

The Importance of Allies and an Improved Visa Waiver Program

David Inserra and Daniel Kochis

KEY TAKEAWAYS

The U.S. should expand the Visa Waiver Program judiciously to worthy countries and make some adjustments to make the program even better.

The VWP allows citizens of member countries to come to the U.S. visa-free, yet vetted, for up to 90 days at a time.

The VWP is the “gold standard” in international counterterrorism partnerships, requiring key intelligence sharing from participating countries.

Polish President Andrzej Duda is expected soon for a state visit to the United States, underscoring the important relationship the U.S. has with Poland in particular, and with NATO allies more generally. In the visit with President Donald Trump, President Duda is likely to raise the issue of Poland’s desire to join the U.S. Visa Waiver Program (VWP), an important vehicle for advancing security and strengthening ties with allies. Currently, 10 North Atlantic Treaty Organization (NATO) allies are also VWP members, and judicious expansion of the program to appropriate NATO members will strengthen security and further fortify the transatlantic bond.

Congress should consider how it can better tailor the requirements of the VWP to match the illegal-immigration risks, terrorist threat, and U.S. alliances in the world. The Trump Administration, which is seeking better data and intelligence for its vetting systems,

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should also look for ways to encourage a judicious expansion of the VWP and to help countries in meeting the program requirements. Finally, the countries that want to join the program should also explore what they can do to meet the existing requirements, showing the U.S. that they are trustworthy partners who will and do fulfill their obligations.

The Gold Standard

The VWP allows citizens of member countries to come to the U.S. without a visa. Instead, they must complete an online application on the Electronic System for Travel Authorization (ESTA), similar in concept to an e-visa. ESTA travel authorization is similar to the vetting process for a visa, but does not include an interview at a U.S. consulate, making it significantly less time-consuming. The travel authorization is valid for two years and can be used for visits of up to 90 days each. U.S. citizens also receive reciprocal benefits to travel visa-free to VWP member countries.

The VWP is the “gold standard”¹ in international counterterrorism partnerships, requiring key intelligence sharing from participating countries, while also supporting trade, travel, and diplomatic ties. The Trump Administration in its policy statements, executive orders, and other policy documents, has consistently sought out better “identity management and information sharing practices.”² Indeed, such information lies at the heart of a credible vetting program. Without good information and surety regarding the identity of persons entering the U.S., no vetting system can hope to match the expectations of policymakers and the public.

The VWP is exactly what the Trump Administration is looking for, since countries participating in the VWP must share detailed information on known and suspected terrorists as well as on serious criminals seeking to enter the United States. According to the Government Accountability Office, this information sharing has directly assisted in counterterrorism vetting and criminal investigations.³

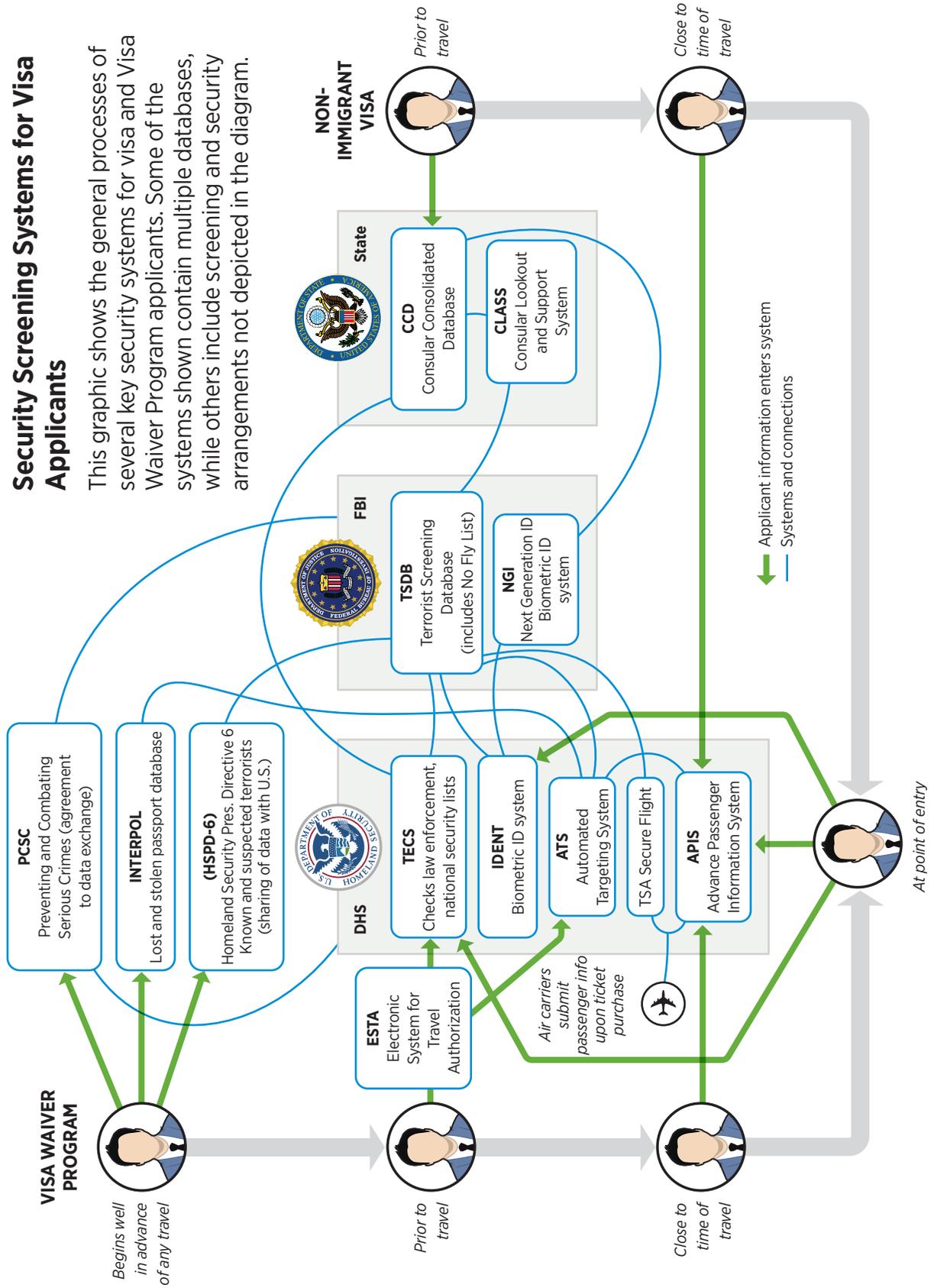
The VWP also helps to ensure that passport-control practices are secure. It requires that countries in the program issue secure, machine-readable biometric e-passports (physical passports with a microchip) to its citizens. By containing a chip with the biometric data of the person travelling, these passports are harder to forge or manipulate. Furthermore, the VWP requires participating countries to share information on lost and stolen passports, a second barrier to fraudulent passport use.

With this improved information sharing and identity management in place, the U.S. is better able to vet those entering the U.S. through the VWP

FIGURE 1

Security Screening Systems for Visa Applicants

This graphic shows the general processes of several key security systems for visa and Visa Waiver Program applicants. Some of the systems shown contain multiple databases, while others include screening and security arrangements not depicted in the diagram.



and also through the traditional visa process. Indeed, both the traditional visa process and the VWP make use of very similar vetting based on certain immigration and terrorist databases. With better information in those databases, the U.S. is more likely to find and stop terrorist travel.

In sum, the VWP delivers the best identity-management and information-sharing partnership for U.S. security.

Drawing Allies Closer

The U.S. and Europe face similar challenges: a revanchist, aggressive Russia and an increasingly assertive China, both of which seek to undermine the combined geopolitical power of the West. U.S. and European societies also continue to grapple with the ongoing threat of Islamist terrorism. For the U.S. and Europe, facing these challenges will prove far more successful if they face them together. U.S. policy should build tighter bonds with allies, and eliminate any seams that could be exploited by our adversaries.

The VWP is an important tool to improve security on both sides of the Atlantic, which has the added benefit of strengthening U.S. bonds with crucial allies. Where appropriate, the U.S. should seek ways to include additional NATO allies in the VWP. While many NATO member states already take part in the program, some allies in Eastern Europe who would like to join have been unable to, due to visa-refusal rates—the number of applicants to whom the U.S. denies a visa—above 3 percent. Many of these same nations face an existential threat from Russia and are affected by China’s efforts to embed itself as a key economic and political player, which undermines transatlantic unity. The U.S. should seize the opportunity to draw important NATO allies closer through security cooperation in the VWP and shrink the gap between the NATO members inside and the NATO members outside the VWP.

Avenues for Expansion

With the VWP providing so much benefit to the U.S., policymakers should look for ways to judiciously expand the program. One way to do that is to change one of the less-helpful admissions criteria, the visa-refusal rate. The program used to allow countries to join the program with a visa-refusal rate below 10 percent, as long as the Department of Homeland Security (DHS) found them to not be a risk, but Congress lowered the rate to 3 percent. The result is that some non-member countries have far lower refusal rates today than some member countries did when they joined. The visa-refusal

rate alone, however, may not be the best metric. The visa-overstay rate, on the other hand, provides a clearer assessment of overstay risk since that is exactly what it measures.

Allowing the DHS to once again admit countries with visa-refusal rates lower than 10 percent, while also adding a requirement for a low visa-overstay rate, would better account for legal-overstay risk. Some bills, like the JOLT act, would move in this direction.⁴

Another avenue for expansion is to look outside the traditional requirements of the program and instead use the VWP as an incentive for meeting other national security priorities. For example, a bill introduced by Representative Dan Lipinski (D-IL) proposed allowing NATO allies who meet the military funding promises of the Wales Summit—annual defense spending of 2 percent of gross domestic product—to join the VWP.⁵ Poland has met this requirement in both 2017 and 2018, one of the few NATO allies to do so. This proposal is also paired with a low overstay rate requirement.

Of course, some nations could simply try to meet the existing program criteria. Poland specifically is relatively close to meeting the 3 percent refusal rate threshold and may be able to meet it in the next few years. The DHS and the State Department should give such countries clear guidance and information on specific criteria they are or are not meeting, and once the 3 percent level is achieved, the DHS should quickly allow them to join the VWP or fully explain what else remains to be done.

Building on the Gold Standard

The Visa Waiver Program advances U.S. diplomatic, economic, and security interests. Congress should:

- **Rename the Visa Waiver Program.** “Visa waiver” is often incorrectly associated with lax vetting of foreign travelers. To avoid this confusion, Congress or the DHS should change the name of the VWP to something without this negative connotation, such as the Partnership for Secure Travel. Legislation recently introduced in the House by Representative Mike Quigley (D-IL) would accomplish this.⁶
- **Add an alternative eligibility requirement for low visa-overstay rates.** Congress should allow the Secretary of Homeland Security to raise the 3 percent refusal rate to 10 percent if a country has a low visa-overstay rate. Similarly, Congress should evaluate alternative eligibility that considers overstay rates and other national security objectives, such as NATO member defense spending.

Alliances and Security

As the U.S. welcomes President Duda and recently celebrated 70 years of NATO, it would be wise to improve and expand programs that increase U.S. security. The Visa Waiver Program is one of those programs, and it should be judiciously expanded to worthy allies and partners.

David Inserra is Policy Analyst in the Douglas and Sarah Allison Center for Foreign Policy, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation. **Daniel Kochis** is Senior Policy Analyst in the Margaret Thatcher Center for Freedom, of the Davis Institute.

Endnotes

1. *Trump v. Hawaii*, No. 17–965, U.S. 2018, U.S. Supreme Court, https://www.supremecourt.gov/opinions/17pdf/17-965_h315.pdf (accessed May 23, 2019).
2. Presidential Documents, “Maintaining Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats,” *Federal Register*, Vol. 83, No. 72 (April 13, 2018), pp. 15937–15940, <https://www.federalregister.gov/documents/2018/04/13/2018-07864/maintaining-enhanced-vetting-capabilities-and-processes-for-detecting-attempted-entry-into-the> (accessed May 28, 2019).
3. The GAO also notes that the VWP resulted in the sharing of information on approximately 1,000 more previously unidentified terrorists between 2015 and 2016. U.S. Government Accountability Office, “Visa Waiver Program: DHS Should Take Steps to Ensure Timelines of Information Needed to Protect U.S. National Security,” May 2016, <http://www.gao.gov/assets/680/676948.pdf> (accessed May 22, 2019).
4. Jobs Originated through Launching Travel Act of 2019, H.R. 2187, 116 Cong., 1st Sess., <https://www.congress.gov/bill/116th-congress/house-bill/2187/text> (accessed May 22, 2019).
5. H.R. 2946, 116 Cong., 1st Sess., <https://www.congress.gov/bill/116th-congress/house-bill/2946?q=%7B%22search%22%3A%5B%22hr2946%22%5D%7D&s=2&r=1> (accessed May 24, 2019).
6. Secure Travel Partnership Act of 2019, H.R. 1996, 116th Cong., 1st Sess., <https://www.congress.gov/bill/116th-congress/house-bill/1996/text> (accessed May 22, 2019).