup>1623</sup> U.S. Dep’t of Transp., Off. Of Inspector Gen., Report ZA2024033, FTA’s Oversight of SEPTA’s Compliance With Buy America Rolling Stock Requirements Faced Several Challenges (July 31, 2024) (“DOT OIG Report”).

<sup>1624</sup> *Id.*, at 7, Highlights.

<sup>1625</sup> DOT Briefing.

<sup>1626</sup> *Id.*

<sup>1627</sup> *Id.*

<sup>1628</sup> *Id.*

<sup>1629</sup> *Id.*

<sup>1630</sup> Email from Dep’t of Transp. to Oversight & Accountability Committee staff (Sept. 10, 2024).

document requests, and document productions between FTA, LACMTA, and CRRC, “FTA has not been provided key information [by LACMTA and CRRC] necessary to complete its review and determine whether LACMTA’s railcar procurement complies with Buy America.”<sup>1631</sup>

DOT does not have a strong plan to protect American national security interests against the CCP’s unrestricted warfare. Although DOT is aware the CCP targets America’s critical maritime and transportation networks and infrastructures, the agency has failed to conduct oversight of grants to state and local governments and refuses to acknowledge its cybersecurity duties, enriching the PRC at the direct expense of American taxpayers and empowering the Party.

### Committee Recommendations

- DOT must acknowledge the CCP is a clear and present danger to the nation’s critical maritime and transportation networks and infrastructures.
- DOT must act quickly to implement its cybersecurity responsibilities. DOT should implement and abide by the recommendations in GAO 24-106221.<sup>1632</sup>
  - The Secretary of Transportation should, in coordination with CISA, co-SRMAs, and sector entities, determine the extent to which the transportation systems sector is adopting leading cybersecurity practices that help reduce the sector’s risk of ransomware (Recommendation 10).
  - The Secretary of Transportation should, in coordination with CISA, co-SRMAs, and sector entities, assess ransomware risks to the transportation systems sector. (Recommendation 9).
  - The Secretary of Transportation should, in coordination with CISA, co-SRMAs, and sector entities, develop and implement routine evaluation procedures that measure the effectiveness of federal support in helping reduce the risk of ransomware to the transportation systems sector. (Recommendation 11).
- DOT must actively participate in and take seriously its role in any working groups convened to address the CCP threat, including LOGINK, regardless of whether DOT is the co-lead or lead agency.
- Using existing authorities and resources, DOT must undertake a holistic evaluation of its cybersecurity requirements related to its grant funding and evaluate all gaps and vulnerabilities specific to the CCP.
  - Establish clear oversight and investigative responsibilities for all DOT individual agency grants and ensure each agency follows through with these mandates.
  - DOT should implement the recommendations in DOT-OIG Report ZA2024033.<sup>1633</sup>
  - Initiate actions to establish requirements for recipients (or third-party auditors) for how manufacturers’ rolling stock documentation will be reviewed when conducting pre-award and post-delivery audits.

<sup>1631</sup> *Id.*

<sup>1632</sup> GAO-24-106221, *supra* note 1547

<sup>1633</sup> DOT OIG Report, *supra* note 1623.

- Initiate actions to establish requirements for recipients or third-party auditors to maintain pre-award and post-delivery audit documentation in a manner that protects manufacturers' sensitive data while also providing supporting evidence of the work described in the audit.
- Amend FTA's Master Agreement to clarify that recipients must obtain the same level of access as third-party auditors would have to confidential information to improve oversight and transparency into manufacturers' adherence to Buy America rolling stock requirements.
- Initiate actions to establish requirements for recipients (or their auditors) to document their verification of suppliers' Buy America information.
- Develop and implement Buy America policies or guidance as to how to account for hardware and domestic shipping costs when computing domestic content percentages.
- Develop and implement Buy America policies or guidance detailing when to initiate Buy America rolling stock compliance reviews and apply the corrective actions (*i.e.*, specific conditions and remedies for noncompliance) described in the Uniform Grant Guidance.

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF TRANSPORTATION

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

The Department of Transportation is aware that CCP unrestricted warfare targets America's critical maritime and transportation networks and infrastructures, yet the agency has neglected to conduct oversight of federal grants to state and local governments and blames other entities for its own cybersecurity failures. DOT's abdication of these important responsibilities has enabled and empowered the PRC's unrestricted warfare against America's critical maritime and transportation networks and infrastructures and enriched the PRC at the direct expense of the American taxpayer.



## T. U.S. Department of the Treasury

### The Department of the Treasury Drastically Underestimates the Extent of CCP Economic Manipulation.

- The U.S. Department of the Treasury (Treasury) has failed to leverage its global leadership to protect American companies and investors from CCP economic warfare. This failure has also emboldened the continued violation of commitments the PRC has made under many international agreements.
- Treasury values strengthening a mutually beneficial economic relationship with the PRC—one that advances only short-term interests—to the detriment of American economic security essential to the long-term prosperity and strength of the nation.
- Treasury fails to aggressively employ the significant tools it has in the Office of Foreign Assets Control (OFAC) and the Committee on Foreign Investment in the United States (CFIUS) to protect America from CCP economic warfare. This failure is tied to a fundamental misunderstanding of U.S. relations with the CCP, illustrated, in part, by Treasury officials telling the Committee that economic warfare is not in their lexicon.
- Treasury is interested in building beneficial economic relationships with many developing countries, but has allowed the CCP's Belt and Road Initiative to financially cripple many of those countries that are pursuing a trading system isolated from American businesses.
- Treasury must institutionalize strategies to address the reality of a hostile CCP. Continued normalized engagement with the CCP in light of the Party's many violations of international economic agreements and basic business practices leaves U.S. industry vulnerable to predatory engagement.

The CCP sees its path to future economic development through a subversion of the existing international free-market system and a parasitic engagement with foreign actors. The CCP seeks economic power for the Party and views economic control as the basis for upholding its foundation of political power.<sup>1634</sup> In mainland China, routine business practices are deemed matters of national security to justify CCP interference in American companies operating in China,<sup>1635</sup> and American companies lured to China with promises of market access are pushed into parasitic joint ventures with PRC companies by CCP regulators.<sup>1636</sup> The long-term result of the CCP's economic warfare is a developed dependency on China for basic supply-chain

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<sup>1634</sup> Katja Drinhausen & Helena Legarda, “Comprehensive National Security” Unleashed: How Xi’s Approach Shapes China’s Policies at Home and Abroad, Mercator Inst. for China Studies (Sept. 15, 2022).

<sup>1635</sup> Safeguarding Our Future: U.S. Business Risk, *supra* note 1513; see Daisuke Wakabayashi & Keith Bradsher, *U.S. Consulting Firm Is the Latest Target of a Chinese Crackdown*, N.Y. Times (Apr. 27, 2023).

<sup>1636</sup> U.S.-China Economic and Security Review Comm’n, 2019 Report to Congress, at 188-191 (Nov. 14, 2019).

needs<sup>1637</sup> and the incubation of knock-off PRC companies which seek to subvert and replace American industry.<sup>1638</sup>

On July 18, 2024, the Committee requested a briefing from Treasury to address CCP economic warfare against the American economy.<sup>1639</sup> On August 20, 2024, Treasury provided a briefing to the Committee. Officials from the offices of International Affairs, Terrorism and Financial Intelligence, and Investment Security attended the briefing.<sup>1640</sup> While the CCP is waging economic warfare against the United States, Treasury told the Committee it is focused on managing the economic relationship with the PRC.<sup>1641</sup> In fact, Treasury admitted that economic warfare is not in its lexicon.<sup>1642</sup> This admission is highly concerning given Treasury's responsibilities to ensure the "economic prosperity" and "financial security" of the American people.<sup>1643</sup>

On the international stage, the CCP is eager to engage with the World Trade Organization (WTO), International Monetary Fund (IMF), and the World Bank Group (WBG) while disregarding the commitments it has made to those respective organizations, leading the U.S. Trade Representative to characterize the PRC's relationship with WTO as "a long record of violating, disregarding, and evading existing WTO rules."<sup>1644</sup> The CCP's ability to maintain the benefits of international organizations despite its disregard for its obligations is facilitated by a network of individuals linked to the CCP's united front that are in leadership positions at these international organizations. These CCP-tied leaders are more loyal to the CCP than their organizations.<sup>1645</sup>

This clears the way for the Belt and Road Initiative, an effort to encourage PRC businesses to engage in a wide range of infrastructure investments around the world to establish the foundation for a new global economic partnership insulated from the United States.<sup>1646</sup> The initiative revolves around debt agreements that have left participating countries with massive debt they are unable to repay to China and, in exchange for relief from that debt, turn over control of key infrastructure or natural resources.<sup>1647</sup> As Treasury negotiates internationally on

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<sup>1637</sup> U.S.-China Economic and Security Review Comm'n, 2023 Report to Congress, at 46 (Nov. 14, 2023).

<sup>1638</sup> See Marco Rubio, *The real danger of doing business in China*, Fox News (Dec. 18, 2023).

<sup>1639</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Janet Yellen, Sec'y, Dep't of Treasury (July 18, 2024).

<sup>1640</sup> Briefing from Treasury Officials to Oversight & Accountability Committee staff (Aug. 20, 2024) ("Treasury Briefing"); Email from Dep't of Treasury to Oversight & Accountability Committee staff (Aug. 19, 2024) ("Aug. 19, 2024 Treasury Email").

<sup>1641</sup> Treasury Briefing.

<sup>1642</sup> *Id.*

<sup>1643</sup> Treasury Department, Role of the Treasury, *available at* <https://home.treasury.gov/about/general-information/role-of-the-treasury> (last accessed Sept. 16, 2024).

<sup>1644</sup> 2023 Report to Congress on China's WTO Compliance, U.S. Trade Representative, at 2 (Feb. 2024).

<sup>1645</sup> See U.S.-China Economic and Security Review Comm'n, *People's Republic of China (PRC) Representation in International Organizations* (Feb. 2024) ("USCC: PRC Representation in International Organizations") (identifying "Chinese nationals serving as the heads of key international organizations and in other top leadership positions in United Nations (UN) principal organs . . . and international trade and financial institutions.").

<sup>1646</sup> See McBride, et al., *supra* note 1526; see also James Kynge & Keith Fray, *China's Plan To Reshape World Trade On Its Own Terms*, Financial Times (Feb. 26, 2024).

<sup>1647</sup> Real Vision, *Kyle Bass: The China Conundrum Ft. Erik Bethel*, YouTube (Nov. 20, 2023) (last accessed Sept. 16, 2024) ("Real Vision").

behalf of American industry, it must actively address the strains this practice puts on American economic relationships with Belt and Road Initiative participants and its inhibition of mutually beneficial partnerships with American businesses.

The CCP Placates Treasury with Meetings While it Subverts the American-led Financial Order.



Source: Alan Rappeport, *Treasury Secretary Yellen to Hold Economic Talks With Chinese Counterpart*, N.Y. Times (Nov. 6, 2023).

The PRC has fundamental differences from the United States that play out in their economic engagement with America and the global economic community. Mary Kissel, former Senior Advisor to Secretary of State Mike Pompeo, testified to the Committee that “communist China, it is a party-state . . . it doesn’t function like our economy. . . [e]very economic activity accrues to the Party’s benefit[.]”<sup>1648</sup> For this reason, business leaders of international consulting firms and PRC companies not sufficiently in-line with CCP goals often disappear when they counter CCP objectives.<sup>1649</sup> American companies have also had their offices raided and staff harassed by CCP security officials amidst changes to PRC law that can be construed to criminalize routine business practices.<sup>1650</sup> Erik Bethel, former Executive Director of the World Bank, testified to the Committee that doing business in China places a company in the position where “the government can strip you of your CEO and disappear your senior leadership.”<sup>1651</sup> These hostile actions distort the market and illustrate the CCP’s fundamental divide from American enterprise. Dr. Atkinson testified to the Committee that “Chinese leaders do not care about ‘distorting the market’; in fact, they understand the only way China can become the global

<sup>1648</sup> CCP Political Warfare Hearing II (testimony of Ms. Kissel).

<sup>1649</sup> See, e.g., Laura He, *Detained, missing, or under investigation: Business leaders in China face an ‘aggressive’ crackdown*, CNN (Nov. 10, 2023).

<sup>1650</sup> Wakabayashi & Bradsher, *supra* note 1635.

<sup>1651</sup> CCP Political Warfare Hearing II (testimony of Mr. Bethel).

leader is to distort the market[.]”<sup>1652</sup> Despite the CCP’s manipulative attitude in economic matters, Treasury continues to engage in normalized bilateral discussions with CCP as if they were an ordinary trading partner by facilitating working groups, which periodically hold meetings between U.S. and PRC bureaucrats to ostensibly promote cooperation.<sup>1653</sup> It is concerning that Treasury does not take the fundamental differences between the CCP and the United States seriously. In fact, Treasury believes discussing engagement and involvement with the CCP in bilateral and international forums will solve CCP subversion.<sup>1654</sup>

The CCP’s presence and involvement in international financial institutions (IFIs) has been a way for the CCP to both pave the way for its own alternative system and stymie efforts to be held accountable for its rapacious economic model. Despite the stated aims of each institution being the advancement of freer and fairer international economic relationships, the PRC has evidenced a clear history of disregarding the rulings, mandates, and agreements made under IFIs,<sup>1655</sup> while it is ready to avail itself of IFI dispute resolution mechanisms to try and stymie the economic activity of the United States.<sup>1656</sup> Efforts by the Trump Administration to protect American workers from PRC industrial espionage were met with a rebuke from the WTO despite undisputed evidence of the theft of intellectual property.<sup>1657</sup> The CCP’s ability to simultaneously shirk its own agreements and maintain standing within IFIs is due, in part, to the network of individuals affiliated with the CCP’s united front in senior leadership positions at those same organizations.<sup>1658</sup>

Mr. Bethel noted that while he was the U.S. Executive Director for the WBG, he was advised by a cadre of staff from Treasury to facilitate the myriad of U.S. legislation that governs American involvement in the WBG.<sup>1659</sup> Treasury is also often specifically directed by legislation to advocate for specific positions of the United States at IFIs to accomplish policy objectives.<sup>1660</sup> The unique role Treasury has as an intermediary and negotiator for international economic engagement leaves it with an obligation to engage the CCP in light of their subversion of these institutions and to advocate for their censure until their agreements are met. However, Treasury continues to normalize engaging with CCP despite ongoing subversion of business norms and international economic agreements. Treasury continues to be satisfied with the CCP’s empty rhetoric that only placates rather than achieve anything of substance.

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<sup>1652</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>1653</sup> Treasury Briefing.

<sup>1654</sup> *Id.*

<sup>1655</sup> 2023 Report to Congress on China’s WTO Compliance, *supra* note 1644, at 2.

<sup>1656</sup> *See* US China tariffs ‘inconsistent’ with trade rules says WTO, BBC (Sept. 15, 2020).

<sup>1657</sup> *Id.*

<sup>1658</sup> *See generally* USCC: PRC Representation in International Organizations, *supra* note 1645.

<sup>1659</sup> Real Vision, *supra* note 1647.

<sup>1660</sup> Rebecca M. Nelson, R41170, Multilateral Development Banks: Overview and Issues for Congress, at 1 (last updated Sept. 13, 2023); Martin A. Weiss, IF10154, Asian Infrastructure Investment Bank, at 1 (last updated May 4, 2023).

## Treasury Should Negotiate with Developing Nations to Benefit American Workers and Businesses While Heading Off the Belt and Road Initiative.

The PRC is developing its own insulated financial order that seeks to entice participants to further strengthen the position of the CCP and is using the Belt and Road Initiative as its primary tool of engagement. The Belt and Road Initiative is a CCP directed national program to fund infrastructure, agriculture, and business ventures in strategically important nations.<sup>1661</sup> The Belt and Road Initiative has been predatory in its selection of participants, with nations being overburdened with debt obligations they cannot pay back to PRC and, in exchange for debt relief, afford PRC companies ownership of critical infrastructure or direct appropriation of critical natural resources.<sup>1662</sup> Mr. Bethel testified to the Committee that this debt cycle leads those developing nations to request funds from international organizations which will be used to pay the predatory CCP loans.<sup>1663</sup>

The CCP has leveraged IFIs against American interests by ignoring its international agreements—leaving America’s hands tied, as it upholds its responsibilities and the CCP establishes a new financial order. American taxpayers are indirectly financing the Belt and Road Initiative by way of the loans to participants by IFIs, including through the WBG and the Asian Infrastructure and Investment Bank (AIIB), which not only provide competitive funding otherwise out of reach for sovereign borrowers, but financial advisory services and expertise.<sup>1664</sup> As the Belt and Road Initiative has grown through IFI partnership and opulent CCP subsidies, Dr. Atkinson testified to the Committee that “thanks to its Belt and Road Initiative and massive export-financing programs to much of the rest of the developing world, China is aggressively fighting for and gaining market share around the world[.]”<sup>1665</sup> American leadership at the WBG is well-known, and as Mr. Bethel testified, “U.S. taxpayer dollars fund the World Bank and we, to a great degree, backstop the World Bank.”<sup>1666</sup> The AIIB was specifically created to help finance the Belt and Road Initiative and while it is not led by the United States, Mr. Bethel further testified that WBG “provides a lot of the back office and cash management and custodial work for the AIIB, and, in effect, it is helping to subsidize it.”<sup>1667</sup> Despite the foundation of American taxpayer capital and credit in these institutions, the WBG has only awarded a small minority of procurement contracts to American businesses as opposed to PRC companies, with the difference at one point being Chinese companies winning roughly 40 percent of procurement contracts compared to roughly one percent of American companies.<sup>1668</sup> The CCP has been abetted in simultaneously taking advantage of the benefits of membership in IFIs while avoiding associated responsibilities through a network of united front affiliated leadership within the IFIs.<sup>1669</sup>

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<sup>1661</sup> Karen M. Sutter, et. al., IF11735, China’s “One Belt, One Road” Initiative: Economic Issues, at 1 (last updated May 16, 2024).

<sup>1662</sup> Gerard M. Acosta, *China’s One Road, One Belt Grand Strategy: Founded on the Weaponization of the Global Supply Chain*, Defense Transportation Journal (Dec. 1, 2020).

<sup>1663</sup> CCP Political Warfare Hearing II (testimony of Mr. Bethel).

<sup>1664</sup> Nelson, *supra* note 1660.

<sup>1665</sup> CCP Political Warfare Hearing III (testimony of Dr. Atkinson).

<sup>1666</sup> CCP Political Warfare Hearing II (testimony of Mr. Bethel).

<sup>1667</sup> *Id.*

<sup>1668</sup> Real Vision, *supra* note 1647.

<sup>1669</sup> See USCC: PRC Representation in International Organizations, *supra* note 1645, at 14.

It is Not Surprising that Treasury is Not Using its Tools to Confront CCP Subversion—Given that its Officials Admitted Economic Warfare is Not in Their Lexicon.

The CCP has shown a consistent disregard for the free trade financial system the United States leads through the CCP’s domestic repression of routine business practices and parasitic use of IFIs. This reality requires Treasury to orient itself away from the historic model of engagement with the PRC by inculcating internal expertise and the use of existing economic tools to protect American interests domestically and internationally.

Treasury officials told the Committee that they have China experts and Mandarin speakers, providing a headcount of 19 Mandarin speakers and China experts for the Office of Investment Security,<sup>1670</sup> and 15 employees with Mandarin language skills working in OFAC.<sup>1671</sup> However, when pressed by the Committee to specify its basis for understanding what constitutes a China expert at Treasury, officials could not specify the criteria they use.<sup>1672</sup> While it is positive that Treasury has begun investing in some Mandarin speakers, it is apparent that it lacks the expertise it needs to identify and counter, CCP economic warfare—a concept Treasury officials repeatedly admitted to the Committee is not in its lexicon.<sup>1673</sup> A fundamental understanding of economic warfare is necessary for Treasury officials to effectively use OFAC and CFIUS to protect America from CCP infiltration and influence operations—something Treasury has failed to aggressively do.

OFAC implements economic sanctions determined by various laws and executive actions,<sup>1674</sup> while CFIUS focuses on transactions from foreign companies seeking to purchase either American companies or assets domestically and is empowered to block certain transactions in the interests of national security.<sup>1675</sup> While OFAC is only an administrator of sanctions determined by the President or Congress, Treasury officials told the Committee that their office is involved in Executive Branch discussions when determining sanctions, and the Committee believes OFAC must leverage its institutional knowledge of existing programs to inform ones targeted at the CCP.<sup>1676</sup> Treasury has country specific programs aimed at nations such as Russia and North Korea, but it has only instituted one China-specific program to target CCP economic subversion.<sup>1677</sup> This program is aimed only at companies that “operated in the defense and related material sector or the surveillance technology sector of the economy of the PRC” in an attempt to target CCP Military-Civil Fusion.<sup>1678</sup> This narrow definition of a military company misunderstands the nature of CCP Military-Civil Fusion, where Chinese companies—regardless

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<sup>1670</sup> Aug. 19, 2024 Treasury Email.

<sup>1671</sup> Treasury Briefing; Email from Dep’t of Treasury to Oversight & Accountability Committee staff (Sept. 4, 2024).

<sup>1672</sup> Treasury Briefing.

<sup>1673</sup> *Id.*

<sup>1674</sup> *Id.*

<sup>1675</sup> Cathleen D. Cimino-Isaacs and Karen M. Sutter, Cong. Research Serv., IF10177, The Committee on Foreign Investment in the United States, at 1 (last updated May 17, 2024).

<sup>1676</sup> Treasury Briefing.

<sup>1677</sup> *Id.*

<sup>1678</sup> Exec. Order No. 14032, 86 Fed. Reg. 30145 (June 7, 2021).

of a direct connection to the defense industry—can be leveraged to support the aims of the PRC military.<sup>1679</sup>

Similarly, CFIUS must be strengthened to combat CCP economic warfare. Acting as the chair for CFIUS, Treasury is in a unique position to advise the President on broadening the purview of foreign transactions subject to its purview.<sup>1680</sup> It has been explained that “[t]he CFIUS framework, with its broad definitions of transaction and control, provides a useful starting point for broader investment restrictions. However, its model of scrutinizing only a limited set of transactions and then considering only their national security implications is inappropriate to the China context.”<sup>1681</sup>

In recent years, however, CFIUS has properly increased its focus on transactions originating from China, with a proposed rule to expand the number of military facilities where nearby foreign real estate transactions are subject to its review.<sup>1682</sup> However, Ambassador Joseph Cella, former U.S. Ambassador to Fiji, Kiribati, Nauru, Tonga, and Tuvalu, and Co-Founder of Michigan China Economic Security and Review Group, testified to the Committee that a CCP real estate project located near one such facility was explicitly rejected for review by CFIUS, and his letter on this subject to Assistant Secretary of the Treasury for Investment Security has gone unanswered.<sup>1683</sup> Treasury and the White House must ensure the expanded scope of CFIUS translates into action to protect American military facilities and should “limit most, if not all, Chinese acquisitions and investments in U.S. companies, including start-ups, with more than minimal technological capabilities.”<sup>1684</sup>

## Committee Recommendations

Treasury has failed to secure U.S. economic interests in the face of CCP unrestricted warfare. As Dr. Atkinson testified to the Committee, Treasury “seeks to defend the strong dollar, as well as keep China buying U.S. [Treasury] bills, so it is reticent to do anything to upset China.”<sup>1685</sup> There is much that Treasury should do to advance American economic security in the cold war the CCP is waging against the nation:

- Treasury should leverage its role as lead negotiator on economic matters to coordinate with other agencies on any PRC related engagement to facilitate a whole-of-government approach to the CCP’s historic refusal to abide by its agreements.

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<sup>1679</sup> Jordan Brunner and Emily Weinstein, *The Strategic and Legal Implications of Biden’s New China Sanctions*, Lawfare (June 18, 2021).

<sup>1680</sup> Cimino-Isaacs & Sutter, *supra* note 1675, at 1.

<sup>1681</sup> American Compass, *A Hard Break from China*, *supra* note 1112 (Recommending that “U.S. law should define a class of “Disqualified Foreign Investors” (DFIs) that includes Chinese nationals who are not permanent U.S. residents, PRC-based entities, and any other entities that are affiliates of the CCP or subject to CCP control. It should then establish a presumptive prohibition on activities comparable to those that CFIUS might typically scrutinize.”).

<sup>1682</sup> Definition of Military Installation and the List of Military Installations in Regulations Pertaining to Certain Transactions by Foreign Persons Involving Real Estate in the United States, 89 Fed. Reg. 58653 (July 19, 2024) (to be codified at 31 C.F.R. pt. 802).

<sup>1683</sup> CCP Political Warfare Hearing III (written testimony of Ambassador Cella).

<sup>1684</sup> Robert D. Atkinson, *et al.*, *A Techno-Economic Agenda for the Next Administration*, Information Technology & Innovation Foundation (June 10, 2024).

<sup>1685</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

- CFIUS, through Treasury, should prioritize the national security threat from the CCP.
  - Transactions from most PRC entities involving American businesses with more than the most basic level of technological capability should be fully restricted.
  
- OFAC should develop a PRC-focused program.
  - OFAC should impose sanctions directly on PRC and CCP entities and individuals—not simply impose sanctions when those entities and individuals engage with other adversaries that OFAC has sanctioned, such as North Korea and Russia.
  - Specific focus on countries of concern, such as Russia, has offered effective countermeasures, and the same targeted attention should be paid to the PRC. OFAC should prioritize crafting a tailored economic sanctions program for CCP.
  - Using existing significant resources, OFAC should foster strong China expertise and Mandarin language skills amongst its personnel.
  
- Treasury should review its bilateral engagement with the PRC.
  - Treasury’s Economic and Financial working groups with the PRC should be treated as an opportunity to coordinate in the event of a global financial crises rather than a forum for the CCP to make agreements it does not intend to keep.



# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. DEPARTMENT OF THE TREASURY

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	●
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●

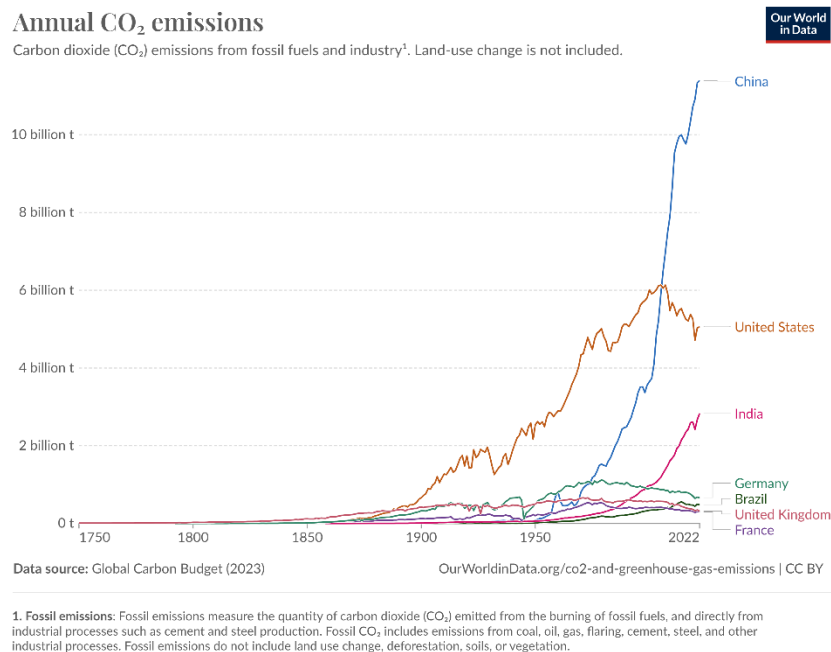
### Comment

The Treasury Department fundamentally misunderstands that the nature of CCP engagement with the U.S. led financial system is subversive, not collaborative. Despite its responsibility to ensure U.S. economic security, Treasury told the Committee economic warfare is not in its lexicon.

# U. U.S. Environmental Protection Agency

The Environmental Protection Agency is Complicit in the CCP's Green Energy War with Americans and the U.S. Economy.

- The Environmental Protection Agency (EPA) does not have a proactive approach to address the PRC's use of non-profit organizations and environmental advocacy groups to further Chinese goals in the United States. Without pushback from the EPA, the CCP's manipulation of U.S. environmental policies in this manner helps advance the Party's ambitions to the detriment of Americans and the economy.
- The EPA is concerned with hard threats, particularly cyber-attacks against water infrastructure, yet an agency audit recently found U.S. water systems are overwhelmingly unprepared to meet the threat.<sup>1686</sup>
- EPA officials admitted that only recently did agency staff demonstrate an interest in learning about the specific threats posed by China.



Source: Hannah Ritchie & Max Roser, *CO<sub>2</sub> emissions: How much CO<sub>2</sub> does the world emit? Which countries emit the most?*, Our World in Data (June 2020) (last revised Jan. 2024) (last accessed Sept. 16, 2024).

Committee staff examined what steps the EPA is taking to counter the CCP's tactics designed to interfere with and obstruct America's goal of achieving energy independence. China has simultaneously sought to influence Western nations' commitment to lower emissions while

<sup>1686</sup> U.S. Environmental Protection Agency, Enforcement Alert: Drinking Water Systems to Address Cybersecurity Vulnerabilities (May 20, 2024).

refusing to commit to any reductions in carbon emissions.<sup>1687</sup> The PRC is the leading emitter of CO<sub>2</sub> in the world, accounting for 31 percent of annual global emissions (see graph above).<sup>1688</sup> In May 2024, the Biden-Harris Administration placed tariffs on Chinese steel, aluminum, solar cells, and electric vehicles (EVs).<sup>1689</sup> China criticized the tariffs and some in the American media agreed, saying the tariffs would make it harder for the United States to meet emissions reductions targets.<sup>1690</sup> From power plants to automobiles, the EPA has written emissions regulations that touch on every aspect of Americans' daily lives. U.S. companies and utilities are trying to cope with this mandated transition. China's domestic manufacturing is receiving a huge windfall from the Western transition to lower emissions technology.

The EPA has a role in securing water and wastewater facilities, and infrastructure that is critical to the everyday needs of Americans. The EPA is in sync with intelligence agencies in trying to address hard threats posed by the PRC, such as cyber-attacks against critical infrastructure.<sup>1691</sup> However, the EPA is largely ignoring China's influence operations as they relate to the agency's policies.<sup>1692</sup> EPA officials admitted that until very recently, its officials were largely uninformed about the threats posed by China and the PRC's interests in the environmental regulator's jurisdiction.<sup>1693</sup>

On March 13, 2024, the Committee requested a briefing from the EPA regarding the agency's efforts to counter PRC influence in U.S. environmental policy.<sup>1694</sup> As the federal agency responsible for overseeing U.S. environmental policy, the EPA must take into account that the PRC seeks to influence the agency's actions to the detriment of Americans. On April 8, 2024, the EPA provided the Committee with a briefing led by the Office of National Security.<sup>1695</sup>

### The CCP Uses Environmental NGOs to Wage Political Warfare Against America.

The CCP uses environmental non-governmental organizations (NGOs) to pressure the United States into adopting more stringent regulations pertaining to reductions in carbon emissions.<sup>1696</sup> Working through the CCP's united front, the Party engages in political warfare by applying pressure to climate NGOs to lobby the federal government to implement policies that will harm the American energy sector while advancing a green energy agenda.<sup>1697</sup>

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<sup>1687</sup> Diana Furchtgott-Roth, *China Abandons Paris Agreement, Making U.S. Efforts Painful and Pointless*, The Heritage Found. (July 26, 2023).

<sup>1688</sup> See David Sandalow, et al., *A Guide to Chinese Climate Policy 2022*, Oxford Inst. of Energy Studies (Oct. 14, 2022).

<sup>1689</sup> The White House, FACT SHEET: President Biden Takes Action to Protect American Workers and Businesses from China's Unfair Trade Practices (May 14, 2024).

<sup>1690</sup> Editorial Board, Opinion | Tariffs against China hamstringing the transition to a clean energy future, *The Wash. Post* (May 16, 2024).

<sup>1691</sup> Briefing from EPA Officials to Oversight & Accountability Committee staff (Apr. 8, 2024) ("EPA Briefing").

<sup>1692</sup> *Id.*

<sup>1693</sup> *Id.*

<sup>1694</sup> Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, to Hon. Michael Regan, Administrator, Environmental Protection Agency (Mar. 13, 2024) ("EPA Letter").

<sup>1695</sup> EPA Briefing.

<sup>1696</sup> See EPA Letter.

<sup>1697</sup> See Gershaneck, *Political Warfare: Strategies for Combating China's Plan to "Win without Fighting,"* at 22-23.

The CCP manipulates the conversation around green energy to make itself out to be an indispensable partner in climate agreements despite its unwillingness to comply with such agreements. Dr. Robert Atkinson, Founder and President of the Information Technology and Innovation Foundation, testified to the Committee that cooperators mistakenly argue that “China is such a major greenhouse gas emitter we must not be so confrontational with China that they won’t help us address the challenge.”<sup>1698</sup> According to Dr. Atkinson,

[T]here are three things wrong with this. First, China has much more at stake from climate change than the United States. More of its population lives in areas around sea level, and it has less arable land than the United States. China should be begging America to do more on climate. Second, China will only address decarbonization when it is in its economic interest to do so. And that will only happen when clean energy becomes cheaper than fossil fuels.<sup>1699</sup>

This, according to Dr. Atkinson, means that China will leverage climate cooperation in exchange for limits on American export controls.<sup>1700</sup> Given the CCP’s exploitation of the green energy movement, the Committee has previously raised concerns pertaining to various NGOs and their ties to the CCP and has consistently reiterated that the federal government must be proactive in ensuring that the CCP is not able to use these groups to effectuate policy.<sup>1701</sup>

During the briefing with the EPA’s Office of Homeland Security, officials confirmed that their office is not involved in the vetting process of NGOs meeting with EPA officials unless contacted by the FBI or another member of the IC with concerns about the NGO’s foreign ties.<sup>1702</sup> In order to meet the challenge posed by the CCP and united front, the EPA must be more proactive in ensuring that agency officials are not permitting policy to be influenced by NGOs with ties to the CCP.

EPA policies that are driving the transition to renewable energy are influenced by trade associations, nonprofits, and other NGOs with concerning ties to China. These policies essentially mandate a green energy transition through, for example, the imposition of controls on power plants and energy efficiency standards. Yet, to date, the EPA has not acknowledged that the transition has been influenced by NGOs connected with the PRC—let alone taken steps to address this problem.

The EPA’s efforts to address the CCP threat of political warfare do not focus on how the CCP exploits the green energy movement. During the briefing, EPA officials discussed a number of initiatives the Office of Homeland Security has taken to educate EPA program divisions and employees about the threat posed by the CCP and other foreign actors.<sup>1703</sup> None of this outreach

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<sup>1698</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson) (citing Graham T. Allison, et al., *Is the US-China relationship the most consequential relationship for America in the world?*, Brookings (Feb. 2024)).

<sup>1699</sup> CCP Political Warfare Hearing III (written testimony of Dr. Atkinson).

<sup>1700</sup> *Id.*

<sup>1701</sup> Letter from Sen. Ted Cruz & Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Merrick Garland, Attorney Gen., Dep’t of Justice (Aug. 3, 2023).

<sup>1702</sup> EPA Briefing.

<sup>1703</sup> *Id.*

appears to have specifically addressed CCP political warfare exploiting the green energy movement to advance its agenda and harm the U.S. economy. The Office of Homeland Security explained that its outreach has raised awareness around China's interest in the agency's jurisdiction, and stated that, in many instances, EPA employees have contacted their office for additional training and guidance.<sup>1704</sup> Yet, EPA officials did not offer any strategies to address CCP influence in its policies and decision-making.<sup>1705</sup>

### Recent EPA Regulatory Action Benefits the Chinese Communist Regime.

Unfortunately for American consumers, the federal government's mandates to achieve emissions targets will increase American reliance on Chinese energy and technology. On March 20, 2024, the EPA finalized a rule that will drastically impact the automotive industry and requires that automotive manufacturers, in effect, ensure that by year 2032 electric vehicles (EV) comprise a majority of their sales.<sup>1706</sup> The EPA's decision to finalize its rule, *Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles* (88 Fed. Reg. 29184), will not only increase the driving costs for millions of Americans but will also increase American dependence on China for the materials required to produce EVs.<sup>1707</sup>

The International Energy Agency (IEA) released a report in 2022 which determined that China "produces three-quarters of all lithium-ion batteries and is home to 70% of production capacity for cathodes and 85% for anodes."<sup>1708</sup> These items are key components for the production of batteries used in EVs.<sup>1709</sup> In contrast to China, the United States maintains a miniscule role in the EV supply chain and accounts for only ten percent of EV production and seven percent of EV battery production capacity.<sup>1710</sup> By finalizing a rule that will force the U.S. automotive industry to be more reliant on China, the agency has jeopardized American national security by increasing reliance on a foreign adversary. Additionally, EPA officials from the agency's Office of National Security stated to the Committee that it is not its role to advise agency leadership on the national security ramifications of possible EPA policies and regulations, even if the policy in question would harm U.S. national security.<sup>1711</sup>

If the EPA mandates the United States reach emissions or efficiency targets, then the agency should consider the direct impact these requirements have on American competitiveness. China has a demonstrated interest in taking advantage of the policies driving U.S. demand for energy, and the EPA should account for this exploitation.

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<sup>1704</sup> *Id.*

<sup>1705</sup> *Id.*

<sup>1706</sup> Press Release, U.S. Environmental Protection Agency, Biden-Harris Administration finalizes strongest-ever pollution standards for cars that position U.S. companies and workers to lead the clean vehicle future, protect public health, address the climate crisis, save drivers money (Mar. 20, 2024).

<sup>1707</sup> Elizabeth Heckman, *Retired Navy captain warns Biden's EV push threatens national security: 'Fundamentally wrong'*, Fox News (Jan. 20, 2024).

<sup>1708</sup> Int'l Energy Agency, *Global Supply Chains of EV Batteries*, at 2 (2022).

<sup>1709</sup> *Id.*

<sup>1710</sup> *Id.*

<sup>1711</sup> *Id.*

## An EPA Audit Revealed a High Number of Water Systems are Vulnerable to Cybersecurity Attacks on Community Water Systems.

Without specifically addressing China’s role, EPA officials told the Committee that cybersecurity represents a serious threat to community water systems.<sup>1712</sup> The EPA reports that “[c]yberattacks against CWSs [community water systems] are increasing in frequency and severity across the country.”<sup>1713</sup> A recent EPA audit revealed that 70 percent of water systems inspected since September 2023 failed to meet some security standards<sup>1714</sup>—demonstrating that the EPA has not fulfilled its role in securing vulnerable systems. The PRC’s state-sponsored cyber-attacks, such as those conducted by Volt Typhoon, have disrupted water systems and could be embedded with the capability to disable such critical infrastructure systems in the future.<sup>1715</sup> In discussing how the Office of Homeland Security evaluates threats from foreign adversaries, EPA officials simply stated that the EPA follows the *Annual Threat Assessment of the U.S. Intelligence Community* published by ODNI. It is encouraging that the EPA’s Office of Homeland Security is taking direction from ODNI, which considers China a significant threat to American cybersecurity.<sup>1716</sup> Yet the EPA audit identifies a concerning number of vulnerable drinking and wastewater systems that Americans rely on every day.

## EPA Must Safeguard Taxpayer Funded Research and Intellectual Property from the CCP.

ODNI’s report also warns of China’s theft of research, and that federal agencies must be aware of the dangers to research security posed by foreign talent recruitment programs.<sup>1717</sup> Other agencies, such as the National Science Foundation (NSF), have expressed these concerns for years.<sup>1718</sup> Yet, until very recently, the EPA had only half-baked measures to guard against foreign talent recruitment programs. In April 2023, the EPA OIG found that the EPA didn’t require grantees to disclose foreign support after they received agency funding.<sup>1719</sup> The EPA has taken steps to address the issue, and the Office of Homeland Security has briefed EPA leadership about the threat posed by the CCP’s foreign talent recruitment programs.<sup>1720</sup> However, it is still unclear if the EPA devotes enough attention to combatting CCP theft of research funded by the agency. On September 3, 2024, the EPA’s OIG issued a report that found the agency lacks the means to vet for conflicts of interest, especially when foreign institutions are involved.<sup>1721</sup> The report was issued following an investigation involving a researcher connected to a Chinese talent recruitment program. While EPA leadership may be aware of the issue, the agency’s watchdog

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<sup>1712</sup> *Id.*

<sup>1713</sup> Enforcement Alert: Drinking Water Systems to Address Cybersecurity Vulnerabilities, U.S. Environmental Protection Agency (May 20, 2024).

<sup>1714</sup> *Id.*

<sup>1715</sup> *Id.*; see also Section III. C. Federal Bureau of Investigation.

<sup>1716</sup> See 2024 ODNI Annual Threat Assessment, *supra* note 694.

<sup>1717</sup> *Id.*

<sup>1718</sup> Jeffrey Mervis, *Top U.S. science funder says it is swamped by investigations of foreign influence on grantees*, Science (Oct. 7, 2021).

<sup>1719</sup> Memo from Jason Abend, Asst. Inspector General, Office of Investigations, EPA, to Dr. Chris Frey, Asst. Admin. and Science Advisor, Office of Research and Development, EPA (Apr. 13, 2023).

<sup>1720</sup> EPA Briefing.

<sup>1721</sup> *Management Implication Report: Protecting the Integrity of EPA Funded Research*, EPA Office of Inspector General (Sept. 3, 2024).

does not believe that the EPA has taken sufficient steps to secure EPA-sponsored research from Chinese theft.<sup>1722</sup>

### Committee Recommendations

The EPA is taking some positive steps to mitigate dangers posed by the CCP's efforts to infiltrate and influence the agency's mission. However, the threat posed by China is mistakenly viewed in narrow terms by EPA officials. The agency takes actions to address hard threats such as cyber-attacks, but it neglects to address, or even consider, China's holistic approach to use U.S. environmental policy against America. Given the EPA's important role in America's energy security and independence, it should take seriously China's full-scale approach to undermine America's energy security. The EPA's policies have direct consequences for Americans' utility bills, the affordability of automobiles, and job opportunities in local communities. Consequently, the EPA should ensure that it only implement policies that help protect American energy security in the face of the communist regime's unrestricted warfare. The Committee therefore makes the following recommendations:

- Protect U.S. environmental policy from CCP influence.
  - The EPA should use the Office of Homeland Security to thoroughly investigate and vet individuals and NGOs who meet with or plan to meet with EPA leadership to ensure that any possible ties—financial or otherwise—to the PRC or CCP are disclosed to the agency and the American people.
- The stringency of the EPA's regulations has ramifications for the economy as well as the environment and, thus, U.S. competitiveness against China. The EPA must take seriously that there is no other country capable of supplanting U.S. leadership in energy.
  - The EPA should report annually to the public on U.S. regulations for emissions, efficiency standards, and other climate-related rules. The EPA should report not just on their effectiveness, but also how the actions of other nations in this area are affecting Americans. Coercing American companies into changing their operations—whether by redesigning products or adopting more stringent emissions controls—does not produce the environmental benefits the policies are designed to achieve if others, chiefly China, are not also strictly regulating emissions.
- Ensure the EPA's grants do not aid the CCP.
  - The EPA should annually review its security measures and required disclosures for agency grant making awards to ensure grant recipients are disclosing all sources of income tied to China.

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<sup>1722</sup> *Id.*

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. ENVIRONMENTAL PROTECTION AGENCY

Subject	Grade
Acknowledgment and Understanding of CCP Unrestricted Warfare, Infiltration and Influence Operations, and/or Relevant Form of CCP Warfare	●
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	●
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●

### Comment

EPA endeavors to address CCP hard threats such as cyberattacks threatening U.S. water security. However, the EPA's own audits raise concerns about the security of drinking and wastewater infrastructure from CCP-backed cyberattacks. Moreover, the EPA demonstrated to the Committee that it does not take seriously CCP influence operations shaping green energy policies that affect U.S. consumers, the economy, and national security.



## V. U.S. Food and Drug Administration

The Food and Drug Administration is Aware America is Dependent on China for Life-Saving Pharmaceutical and Medical Supplies, Yet the Agency Regularly Outsources its Oversight and Inspection Responsibilities to Outside Entities or Foregoes These Responsibilities Altogether.

- The U.S. Food and Drug Administration (FDA) has empowered the CCP's economic warfare against America's pharmaceutical, medical, and tobacco supply chains by outsourcing its inspection duties or failing to conduct inspections entirely, ceding control of the nation's critical supply chains to the PRC.
- FDA is unwilling to acknowledge the inherent risks associated with America's dependence on China for imported active pharmaceutical ingredients (APIs), finished medications, and medical devices.
- FDA must act before America's dependence on the PRC becomes a material risk to the nation's healthcare system and national security.

FDA is charged with ensuring imported pharmaceuticals and medical devices meet the same federal regulatory standards as those manufactured in the United States.<sup>1723</sup> In addition, FDA's Center for Drug Evaluation and Research (CDER) performs "an essential public health task by making sure that safe and effective drugs are available to improve the health of people in the United States."<sup>1724</sup> These mission-critical responsibilities are non-negotiable given America's dangerous reliance on China for pharmaceutical and medical products.<sup>1725</sup> It is well-documented that the PRC's control of manufacturing and America's dependence on the PRC for life-saving pharmaceuticals and medical supplies is a threat to U.S. national security.<sup>1726</sup>

On May 6, 2024, the Committee requested a briefing from FDA about the agency's efforts to protect Americans from the threat posed by the PRC to America's supply chains.<sup>1727</sup> On June 6, 2024, FDA provided the Committee a briefing attended by subject matter experts from FDA's Office of Global Policy and Strategy, Office of Regulatory Affairs, Office of Medical Products and Tobacco Operations, Office of Import Operations, and CDER.<sup>1728</sup> The Committee's investigation into the CCP's economic warfare against America has included an

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<sup>1723</sup> U.S. Food and Drug Admin., *Importing FDA Regulated Products* (Nov. 22, 2023).

<sup>1724</sup> U.S. Food and Drug Admin., *About FDA, FDA Organization, Center for Drug Evaluation and Research (CDER), Who We Are*, available at <https://www.fda.gov/about-fda/fda-organization/center-drug-evaluation-and-research-cder> (last accessed Sept. 16, 2024).

<sup>1725</sup> Doug Palmer & Finbarr Bermingham, *U.S. policymakers worry about China 'weaponizing' drug exports*, Politico (Dec. 20, 2019).

<sup>1726</sup> Sel. Comm. on the Chinese Communist Party, *Reset, Prevent, Build: A Strategy to Win America's Economic Competition with the Chinese Communist Party*, at 48 (Dec. 12, 2023) ("Key Finding: The United States' dependence on the PRC for pharmaceutical and medical device supply chains poses a distinct national security risk."); Ana Swanson, *Coronavirus spurs U.S. efforts to end China's chokehold on drugs*, N.Y. Times (Mar. 11, 2020).

<sup>1727</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Robert M. Califf, Comm'r, Food and Drug Admin. (May 6, 2024).

<sup>1728</sup> Briefing from FDA Officials to Oversight & Accountability Committee staff (June 6, 2024) ("FDA Briefing").

examination of the steps FDA is taking to protect U.S. pharmaceutical and tobacco supply chains from the threat posed by the PRC to the health and well-being of Americans and the national security. Although FDA is aware of America’s reliance on the PRC for pharmaceutical and medical supplies, the agency regularly outsources its oversight and investigative duties to outside entities, including the PRC,<sup>1729</sup> or foregoes inspections altogether.<sup>1730</sup> Furthermore, FDA mistakenly takes a country agnostic approach to China, treating the PRC the same as other foreign countries, despite informing the Committee that the PRC has detained FDA investigators in their hotel rooms in China.<sup>1731</sup>

The PRC is a dominant manufacturer of APIs and finished drugs imported into the United States.<sup>1732</sup> The PRC is the third largest exporter of pharmaceuticals and the foremost exporter of medical devices to the United States.<sup>1733</sup> As a result, America depends on the PRC to maintain a steady supply of pharmaceutical and medical devices.<sup>1734</sup> China now accounts for 95 percent of imports of ibuprofen, 91 percent of imports of hydrocortisone, 70 percent of imports of acetaminophen, and 40 to 45 percent of imports of penicillin.<sup>1735</sup> Restrictions associated with the COVID-19 pandemic caused FDA to postpone in-person inspections due to social distancing and isolation protocols,<sup>1736</sup> which quickly led to supply chain shortages for these materials and exposed America’s reliance on the PRC to maintain the medical product supply chain.<sup>1737</sup> However, FDA’s monitoring in the PRC has not been compliant with regulatory requirements for some time, even prior to the COVID-19 pandemic.<sup>1738</sup>

**FDA Must Conduct Timely, Independent, and Unannounced Inspections of Manufacturing Facilities in China to Protect Americans and U.S. National Security Interests from the CCP.**

FDA must conduct timely, independent, and unannounced inspections of pharmaceutical and medical equipment manufacturing facilities in China to protect America from CCP economic warfare. China policy experts have explained General Secretary Xi “has ambitions even greater

<sup>1729</sup> GAO-22-103611, U.S. Gov’t Accountability Off., *Drug Safety: FDA Should Take Additional Steps to Improve Its Foreign Inspection Program*, at 28 (Jan. 2022) (FDA is working on a pilot proposal where “FDA would use an interagency agreement with the Department of State to provide independent translators for certain inspections in China and Hong Kong, rather than relying on the drug establishment being inspected to provide translation services to facilitate the inspection, as FDA typically does.”) (“GAO-22-103611”).

<sup>1730</sup> FDA Briefing.

<sup>1731</sup> *Id.* (FDA informed Committee staff the agency assesses the China threat in the same way as Russia or other countries.).

<sup>1732</sup> U.S. Food and Drug Admin., China Office (July 28, 2024).

<sup>1733</sup> *Id.*

<sup>1734</sup> *Id.*

<sup>1735</sup> Andrew Heritage, *Skyrocketing Pharmaceutical Imports To The U.S. Endanger National Security*, Coalition for a Prosperous America (Jan. 9, 2023).

<sup>1736</sup> GAO-22-103611, *supra* note 1729.

<sup>1737</sup> Andrew I. Rudman & Jerry Haar, *Strengthening US-Mexico Quality Pharmaceutical Supply Chains*, Wilson Ctr. (June 11, 2024) (“The reliance on imports of active pharmaceutical ingredients (API) and finished products, including from China and India, placed our countries in a vulnerable, and previously underappreciated position. However, shortages of these critical products, some of which continue today, underscore the risks of relying on a single country or pair of countries.”).

<sup>1738</sup> Joanne S. Egllovitch, *Unannounced FDA inspections have started in India, not China*, Regulatory Affairs Professionals Society (Apr. 7, 2022).

than Mao”<sup>1739</sup> and “[a]t the core of Xi’s vision is the fulfillment of the ‘China Dream of national rejuvenation’ by 2050.”<sup>1740</sup> To achieve this objective, the CCP has implemented several warfare tactics, including “Made in China 2025” (MIC2025), which targets domestic innovation in biopharmaceutical and high-tech medical devices as a priority for centralizing PRC domestic manufacturing.<sup>1741</sup> MIC2025 has been described as “a broad set of industrial plans that aim to boost competitiveness by advancing China’s position in the global value chain, ‘leapfrogging’ into emerging technologies, and reducing reliance on foreign firms.”<sup>1742</sup>



Source: *The great medicines migration: How China took control of key pharmaceutical supplies*, Nikkei Asia (Apr. 5, 2022).

However, recent publications have highlighted the threat posed by MIC2025 to America, writing, “MIC2025 stresses ‘indigenous’ innovation, *but this process often involves the acquisition, absorption, and adaptation of foreign technology by PRC entities that recast these capabilities as their own.*”<sup>1743</sup>

<sup>1739</sup> Steve Tsang, *What Xi Jinping Really Thinks*, Time (May 11, 2024) (“Xi’s vision of ‘one country’ requires every Chinese person submit oneself to the greater good of China as interpreted by the Party” and “To create ‘one patriotic people,’ Xi Thought makes every Chinese person take on a politicized national identity and learn its tenets. Chinese heritage or culture are made inseparable from political loyalty to the PRC, the CCP, and its top leader. Thus, Maoist ideas of the mass line (making people believe whatever the Party does it in its best interests and the United Front (the ultimate divide and rule methodology) have been reinvigorated.”).

<sup>1740</sup> *Id.*

<sup>1741</sup> James McBride & Andrew Chatzky, *Is ‘Made in China 2025’ a threat to global trade?*, Council on Foreign Relations (May 13, 2019); *Pharmacy of the world: China’s quest to be the No. 1 drugmaker*, Nikkei Asia (Dec. 23, 2021).

<sup>1742</sup> *Made In China 2025’ Industrial Policies: Issues for Congress*, Congressional Research Service (Mar. 10, 2023) (“MIC2025 has been a major U.S. policy focus because of the tactics it has intensified, such as technology transfer, licensing and JV requirements, PRC state-directed IP theft, and PRC state-funded acquisitions of firms in strategic sectors.”).

<sup>1743</sup> *Id.* (emphasis added) (“The MLP [Medium- and Long-Term Plan for Science in Technology] promotes diverse forms of state ownership and control of PRC firms and increases firms’ flexibility to operate overseas, which may obscure the full extent of the PRC state’s role in business.”).

In conjunction with MIC2025, the CCP has implemented Military-Civil Fusion as a form of economic warfare against the United States. The PRC is merging its military and pharmaceutical technology sectors to advance and strengthen China's military.<sup>1744</sup> China is carrying out the Party's Military-Civil Fusion goals through PLA-funded and CCP-linked pharmaceutical and biotechnology companies in the United States. In 2020, PLA-funded WuXi STA, a subsidiary of WuXi AppTec, a Chinese company tied to the CCP and PLA,<sup>1745</sup> opened an advanced testing facility in Philadelphia.<sup>1746</sup> In 2021, WuXi STA received a \$19 million taxpayer-funded grant<sup>1747</sup> to build a \$500 million drug manufacturing facility in Middletown, Delaware.<sup>1748</sup> Members of Congress have sounded the alarm, labeling WuXi AppTec and its sister company, WuXi Biologics, as "an espionage tool."<sup>1749</sup> In February of this year, media outlets revealed U.S. intelligence officials determined WuXi AppTec had transferred a U.S. client's intellectual property to the PRC without consent.<sup>1750</sup> More recent reports have cautioned, "Employees of drugmaker WuXi AppTec, under U.S. scrutiny for its links to the Chinese military, co-invented altitude sickness treatments with the [PLA] scientists."<sup>1751</sup> Notably, FDA told Committee staff that although the agency is not naïve about the risks presented by China, it does not view the threat posed by the PRC to be greater than other foreign countries, including Russia.<sup>1752</sup> However, FDA's statement ignores that America is not reliant on Russia for life-saving pharmaceutical and medical supplies. These facts highlight the serious risks associated with FDA's abdication of its oversight and inspection duties.

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<sup>1744</sup> U.S. Dep't of State, Military-Civil Fusion and the People's Republic of China, *available at* <https://www.state.gov/wp-content/uploads/2020/05/What-is-MCF-One-Pager.pdf> (last accessed Sept. 16, 2024).

<sup>1745</sup> Letter from Hon. Mike Gallagher et al., Chairman, Sel. Comm. on the Chinese Communist Party, to Hon. Gina Raimondo et al., Sec'y, U.S. Dep't of Com. (Feb. 12, 2024).

<sup>1746</sup> Press Releases, WuXi AppTec, WUXI STU Opens New Facility in Philadelphia, Tripling Testing Capacity to Support Global Customers (Nov. 15, 2021), *available at* <https://www.wuxiapptec.com/news/wuxi-news/4923> (last accessed Sept. 16, 2024).

<sup>1747</sup> Jacob Owens, *Delaware Oks \$19M pharma campus grant*, Delaware Business Times (June 28, 2021) ("The grant, made to STA Pharmaceutical USA, a subsidiary of Shanghai-based WuXi AppTec, is the largest grant approval made during Gov. John Carney's term []" and "It is the largest grant approved by the state since [] 2011.").

<sup>1748</sup> WuXi STA's pharmaceutical manufacturing campus, Delaware, USA (Aug. 25, 2022), *available at* <https://www.pharmaceutical-technology.com/projects/wuxi-sta-manufacturing-campus-delaware/> (last accessed Sept. 16, 2024); Michael McCoy, *House bill targets some Chinese outsourcing firms*, Chemical and Engineering News (Jan. 31, 2024).

<sup>1749</sup> Jiaxing Li, *US lawmaker moves bill to ban Chinese biotech firms from federal contracts, alleging complicity with military*, South China Morning Post (Jan. 26, 2024) (China seeks to dominate biotechnology as an industry of the future, and the nation's biotech firms "have repeatedly collaborated with PLA [the People's Liberation Army] entities" with power to compel them to turn over their data, according to a bill moved by Republican Mike Gallagher of Wisconsin this week" and "[t]he proposed legislation said that based on WuXi AppTec's press statements, the firm has sponsored "military-civil fusion events" in mainland China, and has granted awards to PLA researchers and invited PLA institutes to participate in the selection process of company awards.").

<sup>1750</sup> Michael Martina, et al., *Exclusive: China's WuXi AppTec shared US client's data with Beijing, US intelligence officials told senators*, Reuters (Mar. 28, 2024) ("WuXi AppTec's services range from conducting research and development to making pharmaceutical raw materials and manufacturing drugs. Its customers include large pharmaceutical companies and small biotech firms.").

<sup>1751</sup> Kirsty Needham & Andrew Silver, *Staff at drugmaker under U.S. scrutiny worked with Chinese military scientists*, Reuters (June 6, 2024).

<sup>1752</sup> FDA Briefing.

FDA is dangerously unprepared to address the threat posed by China and, has placed the PRC in a position of trust. This is alarming since the CCP is engaged in the manufacture and export of fentanyl precursors, which were responsible for killing 74,702 Americans in 2023.<sup>1753</sup> Although FDA opened an office in Beijing in 2008,<sup>1754</sup> which FDA characterized to the Committee as its eyes and ears on the ground in China,<sup>1755</sup> it is well-documented FDA does not maintain adequate staff to monitor the growing number of U.S. facilities in the PRC that are producing APIs and finished drugs to be exported to the United States.<sup>1756</sup> In 2019, then-FDA Deputy Commissioner Janet Woodcock testified, “we do not know whether Chinese facilities are actually producing APIs, how much they are producing, or where the APIs they are producing are being distributed worldwide, including in the United States.”<sup>1757</sup> FDA admitted to the Committee the United States is 50 percent reliant on China for heparin,<sup>1758</sup> a blood thinner used in kidney dialysis and during open-heart surgery.<sup>1759</sup> In 2019, Members of Congress voiced concerns about the U.S. heparin supply chain “drying up” due to America’s reliance on China.<sup>1760</sup> The cancer drug shortage has become so severe that FDA temporarily authorized the importation of a common cancer drug, cisplatin, from a Chinese manufacturer.<sup>1761</sup> These statistics demonstrate potential avenues for PRC unrestricted warfare against our supply chains and present serious economic, societal, and national security vulnerabilities.

FDA has allowed the PRC to dictate the terms and conditions of the agency’s inspections in China by providing advance notice for inspections and relying on the PRC for translation services.<sup>1762</sup> In January 2021, Congress directed FDA to use \$3.5 million of its fiscal year 2021 appropriation to establish a pilot program to implement unannounced short-notice foreign inspections in China<sup>1763</sup> to prevent manufacturers from covering up improper practices prior to investigators appearing on the premises.<sup>1764</sup> However, FDA informed Committee staff the agency was prevented from initiating the initial phase of its unannounced inspection pilot

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<sup>1753</sup> See *supra*, Section III. B. Drug Enforcement Administration; Office of Communication, *U.S. Overdose Deaths Decrease in 2023, First Time Since 2018*, DEA (May 15, 2024); see also Select Comm. on the CCP: The CCP’s Role in the Fentanyl Crisis, *supra* note 377, at 2.

<sup>1754</sup> Andrew Jacobs & Mark McDonald, *F.D.A. opens office in Beijing to screen food and drug exports*, N.Y. Times (Nov. 19, 2008).

<sup>1755</sup> FDA Briefing.

<sup>1756</sup> Palmer & Bermingham, *supra* note 1725.

<sup>1757</sup> *Safeguarding Pharmaceutical Supply Chains in a Global Economy, Hearing Before the Subcomm. on Health, Comm. on Energy and Com.*, 116th Cong., at 7 (Oct. 30, 2019) (statement of Dr. Janet Woodcock, Dir., U.S. Food and Drug Admin., Ctr. for Drug Evaluation and Research).

<sup>1758</sup> FDA Briefing.

<sup>1759</sup> *Fresenius limits heparin as shortages of blood thinner persist*, Fierce Pharma (Sept. 2, 2019).

<sup>1760</sup> *Congress hits panic button over potential Chinese heparin shortage as swine herds ravaged by disease*, Fierce Pharma (July 31, 2019) (“Six congressional leaders from both parties are asking FDA Acting Commissioner Norman Sharpless to give them some assurances the U.S. heparin supply is not in danger of drying up as a result of African swine fever, which is wreaking havoc on pig herds in China, the primary source of crude heparin.”).

<sup>1761</sup> Joseph Choi, *FDA to import more Chinese cancer drugs amid shortage*, The Hill (July 10, 2023).

<sup>1762</sup> FDA Briefing.

<sup>1763</sup> GAO-22-103611, *supra* note 1729, at 27 (“Congress also directed FDA to use these funds to build on the work done in the unannounced inspection initiative begun in India in 2014 and to establish unannounced inspection pilots in India and China to improve workforce development activities and include unannounced and short notice inspections.”)

<sup>1764</sup> Eglovitch, *supra* note 1738.

program until July 2023 due to COVID-19 restrictions.<sup>1765</sup> In an email to the Committee, FDA explained, “Inspections conducted under the Foreign Unannounced Inspection Program (FUIP) and a limited number of other inspections (based on information received by FDA) may be conducted as unannounced or with short notice (defined as up to 72 hours prior to an inspection). FDA initiated the FUIP for surveillance and for-cause drug inspections in mainland China in July 2023.”<sup>1766</sup> Further, according to FDA, “Approximately 6 percent of inspections conducted in mainland China since July 2023 have been unannounced or with short notice.”<sup>1767</sup>

Congress also called on FDA to implement independent translation services in China and Hong Kong through an interagency agreement with the State Department,<sup>1768</sup> *rather than relying on the drug establishment being inspected to provide translation services to facilitate the inspection, as FDA typically does.*<sup>1769</sup> To date, FDA has not implemented independent translation services in China and Hong Kong, allowing the PRC to continue to oversee the agency’s inspections.<sup>1770</sup> It has been almost four years since Congress mandated these pilot programs.<sup>1771</sup> The Committee is not alone in voicing these concerns. In early February of this year, FDA came under fire at a House Energy and Commerce Committee hearing “over a backlog of inspections of foreign drug manufacturers, delays in initiating unannounced inspections, and vacancies for foreign inspectors.”<sup>1772</sup> Even worse, according to the House Select Committee on the Chinese Communist Party, “U.S. biopharmaceutical companies [are] conducting clinical trials alongside the People’s Liberation Army (PLA) [].”<sup>1773</sup>

FDA is unwilling to acknowledge the danger presented by China even though the PRC has detained agency investigators in their hotel rooms in China.<sup>1774</sup> Under the PRC’s amended Counter-Espionage Law, drug manufacturing inspectors may be detained or arrested for entering

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<sup>1765</sup> FDA Briefing; Email from Food and Drug Admin. to H. Comm. on Oversight & Accountability Committee staff (Aug. 23, 2024) (“FDA Email Aug. 23, 2024”).

<sup>1766</sup> FDA Email Aug. 23, 2024.

<sup>1767</sup> *Id.* (“Preannounced foreign facility inspections are typically noticed 5 days in advance for investigators based in-country, and approximately ten to twelve weeks in advance when investigators are traveling from the U.S. There are many reasons that FDA inspections may need to be preannounced. For instance, such announcements may help guarantee that the appropriate personnel from the inspected firm are available during the inspection, allow for adequate logistics such as safe transportation and lodging, ensure access to facilities, and facilitate securing visas. FDA will continue to consider these and other factors in carrying out the most appropriate inspections to ensure regulated products meet the Agency’s rigorous standards for quality, safety, and effectiveness.”).

<sup>1768</sup> GAO-22-103611, *supra* note 1729, at 28 (“These inspections would then be compared to other FDA inspections in China and Hong Kong that use either the translation services provided by the establishment being inspected or locally employed staff who work in FDA’s China office [.]”).

<sup>1769</sup> *Id.* (the State Department provides foreign language services to other federal agencies on a fee-reimbursement basis) (emphasis added).

<sup>1770</sup> FDA Email Aug. 23, 2024 (“FDA uses translators from different sources in mainland China. If a firm does not have the capability to provide translation services, FDA will obtain translators from the FDA Office in China or elsewhere in the U.S. government.”).

<sup>1771</sup> GAO-22-103611, *supra* note 1729.

<sup>1772</sup> Mary Ellen Schneider, *Lawmakers voice concerns over FDA’s foreign inspection program*, Regulatory Focus, (Feb. 6, 2024) (Rep. Cathy McMorris Rodgers stated, “[a]s long as foreign facilities remain uninspected, they pose a risk to quality and safety of life-saving medications that Americans rely on.”).

<sup>1773</sup> Press Releases, H. Sel. Comm. on the Chinese Communist Party, Moolenaar, Lawmakers Uncover Evidence of U.S. Pharmaceutical Companies Working with the Chinese Military and in Xinjiang, Asks FDA to Investigate (Aug. 20, 2024).

<sup>1774</sup> FDA Briefing.

and accessing CCP-owned drug companies' records if the PRC determines the records are "documents, data, materials, or items related to national security."<sup>1775</sup> In a briefing with the Committee, FDA confirmed the PRC has detained agency employees in their hotel rooms in China.<sup>1776</sup> When questioned about why the PRC took these aggressive measures, FDA was unwilling to acknowledge China's intimidation tactics,<sup>1777</sup> claiming it was difficult to determine the PRC's intent, it was hard to know why FDA investigators were detained, and the detentions might be nefarious or a simple misunderstanding.<sup>1778</sup> When pressed by the Committee whether FDA inspectors have been detained by foreign governments other than China, FDA refused to answer.<sup>1779</sup> The Committee followed up in writing, asking "whether there have been security issues (including but not limited to the detention of FDA employees) in countries other than China."<sup>1780</sup> FDA once again failed to hold China accountable, responding, "FDA takes every step to help ensure our personnel are prepared for, and supported, in their international work, including in countries such as China."<sup>1781</sup> However, in direct contradiction to FDA's previous statements, the agency was more than willing to use employee detentions in the PRC as an excuse for its delay in implementing unannounced inspections in China, telling the Committee the agency had to work slowly to ensure the safety of agency employees.<sup>1782</sup> Further, FDA informed the Committee that even when the agency implements unannounced inspections, its investigators have to explain to the PRC what they are doing to avoid being detained.<sup>1783</sup>

FDA relies on ineffective work policies that promote the agency's employees unwillingness to travel, even short distances, such as the agency's remote work policies, which were in place before the COVID-19 pandemic and have been called into question by Members of Congress.<sup>1784</sup> For example, although FDA briefed the Committee in-person, the agency resisted

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<sup>1775</sup> Nathaniel Taplin, *Beijing's Bain raid, espionage laws are self-sabotage*, Wall St. J. (Apr. 28, 2023).

<sup>1776</sup> FDA Briefing (FDA told the Committee that agency staff were detained and not arrested).

<sup>1777</sup> *Id.*

<sup>1778</sup> *Id.* (FDA told the Committee the detentions of agency inspectors might have been related to a discrepancy between local and central government authorities in China.).

<sup>1779</sup> FDA Briefing.

<sup>1780</sup> Email from Comm. on Oversight & Accountability Committee staff to Food and Drug Admin. (June 6, 2023).

<sup>1781</sup> Email from Food and Drug Admin. to Comm. on Oversight & Accountability Committee staff (July 23, 2024) ("Regarding security issues FDA employees face, FDA prioritizes the safety of our workforce as we conduct inspections around the world. FDA investigators may face different security issues or constraints depending on the context of the country or region in which they are performing inspections. When planning foreign travel, FDA works closely with the State Department Regional Security Officers (RSO) in country to make sure that any foreign travel assignments are completed in a manner that is as safe as possible. FDA travelers requesting an electronic country clearance (eCC) to travel internationally are required to complete Counter Threat Awareness Training (CTAT) or Foreign Affairs Counter Threat (FACT) training and, as applicable, participate in RSO-provided security briefings. If an investigator were detained while conducting an inspection, typical practice would be for the FDA in-country office to contact appropriate officials at the relevant U.S. Embassy to seek assistance to resolve the matter.").

<sup>1782</sup> FDA Briefing.

<sup>1783</sup> *Id.*

<sup>1784</sup> Peter Roff, *Unlike FDA bureaucrats, not all of us get to work from home*, Washington Times (June. 27, 2023) ("Federal agencies have not cracked down on the 'working from home' scam the cynical among us believe federal workers have exploited for years, even before the pandemic struck. This is a problem, especially at the FDA. When Cathy McMorris Rodgers, Washington Republican and chair of the House Committee on Energy and Commerce, earlier this year asked FDA Commissioner Robert Califf how many people at his agency charged with moving new and potentially lifesaving treatments into the medical supply chain were coming into the office, his answer was far from forthcoming, '[m]any of our employees aren't in the office, to begin with, and we have not added back in-person meetings[.]'.")

initially, informing Committee staff on a Teams call that an in-person briefing was not possible because FDA subject matter experts would have to commute from White Oak, Maryland,<sup>1785</sup> roughly 12 miles from Washington, D.C. Further, in an attempt to explain the agency’s failure to conduct timely, independent, and unannounced inspections in China, FDA relied on its decades-old talking points, telling the Committee multiple times the agency struggles to retain and recruit staff for overseas inspections because employees are required to go on long trips.<sup>1786</sup> FDA also cited COVID-19 restrictions as a reason for not moving forward on congressionally mandated pilot programs in China.<sup>1787</sup>

### FDA Must Protect the Health and Safety of Americans from Illegal and Illicit Tobacco Products Imported from the PRC.

The CCP’s economic warfare targeting the health and safety of Americans includes illicit tobacco and nicotine products, such as disposable vapes, that are imported illegally from the PRC.<sup>1788</sup> FDA’s Center for Tobacco Products is charged with regulating the manufacture, distribution, and marketing of tobacco products.<sup>1789</sup> It has been reported that “While FDA has issued penalties and warnings to retailers and manufacturers, new products quickly appear in their place, most imported from China.”<sup>1790</sup> Since FDA began regulating tobacco and nicotine products,<sup>1791</sup> the agency’s approach has been inconsistent and less than transparent.<sup>1792</sup> For example, FDA has denied at least one million flavored electronic cigarette applications from U.S. manufacturers,<sup>1793</sup> approving only 23 products for sale in the United States.<sup>1794</sup> At a recent Senate Judiciary Committee hearing, FDA and DOJ were called out for their failure “to stop the sale of illegal e-cigarettes through online retailers, gas stations and vape shops across the

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<sup>1785</sup> Teams Call with Comm. on Oversight & Accountability Committee staff and Food and Drug Admin. (May 22, 2024).

<sup>1786</sup> FDA Briefing; *COVID-19 and Beyond: Oversight of the FDA’s Foreign Drug Manufacturing Inspection Process*, Hearing Before the U.S. Senate Comm. on Fin., 116th Cong. (June 20, 2020) (prepared testimony of Dr. Douglas Throckmorton, Deputy Dir. for Regulatory Programs – Ctr. for Drug Evaluation and Rsch., U.S. Food and Drug Admin.) (“The Agency continues to face challenges, however, in developing the investigator work force due to the rigorous nature of the job (e.g., foreign travel restrictions and hardship) and competition for qualified candidates. Once the Agency succeeds in hiring a new investigator, it can take 1.5 to 2 years of training to bring them to a fully proficient level.”); GAO-22-103611, *supra* note 1729, at 32 (“we have reported that FDA has struggled to keep the [foreign inspection] cadre fully staffed in recent years. FDA officials largely attributed longstanding cadre vacancies to the challenges of conducting foreign inspections and hardships related to the frequent travel overseas. Cadre members generally take six, 3-week, foreign trips each year, often to countries such as India and China that require flights of 14 hours or more from the U.S.”).

<sup>1787</sup> *Id.*

<sup>1788</sup> See Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Robert M. Califf, Comm’r, U.S. Food and Drug Admin. (Mar. 28, 2023).

<sup>1789</sup> Aaron Kliegman, *Biden’s FDA clears path for Chinese products to flood US tobacco, nicotine market*, Fox News (June 10, 2023).

<sup>1790</sup> *Id.*

<sup>1791</sup> Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products, 81 Fed. Reg. 28973 (May 10, 2016) (codified at 21 C.F.R. pt. 1100, 1140, 1143).

<sup>1792</sup> Kliegman, *supra* note 1789; Christina Smith, *FDA Flavor Bans Create a Dangerous Black Market*, Citizens Against Government Waste (July 13, 2023).

<sup>1793</sup> *Wages and White Lion Invs., L.L.C. v. FDA*, 90 F.4th 357 (5th Cir. 2024).

<sup>1794</sup> Jess Hellmann, *FDA, DOJ hammered on response to illegal vapes*, Roll Call (June 12, 2024).



country.”<sup>1795</sup> Further, a recent report from the Department of Health and Human Services OIG highlighted severe deficiencies in FDA’s enforcement capabilities.<sup>1796</sup>

According to the *Associated Press*, thousands of unauthorized flavored electronic cigarettes “continue pouring into the country from China.”<sup>1797</sup> On December 14, 2023, FDA and U.S. Customs and Border Protection announced a joint operation where the agencies seized approximately 1.4 million unauthorized e-cigarettes worth \$18 million from the PRC, many of which “were intentionally mislabeled as toys or shoes and listed with incorrect values” to evade customs detection.<sup>1798</sup> Even worse, there are reports that Chinese disposable e-cigarettes may be laced with fentanyl.<sup>1799</sup> Although the CCP has banned flavored vaping products for its own citizens, “Chinese disposable e-cigarette manufacturers, such as Elf Bar, directly market their products to our youth on TikTok. The hashtag “#ElfBar” recently passed 2.1 billion views on the platform.”<sup>1800</sup> Despite these staggering statistics, FDA has refused to take the necessary steps to protect Americans, especially the nation’s youth, from the CCP’s deadly drug warfare. Similar to FDA’s abdication of its oversight and inspection responsibilities of pharmaceutical and medical products manufactured in China, FDA has failed to close a well-known regulatory loophole that has allowed illicit and illegal Chinese disposable e-cigarette products to flood America.<sup>1801</sup> According to current FDA regulations, “only domestic e-cigarette manufacturing sites are required to register with the FDA and undergo routine inspections, while foreign vaping manufacturers have no requirement for routine oversight.”<sup>1802</sup> Once again, FDA has placed the CCP in a position of trust with American lives.

While briefing the Committee, FDA refused to acknowledge its role in the proliferation of illicit and illegal Chinese e-cigarettes flooding the nation.<sup>1803</sup> Instead, FDA focused on the responsibilities of other government entities, asserting the agency works with local, state, and federal entities to share intelligence about bad actors.<sup>1804</sup> FDA informed the Committee it provides individual states with information about illegal and illicit e-cigarette products from

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<sup>1795</sup> *Id.* (Committee Chairman Richard Durbin told the agencies, “[y]ou have completely fallen down on the job.”).

<sup>1796</sup> U.S. Dep’t of Health and Human Servs., Off. of Inspector Gen., OEI-01-20-00241, FDA’s Approach to Overseeing Online Tobacco Retailers Needs Improvement (Dec. 2022).

<sup>1797</sup> Matthew Perrone, *US seizes more illegal e-cigarettes, but thousands of new ones are launching*, Associated Press (Dec. 30, 2023).

<sup>1798</sup> Nathaniel Weixel, *Federal agencies seize \$18M worth of illegal e-cigarettes from China*, The Hill (Dec. 14, 2023).

<sup>1799</sup> Attorney General, State of Indiana, OAG Calendar, Attorney General Todd Rokita lights up Chinese e-cigarette companies (Aug. 29, 2023) (“The Office of the Attorney General has received multiple reports regarding the dangers of fentanyl, some of which are tied to e-cigarettes and similar products. The threat of fentanyl is not confined to illicit pills. Several reports suggest that illegal, disposable, and flavored e-cigarettes made in China and unlawfully sold to consumers in America may be laced with fentanyl.”) (“Attorney General Rokita Letter”); Letter from Sen. Marco Rubio, Member, Comm. on Foreign Relations, to Hon. Robert M. Califf, Comm’r, U.S. Food and Drug Admin. (Feb. 2, 2024) (“Disposable Chinese vapes with illegal levels of nicotine, and deadly substances like fentanyl, have been found in the United States in growing numbers. With more than 2.1 million youth using e-cigarettes and 4.5 percent of all adults using e-cigarettes, the presence of so many dangerous and untested products is unacceptable and should spur the FDA to significant action.”) (“Senator Rubio Letter”).

<sup>1800</sup> Attorney General Rokita Letter, *supra* note 1799.

<sup>1801</sup> Senator Rubio Letter, *supra* note 1799.

<sup>1802</sup> *Id.*

<sup>1803</sup> FDA Briefing.

<sup>1804</sup> *Id.*

China, including current and historical information about the shipping and importing entities.<sup>1805</sup> According to FDA, once the agency shares this information, it is up to the states to determine what enforcement actions may be warranted.<sup>1806</sup> Notably, FDA mentioned the agency has entered into a partnership with the California Attorney General because California is intent on enforcement of illegal tobacco products from the PRC.<sup>1807</sup> However, when asked by the Committee whether California is different from other states concerning Chinese infiltration operations, FDA staff admitted California is the number one target for CCP infiltration.<sup>1808</sup> Collaboration is important, but FDA leadership needs to implement accountability policies for its workforce, reverses course on its work from home policies, and requires its employees to travel to fulfill the agency's core mandates, America will continue to grapple with skyrocketing numbers of illegal and illicit e-cigarette products from the CCP.

FDA delays efforts to protect Americans by taking a country agnostic approach to China and regularly outsourcing its oversight and investigative duties to unvetted and dangerous entities, including the PRC itself, or foregoing required inspections altogether. Further, FDA's inconsistent regulatory approach for disposable e-cigarette and vape products and the agency's refusal to implement manufacturing facility inspections in the PRC has resulted in a flood of illicit and illegal copycat products from China that continue to endanger the health and well-being of Americans.

#### Committee Recommendations

- FDA must reverse course and treat the agency's critical monitoring and inspection responsibilities in China and the United States as non-delegable and non-negotiable.
  - FDA's foreign inspections in China must be subject to the same standards as the agency's domestic pharmaceutical and medical facility inspections.
  - FDA must fully implement and expand the pilot program for unannounced and unannounced short-notice inspections in China.
- FDA should stop relying on and trusting the PRC for the agency's inspections on the ground in China.
  - Using significant current resources, FDA must fully implement and expand the pilot program for independent translation services in China through an interagency agreement with the State Department.
- FDA should overhaul its inefficient and ineffective work policies.
  - FDA employees must return to work in the office and must attend meetings in person.
- FDA should demonstrate to Congress that it can hire and retain employees for its China office and inspections in China and Hong Kong. Further, FDA must provide a

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<sup>1805</sup> *Id.*

<sup>1806</sup> *Id.* (FDA informed the Committee that information sharing arrangements do not place any requirements on the states to act on information provided by the agency.).

<sup>1807</sup> *Id.*

<sup>1808</sup> *Id.*

full accounting to Congress as to how the agency has allocated its funds designated to these offices.

- FDA should overhaul its domestic tobacco enforcement program in a manner that is transparent and predictable to address and prevent illegal and adulterated Chinese products from flooding the U.S. market.
  - FDA must implement a rule requiring all e-cigarette manufacturing sites in China and Hong Kong to register with FDA and undergo routine inspections.





# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. FOOD AND DRUG ADMINISTRATION

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

FDA is aware America is dangerously dependent on China for life-saving pharmaceutical and medical supplies, yet the agency regularly outsources its critical oversight and inspection responsibilities to outside entities or foregoes these responsibilities altogether. Further, FDA relies on the CCP for translation services when inspecting facilities in the PRC, even though the CCP has detained agency investigators in their hotel rooms in China without an explanation.

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#### IV. Committee Findings: The CIA and NSC Thwarted Congressional Oversight Delving into Efforts to Protect America from CCP Unrestricted Warfare

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While several agencies were not fully transparent in responding to the Committee's requests, the CIA and NSC stand alone in wholly refusing to brief the Committee about their unclassified efforts to thwart CCP infiltration operations. As the CCP wages a cold war against the nation, Americans deserve to hear from the agencies and officials who work for them about their government's strategy and public outreach efforts.

## A. Central Intelligence Agency

### The CIA Refused to Provide the Committee Information or a Briefing About its Public Outreach Regarding CCP Infiltration and Influence Operations.

- The Central Intelligence Agency (CIA or the Agency) has been aware of the CCP’s united front activities, designed to undermine the United States, using engagement and influence and intelligence operations to alter public perception and policy towards the PRC,<sup>1809</sup> for decades—yet the CCP’s infiltration and influence efforts are still rampant and expanding across the country, demonstrating the Agency has not fulfilled its responsibility to the American people.
- The CIA refused the Committee’s request for a briefing despite the fact that the Committee has oversight jurisdiction over the CIA—and all federal agencies. Apparently, the Agency deems itself immune from congressional oversight that might expose failures to protect the American public from CCP political warfare.
- Congressional oversight is fundamental to maintaining checks and balances in the federal government. Such oversight is essential to ensuring federal agencies, including the CIA, develop and implement a cohesive government-wide strategy to identify, deter, and defeat CCP unrestricted warfare.

The CIA has been wholly unwilling to cooperate with the Committee’s government-wide investigation into CCP political warfare and federal agencies’ role in combatting it. The CIA describes itself as “the Nation’s first line of defense,” and “vital to U.S. national security.”<sup>1810</sup> While ODNI is the head of the IC,<sup>1811</sup> and the National Security Council (NSC) is the President’s tool for coordinating national security and foreign policy decisions across federal agencies,<sup>1812</sup> the CIA is the primary collector of foreign intelligence and conductor of covert action.<sup>1813</sup> As such, the CIA should be well-versed in CCP unrestricted warfare—and willing to engage with the public and Congress about tactics used by the CCP to harm American communities.

On July 18, 2024, the Committee requested a briefing that sought to assess whether the CIA is conducting necessary outreach to the American public regarding CCP political warfare.<sup>1814</sup> The CIA refused the Committee’s briefing request. Instead of answering questions from Congress, the CIA responded with a letter simply referring to the unclassified briefing the ODNI offered to the Committee as part of this investigation and noting that the Agency “will

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<sup>1809</sup> See *supra* Section II. B. United Front.

<sup>1810</sup> Cent. Intelligence Agency, About CIA (last accessed Sept. 16, 2024) (“About CIA”); Cent. Intelligence Agency, Our Agency (last accessed Sept. 16, 2024).

<sup>1811</sup> Office of the Dir. of Nat’l Intelligence, Who We Are (last accessed Sept. 16, 2024).

<sup>1812</sup> The White House, National Security Council (last accessed Sept. 16, 2024).

<sup>1813</sup> About CIA, *supra* note 1810.

<sup>1814</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. William J. Burns, Dir., Cent. Intelligence Agency (July 18, 2024) (“CIA Letter”).

continue to offer” *other* committees “classified briefings regarding CIA’s work related to the [PRC] and competition with the CCP.”<sup>1815</sup>

### The CIA Refused to Discuss Public Outreach Efforts.

Federal agencies and officials—especially those, such as the CIA, uniquely aware of CCP strategies and methods to infiltrate, influence, and destroy America—have great responsibilities to conduct outreach to the American public about these threats to their communities. Yet, when pressed by the Committee to account for its public outreach, the CIA refused. While CIA Director William Burns has spoken to media outlets about the threat the communist regime poses to Americans,<sup>1816</sup> the Agency did not think it necessary to answer questions from the Committee about the Agency’s efforts to confront and counter CCP unrestricted warfare and engage in outreach to the American people.

The Agency ignored the briefing request despite the fact that the Committee’s letter focused on open-source information, including but not limited to: (1) the CIA’s awareness of the CCP’s united front activities as early as 1957; (2) the CCP’s technology acquisition to gain economic and military benefit; and (3) CCP lawfare against American companies and American businesspersons, particularly through wide sweeping counterintelligence laws.<sup>1817</sup>

A CIA that is accountable to the American people should be willing to discuss, in an unclassified setting, its efforts to engage in public outreach regarding the CCP’s unrestricted warfare against Americans.

### The CIA Should Take Seriously Congressional Oversight—Especially Given its Poor Track Record in Protecting Americans from CCP Intelligence Threats.

Captain James Fanell, former Director of Intelligence and Information Operations for the U.S. Pacific Fleet, testified to the Committee that the U.S. national security community “was at best derelict in its duties, seemingly oblivious to PRC deception but in some cases clearly co-opted by PRC Intelligence Operatives and Charm Offensives by United Front players.”<sup>1818</sup> He explained:

As such, the failures of the IC were first to identify the PRC as an existential threat—this would have included identifying [former CCP leader] Deng [Xiaoping]’s political warfare strategy of threat deflation precisely as a political warfare strategy to obfuscate and conceal the PRC’s vulnerability. Second, the IC did not compel senior national security decision-makers to address the PRC threat by illuminating the pernicious damage engagement policies were causing. At root, the IC aided Deng’s political warfare strategy of

<sup>1815</sup> Letter from Elizabeth C. Burdick, Dir., Office of Cong. Affairs, Cent. Intelligence Agency, to Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability (Aug. 2, 2024) (“CIA Letter to Committee”).

<sup>1816</sup> See CIA Letter.

<sup>1817</sup> *Id.*

<sup>1818</sup> CCP Political Warfare Hearing II (written testimony of Captain Fanell) (emphasis added).

threat deflation because the IC had for decades consistently promoted threat deflation via the policy of engagement. The IC never perceived the PRC through the lens of the distribution of power; for many the notion that the PRC would ever become a great power was always viewed through the lens of “decades away.” Then when the PRC’s comprehensive national power had become undeniable even to the most ardent supporter of engagement, the IC chose to promote the CCP-supplied assertion that one must not “provoke” the PRC or else one risks thermonuclear war.<sup>1819</sup>

As a result, the CCP has infiltrated the United States—with the intent to steal from and destroy American communities and sectors—and the IC failed to halt it. When discussing Chinese penetration of American institutions such as the Los Alamos National Laboratory, John Schindler, a former National Security Agency (NSA) analyst and counterintelligence officer, explained: “[i]t’s now impossible to miss that we are failing at basic counterintelligence, that is, the business of defending our country from hostile intelligence services and their efforts to purloin our defense, diplomatic, and commercial secrets.”<sup>1820</sup>

On several instances, the CIA has failed to safeguard American communities and Americans abroad from CCP unrestricted warfare. The CIA has been aware of the CCP’s united front activities since at least 1957<sup>1821</sup>—yet the PRC is still infiltrating and interfering with American communities and economic sectors. The PRC has passed several wide-sweeping counterintelligence laws that provide the CCP “with expanded legal grounds for accessing and controlling data held by U.S. firms in China.”<sup>1822</sup> CIA leadership should publicly acknowledge and address the risks of conducting business in the PRC—based on the CIA’s intelligence and open-source information in collaboration with other IC members. The CIA has also failed to protect CIA agents and sources. Between 2010 and 2012, approximately 30 CIA recruits were detained by the Ministry of State Security (MSS).<sup>1823</sup> According to public reporting, these individuals were arrested or killed due to failures of the communication system used to interact with sources.<sup>1824</sup> The CIA must prioritize safeguarding American communities within the United States and abroad—and they must do so urgently.

Colonel Newsham testified to the Committee about the urgency with which the United States must act to combat CCP unrestricted warfare:

For the first time in centuries, we no longer have the luxury of distance. We are being killed in our homes by fentanyl. Our cities

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<sup>1819</sup> *Id.*

<sup>1820</sup> John Schindler, *American counterintelligence is broken*, Washington Examiner (Sept. 24, 2022).

<sup>1821</sup> See Cent. Intelligence Agency, *Communism: The United Front in Communist China* (May 1957) (last accessed Sept. 16, 2024).

<sup>1822</sup> See Safeguarding Our Future: U.S. Business Risk, *supra* note 1513.

<sup>1823</sup> See Bill Gertz, *CIA rebuilding spy networks in China a decade after losing agents, director reveals*, Washington Times (July 20, 2023).

<sup>1824</sup> See Zach Dorfman, *Botched CIA Communications System Helped Blow Cover of Chinese Agents*, Foreign Policy (Aug. 15, 2018); see Press Release, Office of Public Affairs, U.S. Dep’t of Justice, *Former CIA Officer Sentenced for Conspiracy to Commit Espionage* (Nov. 22, 2019).



and economy are taking hit after hit from Covid, unfair trade, intellectual property theft and hacking. We don't know who is buying land near our critical infrastructure or wandering illegally around our military bases. And we don't know how to think about it all – the same Americans who were furious about a Chinese spy balloon floating over their heads have Chinese spy apps loaded on their phones, sitting in their pockets.<sup>1825</sup>

The CIA's mission is to “leverage the power of information to keep our Nation safe.”<sup>1826</sup> To do so, the Agency is responsible for collecting foreign intelligence, producing objective analyses, conducting covert action at the direction of the president, and safeguarding secrets to protect the United States.<sup>1827</sup> As a result, the CIA is uniquely informed on the CCP's ambitions in the PRC, globally, and the potential or existing ramifications for Americans and U.S. national security. While it essential to protect American intelligence—and the brave agents who gather intelligence—the Agency should take Congressional oversight seriously and be accountable to the American public for which it is responsible, in the face of the cold war the CCP has waged on America.<sup>1828</sup>

#### Committee Recommendations

- The CIA must take seriously congressional oversight, and it should comply with the Committee's request for a briefing addressing the Agency's public outreach about the significant threat that CCP infiltration and influence operations pose.
  - Congressional oversight provides a fundamental check and balance to the executive branch. Additionally, it is not the role of the executive branch to articulate or limit the jurisdiction of congressional committees.
  - By evading the Committee's oversight of the Agency's engagement with the American public regarding CCP political warfare, the CIA is shirking necessary congressional oversight. The CIA's refusal to provide a briefing to the Committee—and the Agency's willingness to engage only with the intelligence committees primarily charged with overseeing the Agency—makes it impossible to ensure the Agency is conducting outreach essential for Americans to recognize and protect themselves from CCP infiltration and influence. The American people deserve to understand how the CCP seeks to infiltrate and influence their communities.

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<sup>1825</sup> CCP Political Warfare Hearing I (testimony of Colonel Newsham).

<sup>1826</sup> About CIA, *supra* note 1810.

<sup>1827</sup> *Id.*

<sup>1828</sup> See CCP Political Warfare Hearing II (testimony of Captain Fanell) (“This Cold War with the PRC is not like the first Cold War because the strategists who built America's power during this fight with the Soviet Union experienced less resistance from the national security community compared to the present. Today, many American national security elites in and outside of the government are more interested in sustaining their involvement with the PRC—and because if this they will more actively fight against measures to confront and challenge Beijing's agenda of global expansionism.”); CCP Political Warfare Hearing I (testimony of General Spalding) (“Today, we are in a new cold war. Our adversaries yield weapons far beyond the traditional military arsenal. . .”); Matt Turpin, *Yes, This is a Cold War*, *The Wire China* (Nov. 14, 2021).

- CIA leadership should conduct outreach to the American people about CCP efforts to infiltrate, influence, and destroy sectors and communities across the country.
  - Despite the CIA’s contention that its public outreach role is “necessarily and appropriately limited by [its] intelligence mission and authorities,” the CIA also acknowledged that it has engaged in “high-level statements.”<sup>1829</sup>
  
- The CIA should not abuse the classification system to unnecessarily withhold information from the American people.
  - As Ambassador Cella testified to the Committee, federal agencies should “[d]eclassify non-sensitive information involving the PRC/CCP malign active[ities] to information and publicize it through appropriate channels to educate the American public about the nature of the threat from China.”
  - There is simply no excuse for CIA leadership to not proactively communicate with the American people about CCP unrestricted warfare. When federal agencies and officials fail to protect the American people, they must, at a minimum, speak candidly about threats to their security.

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<sup>1829</sup> CIA Letter to Committee.

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## CENTRAL INTELLIGENCE AGENCY

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	

### Comment

The CIA's refusal to comply with Congressional oversight is consistent with its reputation for lacking accountability to the American people. Its evasion leaves serious questions as to whether the CIA has a strategy to counter CCP unrestricted warfare and engage in meaningful outreach to the public.

## B. U.S. National Security Council

### NSC: America Needs a Government-Wide Strategy to Defeat CCP Unrestricted Warfare.

- Given the National Security Council’s (NSC) role in informing and guiding the president’s national security and foreign policy decision-making—and for coordinating these policies across federal agencies—the NSC should create a government-wide strategy to counter CCP unrestricted warfare.
- Despite federal law requiring that President Biden create a strategy with respect to the PRC, it is not clear a strategy exists.
- Briefings provided to the Committee in this government-wide investigation reveal that there is indeed neither a clear understanding of CCP political warfare across federal agencies nor a government-wide strategy to combat it.
- The NSC denied the Committee’s request for a briefing—once again demonstrating the Biden-Harris Administration’s complete disregard for congressional oversight.

The NSC has failed to fulfill its duty to position the U.S. government to defeat CCP unrestricted warfare. The NSC is “the President’s principal forum for national security and foreign policy decision making,” and “the President’s principal arm for coordinating these policies *across federal agencies*.”<sup>1830</sup> On August 20, 2024, the Committee wrote to National Security Advisor Jake Sullivan, requesting a briefing regarding the Biden-Harris Administration’s strategy to defeat CCP unrestricted warfare—or the lack thereof—and the need for a government-wide strategy to synchronize the federal government’s approach to ensure that the United States is equipped to defeat CCP political warfare and safeguard American communities.<sup>1831</sup> On September 9, 2024, the White House responded to the Committee’s letter, disregarding the Committee’s briefing request despite the White House’s claim that the “Administration has been committed to keeping Congress and the American people informed of its approach to the PRC and the Administration’s continued efforts to advance United States interests and values.”<sup>1832</sup>

To fulfill its duty to coordinate national security and foreign policy across the federal government, the NSC must construct and execute a government-wide strategy to secure the United States from CCP infiltration and influence. To do so, the NSC should incorporate intelligence gathered by other members of the IC, including the CIA<sup>1833</sup> and the FBI,<sup>1834</sup> and

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<sup>1830</sup> National Security Council, The White House, available at <https://www.whitehouse.gov/nsc/> (emphasis added) (“National Security Council Background”) (last accessed Sept. 16, 2024).

<sup>1831</sup> Letter from Hon. James Comer, Chairman, H. Comm. on Oversight and Accountability, to Jake Sullivan, Assistant to the President for National Security Affairs, National Security Council (Aug. 20, 2024).

<sup>1832</sup> Letter from Rachel F. Cotton, Deputy Counsel to the President, The White House, to Hon. James Comer, Chairman, H. Comm. on Oversight and Accountability (Sept. 9, 2024) (“White House Letter to the Committee”).

<sup>1833</sup> See Office of the Dir. of Nat’l Intelligence, Members of the IC, *available at* <https://www.odni.gov/index.php/what-we-do/members-of-the-ic> (last accessed Sept. 16, 2024).

<sup>1834</sup> *Id.*

work with ODNI, the head of the IC, to ensure that the IC is effectively “integrated” to efficiently enact the strategy.<sup>1835</sup>

**NSC’s “Grand Strategy” is Inadequate, is not Government-Wide, and Fails to Address CCP Unrestricted Warfare.**

The Biden-Harris Administration has been derelict in its duty to create a strategy with respect to the PRC.<sup>1836</sup> In May 2022, Secretary Blinken spoke publicly about the Biden-Harris Administration’s approach to the PRC, which according to Secretary Blinken, “can be summed up in three words – ‘invest, align, compete.’”<sup>1837</sup> This same language can be found in the Biden-Harris Administration’s 2022 National Security Strategy, which outlines how the Administration “will seize this decisive decade to advance America’s vital interests, position the United States to outmaneuver our geopolitical competitors, [and] tackle shared challenges[.]”<sup>1838</sup> The White House reiterated this strategy in its letter to the Committee:

This dynamic [with the CCP] required a new approach, reflected in the Biden Administration’s three-pillar strategy: (1) investing in the foundations of our strength at home—our competitiveness, our innovation, our resilience, and our democracy; (2) aligning our efforts with our allies and partners abroad, acting with common purpose and common cause; and (3) competing with the PRC to defend our interests, including across key domains—economic, technological, military, and global governance.<sup>1839</sup>

The White House claimed that this strategy has brought “concrete results”—but provided little evidence of such results.<sup>1840</sup> Notably, the White House’s letter to the Committee makes no mention of a government-wide strategy for all federal agencies to aggressively combat CCP infiltration and influence operations.<sup>1841</sup> The Administration’s strategy—to invest, align, and compete—reflects an inadequate understanding of the nature of the cold war that the CCP is waging against America and the kind of comprehensive strategy needed to secure the country. In apparent recognition that no strategy currently exists, Jacob Stokes, Senior Fellow for the Indo-Pacific Security Program at the Center for a New American Security, testified to the Committee

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<sup>1835</sup> Office of the Dir. of Nat’l Intelligence, What We Do, <https://www.odni.gov/index.php/what-we-do> (last accessed Sept. 16, 2024); Office of the Dir. of Nat’l Intelligence, Mission, Vision & Values, <https://www.dni.gov/index.php/who-we-are/mission-vision> (last accessed Sept. 16, 2024).

<sup>1836</sup> See Mike Gallagher, *America Needs a Strategy for China*, Wall St. J. (Aug. 22, 2024) (“Contrast that with the present day: The cold war with China has begun without an end in mind. American strategy lacks a guiding objective. We have an emerging bipartisan consensus on the short-term means of U.S. grand strategy. Republicans and Democrats increasingly agree on the need to arm Taiwan to deter a Chinese communist invasion and reduce U.S. economic dependency on China. But there is little discussion, let alone consensus, on the long-term ends of U.S. grand strategy.”).

<sup>1837</sup> Antony J. Blinken, U.S. Sec’y of State, The Administration’s Approach to the People’s Republic of China (May 26, 2022) (“May 2022 Blinken Speech”).

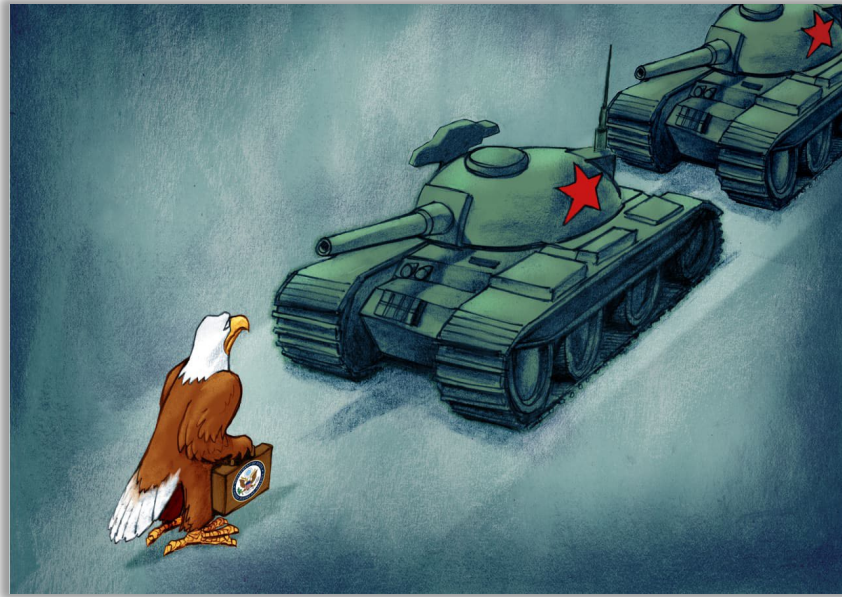
<sup>1838</sup> The White House, National Security Strategy (Oct. 2022).

<sup>1839</sup> White House Letter to the Committee.

<sup>1840</sup> *Id.*

<sup>1841</sup> *Id.*

that “we should forge an economic, financial, and trade strategy that ensures U.S. companies and workers compete in the global economy on a level playing field.”<sup>1842</sup>



Mike Gallagher, *America Needs a Strategy for China*, Wall St. J. (Aug. 22, 2024).

The Biden-Harris Administration’s “strategy” is better summarized as a list of shallow platitudes from Secretary Blinken:

China is the only country with both the intent to reshape the international order and, increasingly, the economic, diplomatic, military, and technological power to do it. Beijing’s vision would move us away from the universal values that have sustained so much of the world’s progress over the past 75 years. China is also integral to the global economy and to our ability to solve challenges from climate to COVID. *Put simply, the United States and China have to deal with each other for the foreseeable future.*<sup>1843</sup>

Similarly, in a presentation to the Brookings Institution announcing the Biden-Harris Administration’s strategy of “de-risking and diversifying, not decoupling” from China, Mr. Sullivan reportedly explained that a “small yard and high fence” would protect critical military technologies while also allowing the United States to pursue commercial innovation and competition with the PRC.<sup>1844</sup>

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<sup>1842</sup> CCP Political Warfare Hearing III (written testimony of Mr. Stokes).

<sup>1843</sup> May 2022 Blinken Speech, *supra* note 1837 (emphasis added).

<sup>1844</sup> American Compass, *A Hard Break from China*, *supra* note 1112, at 4 (quoting Speeches and Remarks, The White House, Remarks by National Security Advisor Jake Sullivan on Renewing American Economic Leadership at the Brookings Institution (Apr. 27, 2023) (“Remarks by National Security Advisor Jake Sullivan”)) (Mr. Sullivan

The CCP does not respect “high fences”—instead, the Party seeks to circumvent and destroy such barriers, intended to safeguard American sovereignty, by engaging in the theft of critical technologies in essential sectors and psychological and political warfare.<sup>1845</sup> Moreover, the Biden-Harris Administration—and future administrations—must stop minimizing the nature of the U.S.-China relationship to a simple “competition.”<sup>1846</sup> Mr. Sullivan has endorsed the false narrative that the PRC is simply engaging in “competition”—while admitting that “China has to be willing to play its part.”<sup>1847</sup> Yet, it is common sense that competition does not include unrestricted warfare, subversive activity, planned infiltration, rampant theft of critical technologies, and strategic efforts to infiltrate and destroy critical infrastructure.

Further, the Biden-Harris Administration’s alleged “strategy” fails to include any effort to align federal agencies. In fact, the strategy, as explained by Secretary Blinken, fails to mention a single federal agency. Rather, it mentions the roles of international institutions such as the United Nations and the World Health Organization<sup>1848</sup>—organizations the CCP has co-opted and influenced for years.<sup>1849</sup>

The 2022 National Defense Authorization Act required that the President submit to Congress a national security strategy, or “grand strategy,” with respect to China—but it’s not clear a grand strategy exists—at least not in practice.<sup>1850</sup> A grand strategy must address the ways in which the CCP seeks to infiltrate and influence the myriad communities and sectors across America. Notably, a “grand strategy” is not necessarily a government-wide strategy. Indeed, a government-wide strategy would address the responsibilities of each federal agency to foil the CCP’s destructive ambitions. Worse, it is not clear to that there is even a “grand strategy.” As of

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stated that the Biden Administration is “protecting our foundational technologies with a small yard and high fence,” through efforts to “usher in a new wave of the digital revolution.” Specifically, he referenced restrictions on the exportation of semiconductor technology to the PRC due to national security concerns, additional screening of foreign investments in areas where national security is at risk and addressing outbound investments in “sensitive technologies with a core national security nexus.”)

<sup>1845</sup> See U.S. Dep’t of State, *Military-Civil Fusion and the People’s Republic of China* (May 2020) (“U.S. Dep’t of State: Military-Civil Fusion”) (“Its goal is to enable the PRC to develop the most technologically advanced military in the world. As the name suggests, a key part of MCF is the elimination of barriers between China’s civilian research and commercial sectors, and its military and defense industrial sectors. The CCP is implementing this strategy, not just through its own research and development efforts, but also by acquiring and diverting the world’s cutting-edge technologies – including through theft – in order to achieve military dominance.”); Colonel Newsham has explained that “[u]ltimately, psychological warfare is the most important of the political warfare techniques.” Newsham, *When China Attacks: A Warning to America*, at 64. Specifically, it “seeks to change an opponent’s thinking and behavior in a way that is favorable to PRC interests and objectives. Through non-kinetic means, it aims to weaken the opponent’s will and ability to resist. Successful Chinese psychological warfare makes the other side more accommodating and less willing or able to resist.” *Id.*

<sup>1846</sup> See CCP Political Warfare Hearing II (testimony of Ms. Kissel) (“And we need to stop saying, we compete with China. That implies that they follow the rules. They do not. They are not a competitor. They are an enemy. And as a Nation, under both Republican and Democratic administrations, we simply have not gotten there yet. And because we have confusion of a cooperate, compete, and confront policy, which is confused, we get confused policy, and that is dangerous.”).

<sup>1847</sup> Remarks by National Security Advisor Jake Sullivan, *supra* note 1844.

<sup>1848</sup> May 2022 Blinken Speech, *supra* note 1837.

<sup>1849</sup> See CCP Political Warfare Hearing I (written testimony of Colonel Newsham); see CCP Political Warfare Hearing II (written testimony of Mr. Bethel).

<sup>1850</sup> National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 6511 (Dec. 27, 2021).

May 2024, the Biden-Harris Administration had not provided a classified or unclassified summary of the “grand strategy,” and was therefore nearly a year late in fulfilling its requirement.<sup>1851</sup> As of the release of this report, the Biden-Harris Administration has continued to skirt its duty to deliver a comprehensive strategy to counter China. Further, the White House’s September 9, 2024 letter to the Committee failed to mention the alleged “grand strategy”<sup>1852</sup>—eliciting further concerns that the strategy is non-existent or, at a minimum, not a priority for the Administration.

**Dozens of Agency Briefings Provided to the Committee Confirmed that the Biden-Harris Administration Has No Plan to Defend Against CCP Unrestricted Warfare.**

The Committee conducted oversight over how twenty-five federal agencies are addressing the serious threats posed by the CCP’s unrestricted warfare.<sup>1853</sup> Letters to each agency addressed unique responsibilities of the individual agency to secure American communities and key sectors from CCP political warfare. Given these important duties, the Committee also requested briefings from the agencies to understand how each agency is using its existing resources to strengthen its ability to identify, deter, and defeat influence operations; conduct effective outreach about the CCP threat to the American people; and provide strong incentives to counter CCP tactics. As discussed herein, agency briefings to the Committee made clear that agency officials responsible for various targeted sectors and communities are unaware of any whole-of-government approach to identifying, countering, and defeating CCP unrestricted warfare.

The NSC is uniquely qualified to confront this challenge to America based on its essential duties designed to ensure collaboration across federal agencies for national security purposes. As part of this coordination, the NSC engages with individuals who have crucial duties to combat CCP political warfare, including, but not limited to: the Attorney General, the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Secretary of the Treasury, the Secretary of Homeland Security, the Representative of the United States of America to the United Nations, the Administrator of the U.S. Agency for International Development, the Chief of Staff to the President, and the Assistant to the President for National Security Affairs.<sup>1854</sup>

In summary, the Biden-Harris Administration is fundamentally naïve in claiming that “[t]here’s no reason why our great nations cannot coexist peacefully and share in and contribute to human progress together.”<sup>1855</sup> While the United States has been willing to do so, the PRC seeks to destroy America.<sup>1856</sup> The NSC, and all federal agencies, must do more to safeguard

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<sup>1851</sup> Press Release, Mitt Romney, Secretary Blinken Personally Commits to Follow Through on Delivering Romney’s Comprehensive China Strategy (May 21, 2024).

<sup>1852</sup> See White House Letter to the Committee.

<sup>1853</sup> See Press Release, H. Comm. on Oversight & Accountability, Comer Presses National Security Council on Developing Plan to Combat CCP Influence (Aug. 20, 2024) (press release providing additional context about the Committee’s government-wide investigation into CCP political warfare and includes links to letters to twenty-five federal agencies).

<sup>1854</sup> National Security Council Background, *supra* note 1830.

<sup>1855</sup> May 2022 Blinken Speech, *supra* note 1837.

<sup>1856</sup> See Liang & Xiangsu, Unrestricted Warfare: China’s Master Plan to Destroy America.



America. The only way to effectively do so—given the current state of infiltration by the CCP—is a clear government strategy that leaves no gaps in the response by federal agencies.

The next administration must begin by creating a government-wide strategy to deter and defeat CCP unrestricted warfare. A true government-wide strategy should address the role of each federal agency in identifying the threat, communicating the threat to its respective community or sector, and combatting the threat. Importantly, the next national security advisor should not travel to the PRC without a government-wide strategy to combat CCP unrestricted warfare—unlike current Advisor Jake Sullivan, who is the first national security advisor to travel there since 2016<sup>1857</sup> and who did so without any such strategy. A readout from Mr. Sullivan’s visit stated that “[b]oth sides welcomed ongoing efforts to maintain open lines of communication,” and that he touched on issues including preventing U.S. technologies from being improperly used to undermine U.S. national security, the PRC’s non-market economic practices, and the need to resolve the cases of Americans being wrongfully detained or subject to exit bans in the PRC.<sup>1858</sup>

This engagement encapsulates the Biden-Harris Administration’s mixed messaging and lack of a cohesive strategy, which in turn confuses federal agencies and officials working on this issue. Captain Fanell and Dr. Thayer have explained that “the significance of this visit is that the Biden-Harris administration dispatched Sullivan to meet with the top leadership of the CCP, a party and ideology that are dedicated to the defeat and destruction of America.”<sup>1859</sup> They further explained:

It is time to recognize a fundamental truth: engagement with Communist China is the fentanyl of the American elite. Like an opioid addiction, it must be kept going. Unlike an opioid addiction, the engager benefits and, indeed, prospers as so many of the elite have from engagement with Communist China. The American people and American national security bear the great costs.<sup>1860</sup>

## Committee Recommendations

The stakes are high, and a cohesive strategy to defeat CCP unrestricted warfare targeting communities across America is urgently needed. As Mary Kissel, former Senior Advisor to Secretary of State Mike Pompeo, explained to the Committee: “[m]y fear . . . is that we do not have the time that we had during the Cold War. We had decades to argue amongst ourselves, Republicans and Democrats, about the best way, right, to combat the Soviet threat. I do not

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<sup>1857</sup> Mike Brest, *Jake Sullivan to become first national security adviser to travel to China since 2016*, Washington Examiner (Aug. 23, 2024).

<sup>1858</sup> Press Release, The White House, Readout of National Security Advisor Jake Sullivan’s meeting with Chinese Communist Party Politburo Member, Director of the Office of the Foreign Affairs Commission, and Foreign Minister Wang Yi (Aug. 28, 2024).

<sup>1859</sup> James E. Fanell & Bradley Thayer, *The Truth About Sullivan’s Trip to China: Engagement Is the Fentanyl of the Elites*, American Greatness (Sept. 1, 2024) (emphasis added).

<sup>1860</sup> *Id.*

believe that we have that time with Communist China today[.]”<sup>1861</sup> The Committee therefore recommends the following:

- The next administration must establish a government-wide strategy to defend against CCP unrestricted warfare.
  - It is imperative that an incoming administration create a government-wide strategy early.
  - A government-wide strategy should identify the responsibilities of each federal agency—as there is no agency that does not have a role in safeguarding American communities and sectors from CCP unrestricted warfare—which encompasses political, economic, psychological, information, drug, chemical, energy, cyber, resource, and many other forms of warfare.<sup>1862</sup>
  
- The next administration must prioritize transparent public outreach about CCP infiltration and influence operations—and strong expertise and training to strengthen the federal government’s ability to secure America in the face of the communist regime that seeks to destroy it.
  
- The next administration must inspire and equip Americans to thwart CCP unrestricted warfare, and strengthen their communities, innovate, and create the technologies and phenomena that will secure a strong and prosperous future for the nation.
  
- The next administration should establish a China-specific sanction program.<sup>1863</sup>
  - Currently, there is no China-specific sanction program. While there is a program entitled “Chinese Military Companies Sanctions,”<sup>1864</sup> all sanctions relating to the PRC should be harmonized and consistent across agencies. They should also be easy for the public to locate as part of a larger program.
  - Briefers from the Treasury Department told the Committee that it is predominantly the president’s job to establish new sanction programs.<sup>1865</sup>

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<sup>1861</sup> CCP Political Warfare Hearing II (testimony of Ms. Kissel).

<sup>1862</sup> *See supra*, Section II. A. Unrestricted and Other Forms of Warfare.

<sup>1863</sup> *See supra*, Section III. T. U.S. Department of the Treasury.

<sup>1864</sup> U.S. Dep’t of the Treasury, Sanction Programs and Country Information, <https://ofac.treasury.gov/sanctions-programs-and-country-information> (last accessed Sept. 16, 2024).

<sup>1865</sup> *See supra*, Section III. T. U.S. Department of the Treasury.

# UNRESTRICTED WARFARE REPORT CARD



House of Representatives Committee on Oversight and Accountability



## U.S. NATIONAL SECURITY COUNCIL

Subject	Grade
Strategy and Response to CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Expertise/Knowledge to Identify, Counter, and Deter CCP Unrestricted Warfare	●
Outreach to American People About CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●
Collaboration with Relevant Partners to Combat CCP Unrestricted Warfare, Political Warfare or Other Relevant Form(s) of Warfare	●

### Comment

The NSC has failed to implement a grand strategy –and a government-wide strategy– leaving federal agencies ill-equipped to defeat CCP unrestricted warfare and American communities vulnerable.

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## V. Conclusion

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Having investigated 25 federal agencies, the Committee is alarmed that while the CCP continues to target communities and sectors across America, federal agencies have failed to deter the CCP's ambitions, and the Biden-Harris Administration has failed to develop a government-wide strategy of deterrence. *Both* the Administration and its constituent agencies have neglected to even recognize that the CCP is, in fact, waging a cold war against the United States. This massive failure is attributable to the fact that too many agencies themselves have fallen prey to CCP influence operations.

After decades of false promises from the CCP, enticing but deceptive business deals, united front infiltration of political and cultural institutions, outright theft, and waging every form of non-kinetic warfare it can muster, it is wholly unacceptable that the federal government lacks a cohesive strategy to counter the CCP. The American people deserve more from their government.

The Committee expects each federal agency to uphold its duty to the American communities for which it is responsible. To secure American sovereignty and prosperity, federal officials must not only recognize the CCP for what it is—the primary foreign adversary that is seeking to weaken and destroy America through political warfare—but apply existing resources and authorities to invest in strengthening the homeland, innovation, and key technologies that will invigorate the nation to face any obstacle.