



Nonimmigrants Surge Under Obama Administration

By David North

While there has been much useful discussion recently on the vulnerability of our southern border, on sanctuary cities that let alien criminals loose, and even on anchor babies, there has been no similar conversation on the remarkable surge in the number of nonimmigrants arriving in the United States during the Obama administration.¹

This was caused by a large increase in the number of visas issued to tourists, students, temporary workers, and others — there were 5.8 million of these visas granted in FY 2009 and 9.9 million of them in FY 2014. Although visa overstayers account for 40 to 45 percent of the illegal alien population, it became easier during those years to secure these visas — the percentage of visa denials to all visa decisions dropped from 18.6 percent in FY 2009 to 15.3 percent in FY 2014, according to State Department data. Figure 1 illustrates these trends, with 2009 as the baseline.

In general terms, the government says “yes” to the applications of millions and millions of people and rejects only a small minority of those seeking visas. For example, for every 4.3 visas issued in 2009, there was one denial. That ratio changed to 5.5 issuances to one denial in 2014.²

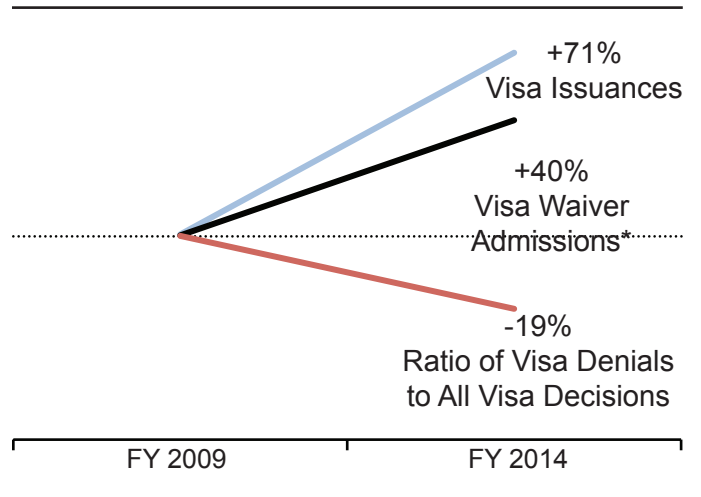
In short, aliens seem to have had an easier time getting visas in FY 2014, when the Obama administration was fully in control, as opposed to FY 2009, when the transition from Bush II to the Obama administration was taking place.

The upper line in the figure tells us that there are many more visas issued each year, while the bottom line indicates that the visa issuance process has become less selective. That’s a bothersome combination of trends. One must assume that, with the large increase in arrivals and the accompanying reduction in denial rates, the number of visa overstayers must, of necessity, have increased as well.

Visa Waiver Program. Meanwhile, to look at the whole picture it is necessary to mention the Visa Waiver Program (VWP), which showed a large increase in admissions in the years of interest. This is not the subject of this report, as it has been analyzed (and criticized) by my colleagues Jessica Vaughan and Dan Cadman in other CIS publications.³

The VWP aliens come from rich to fairly rich countries. They do not need a State Department interview, but they do go through inspection at the ports of entry along with everyone else. They

Figure 1. Visa Trends, FY2009 - FY2014



Source: CIS calculations based on U.S. State Department data described in the text.

* The 2013-2014 part of this line is an estimate as no 2014 data are available; the increase from 2009 to 2013 was 36.5 percent.

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can stay in the States for short periods, but may not work while they are here and it is difficult for them to change to another visa status after arriving as a VWP alien. (As Americans we are used to traveling to most European nations without a visa; so there is a sense of reciprocity in the creation of this program.)

Citizens of 38 nations⁴ can participate in the program, and it is worrying that the Senate, but not the House, has voted to add Poland⁵ to the list, as it is a country with much poverty and one that has contributed substantially to the illegal alien population in the States.

There were 15.5 million admissions of VWP aliens in 2009 and about 21.7 million in 2013. (Data for 2014 are not yet available.) Projecting the trend for the years 2009 to 2013 to the year 2014 suggests an increase of about 45 percent.⁶ Even though only a small proportion of them drop into illegal alien status, this means large numbers of additional illegals.

There are no Third World nationals in the VWP stream, but there are many in the visa-carrying category. The large increase in visa issuances compared to the more modest increase in VWP arrivals should be a matter of concern, but I have never heard it discussed

All of this is particularly troubling when one bears in mind that there is virtually no enforcement of the immigration law in our interior — if someone gets through the airport with a tourist or a student visa and becomes an illegal alien, there is little likelihood of deportation unless the alien is arrested for a felony. So we need a careful sifting process for would-be visa holders.

Three Classes of Nonimmigrants. Let’s divide the visa holders into three broad categories.

First, there are those with border-crossing cards. Issued to millions of people in Mexico, it is a specialized kind of visa — it allows them to cross the border, but they must stay within a specified number of miles of it, which varies from border state to border state.⁷ It allows them to shop, but not to work. These cards are often abused, but as the numbers below indicate, it became easier to get these cards during the Obama administration.

The second category is for those with tourist visas (from non-VWP nations). These include both visitors for pleasure and for business.

The third category is a collection of what I call specialized visas. These range from household servants and farm workers at one end of the spectrum to ambassadors at the other, but the former are much more numerous than the latter.

The data for denials, approvals, and denials-to-decisions percentages for each of the three groupings are shown in Table 1.

These trends are doubly regrettable because nipping a potential visa abuser in the bud before he or she arrives is much less expensive and much less burdensome to our government’s staff (and to the alien) than finding that person in the United States and deporting him or her. In the first scenario, the consular official is denying the alien something that he or she does not have, i.e., access to America. In the second, the alien is told that, although he or she is in America, he or she has to leave.

Visa Grouping	Decisions		Approvals		Net Rejections		Percent Rejected	
	2009	2014	2009	2014	2009	2014	2009	2014
Border Cards	897,531	1,487,515	707,255	1,232,884	190,276	254,631	21.2%	17.1%
Tourist Visas	4,363,033	7,817,991	3,429,729	6,448,416	933,304	1,369,575	21.8%	17.5%
Specialized Visas	1,869,685	2,422,955	1,667,188	2,251,180	202,488	171,775	10.8%	8.7%
Totals	7,130,249	11,728,461	5,804,182	9,932,480	1,326,068	1,795,981	18.6%	15.3%

Source: CIS calculations using Department of State data, [“NIV Workload by Visa Category, FY-2009”](#) and [“NIV Workload by Visa Category, FY-2014”](#).

Think about it this way: You are a parent and are shopping with a young child. He sees a candy bar and says he wants it; you say “no” and the kid is upset. If, on the other hand, the child already is eating the candy bar and you take it out of his hand, then the child is *really* unhappy.

Further, a denied visa cannot be brought into our court system, but a scheduled deportation can be — and that can take years and years to bring to fruition.

So it is much easier,⁸ less expensive, and much gentler to deny a visa overseas than to deport the same person later. But the numbers suggest that the administration has not grasped this fundamental truth, presumably because it is not really worried about the number of illegal aliens in our midst.

Visa Classes. Looking a little more deeply into these processes, there is a bewildering alphabet soup of specialized visas, most carrying a combination of letters and numbers. For example, A-1 is for top-ranking diplomats, A-2 is for lesser ones, and A-3 is for their servants. At the other end of the alphabet are U-5 migrants: unmarried, under-18 siblings of crime victims and, unlike the A-1s, a distinctly non-elite class.

There are no numerical limits in the Visa Waiver and border-crossing card systems, but there are for other visas, such as 85,000 a year for H-1B specialty workers; 66,000 for H-2B non-skilled, non-agricultural workers; and 10,000 for U-1s, principal crime victims. These three specific categories are routinely over-subscribed.

There were 85 of these sub-categories in 2009 and 86 in 2014. Each subcategory has its own rules on eligibility; collectively, the whole set of them permits the admission of many people and many different kinds of people. The task of sorting out those eligible from those not eligible is sometimes difficult for the interviewing officers who often are working on a caseload that is too large to be handled effectively.

Further, there are huge differences in the threat scenarios among these multiple categories, as I pointed out in a 2012 blog, also based on State Department data.⁹ The extremes were represented by the tourist classes in which there were 3.8 approvals for every denial, compared to the seven categories for NATO officials, family, and staff, for which there were 191.6 approvals for every denial. (Norwegian admirals are unlikely to become illegal aliens.)

Statistical Concepts. While the Department of Homeland Security’s statistics tally the number of petitions filed, those accepted, those rejected, and those left pending at the end of the year, the State Department has a different system because of its in-house appeals system.

The State data includes visa issuances, initial refusals, and a category called “waived/overcome”. The latter covers the cases in which the initial rejection is overturned upon review. In order to find the net number of rejections, one has to subtract the cases in the waived/overcome category from the initial refusals. Some of the latter cases may have been decided in a different year than the initial refusals, a minor variable not covered here.

Figure 1 shows both visa decisions and VWP admissions. The latter measures the number of times that aliens went through our ports of entry and includes multiple entries. Since this same concept is used year after year, however, the total number of admissions is a useful measure of the varying traffic over time.

End Notes

¹ Governor Chris Christie (R-N.J.) has suggested that nonimmigrants admitted to the United States should be tracked like FedEx packages. He was not forthcoming about how this would be done; it would seem to imply the implantation of an electronic device into each arriving alien. See Peter Whoriskey, [“Never mind the wall. Christie says foreign visitors should be tracked like FedEx packages”](#), *The Washington Post*, August 29, 2015.

² See State Department Reports on “NIV Workload by Visa Category” for [2009](#) and [2014](#).

³ See, for example, Jessica Vaughan’s [testimony](#) before the House immigration subcommittee in 2011. See also Dan Cadman, [“Is the Visa Waiver Program the Soft Underbelly of Homeland Security?”](#) Center for Immigration Studies blog, January 22, 2015.

⁴ See [here](#) for the list of VWP countries. Citizens of Canada and the Bahamas have visa-waiver-type rights, as do the residents of some British island colonies in the Caribbean, but they are not formally covered by the VWP. Further, there is a specialized visa waiver program, largely used by Chinese nationals, for trips to Guam and to the Northern Mariana Islands just north of Guam, but only to those territories. The statistics shown in this report for the VWP combine the totals from both the broader and the Guam programs, but do not include admissions of people from Canada, the Bahamas, and the British islands.

⁵ See Jessica Vaughan, [“Senators Vote to Allow Visa Waivers for Poland”](#), Center for Immigration Studies blog, June 22, 2015. The visa refusal rate for applicants in Poland — the key statistic in making decisions — has ranged from 6.4 percent to 13.5 percent in recent years. The usual maximum for a nation to be considered for the program is 3 percent.

⁶ The VWP admissions data came from Table 25 in the [2013 Yearbook of Immigration Statistics](#), Washington, D.C.: Department of Homeland Security, August 2014. A person may be admitted to the United States several times in the course of a year, but it is unlikely that the same person would get more than a single visa in a year, so admission and visa issuance data are not neatly comparable.

⁷ More specifically, the current border card zone is within 25 miles of the border in California and Texas; within 55 miles of the border in New Mexico; and within 75 miles of the border in Arizona. These variables relate to the distance of major U.S. cities from the border.

⁸ While it is easier for the government to deny a visa than to deport a visa abuser, the consular officer’s decision to deny is often a difficult one. I remember a long conversation I had many years ago with the former head of our visa issuance staff in Manila. He said that it was much easier and less time-consuming for the officer to say “yes” to a marginal candidate. He continued (approximately), “If you say ‘yes’ you will never hear from him again, and if he is picked up for murder in Omaha years later, by then you are in another post and may never learn about the situation. On the other hand, if you say ‘no’ to a persistent but questionable applicant that often generates extra work for you, such as handling appeals and correspondence with local luminaries who want the visa to be granted.”

⁹ For more on the differential visa refusal rates for many of the specific visa categories, see David North, [“Some Visa Categories are More Vulnerable Than Others”](#), Center for Immigration Studies blog, January 2012.