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Report to the Committee on Finance, U.S. Senate

June 2010

PASSPORT ISSUANCE

Current Situation Results in Thousands of Passports Issued to Registered Sex Offenders

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GAO-10-643

AILA InfoNet Doc. No. 10071463. (Posted 07/14/10)

June 2010

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Highlights

Highlights of GAO-10-643, a report to the Committee on Finance, U.S. Senate

PASSPORT ISSUANCE

Current Situation Results in Thousands of Passports Issued to Registered Sex Offenders

Why GAO Did This Study

A U.S. passport allows the owner to travel freely both in and out of the country. Although passport recipients typically travel internationally for business or leisure, some passport recipients are using their passports to commit nefarious illegal activities outside this country. Specifically, the Department of Justice (DOJ) has documented cases of U.S. passport holders engaging in sex acts with children in foreign countries. Federal statutes authorize the Secretary of State to deny issuance of a passport in certain circumstances, such as for a conviction for international drug trafficking or arrearages in child support.

GAO was asked to (1) determine, to the extent possible, the number of passport recipients who are registered sex offenders and (2) develop case study examples of passport recipients who are registered sex offenders. To do so, GAO compared fiscal year 2008 passport data from the Department of State (State) to data in DOJ's National Sex Offender Registry (NSOR). GAO also interviewed State officials. GAO selected 30 sex offenders, primarily based on geography, and performed investigations.

In response to a draft of this report, DOJ had no comments. State expressed concerns about the presentation of some findings. State's comments are addressed within the report.

View GAO-10-643 or key components.
For more information, contact Gregory Kutz at (202) 512-6722 or kutzg@gao.gov.

What GAO Found

State issued U.S. passports to thousands of registered sex offenders during fiscal year 2008. Currently, State has no statutory authority to deny passports to registered sex offenders, except those convicted of sex tourism. GAO's analysis of data provided by State and DOJ indicates that of over 16 million U.S. passports issued in 2008, about 4,500 were issued to registered sex offenders. This estimate is likely to be understated because of data limitations in the passport and NSOR databases. From analysis of the NSOR, GAO also found that about 50 of these registered sex offenders either lived outside of the United States or the offender's whereabouts were not known. GAO also found that at least 30 of these registered sex offenders were federal employees during fiscal year 2008.

GAO judgmentally selected 30 sex offenders for investigation. At the time of the criminal offense, many of these offenders held positions of public trust, such as health care provider, school teacher, religious layman, law enforcement official, National Aeronautics and Space Administration engineer, and owner of Housing and Urban Development (HUD) Section 8 program single-family houses. GAO's investigation also found that State issued passports to individuals who were residing in prison or delinquent in child support or whose whereabouts were unknown according to the NSOR. Finally, GAO's investigation found that one individual has illegally failed to register with the police department as a sex offender for several years. The following are examples of registered sex offenders who were issued U.S. passports.

Examples of Registered Sex Offenders Who Were Issued U.S. Passports

State	Date of passport issuance	Description
Ohio	July 2008	The offender was previously convicted of gross sexual imposition, pandering obscenity, and various other sex offenses. In the late 2000s, the offender fled after law enforcement seized his computers for child pornography. The offender was issued a passport subsequent to fleeing from law enforcement. The offender was later arrested in the Philippines.
New York	April 2008	A police officer was convicted of sodomy in the early 2000s. According to law enforcement records, the offender was caught having sex with his foster son. At the time the passport was issued, the offender was a landlord for two properties—receiving Section 8 money from HUD.
Texas	April 2008	A U.S. Postal Service carrier was convicted of indecency with a girl, including sexual contact. The Postal Service was aware of the conviction and the offender is still employed as a postal carrier. The assigned route for the postal carrier goes through a residential area that includes an elementary school.
Texas	October 2007	The State Department issued a passport in name of the sex offender while he was incarcerated for child pornography possession. The offender was previously convicted for soliciting trips to Mexico to find "young friends" with other "boy lovers."

Source: GAO analysis of State and other records.

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Abbreviations

DOJ	Department of Justice
FBI	Federal Bureau of Investigation
HUD	Department of Housing and Urban Development
NSOR	National Sex Offender Registry

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United States Government Accountability Office
Washington, DC 20548

June 15, 2010

The Honorable Max Baucus
Chairman
The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate

In fiscal year 2008, the Department of State (State) issued over 16 million passports to U.S. citizens. Passport recipients typically travel internationally to conduct business or enjoy new cultures and scenery. But some are using their passports to commit nefarious illegal activities outside the country. Specifically, the Department of Justice (DOJ) has documented cases of U.S. citizens engaging in sex acts with children in foreign countries. Several criminal cases highlight the issue:

- In 2009, a serial sex offender who had failed to register as a sex offender was convicted of traveling to Germany to have sex with a 14-year-old boy who was living in an orphanage.[1] He cultivated a friendship with the victim and while on a bike trip, the victim woke to find the offender fondling him. The offender was also separately convicted of failing to comply with sex offender registration requirements.
- In 2008, a registered sex offender from Arizona was sentenced to more than 9 years in prison after he pled guilty to engaging in sexual activity with teenage girls in Mexico.[2] The Mexican police found the offender in his Mexican apartment with a 15-year-old Texas girl, who later told authorities she engaged in sexual conduct with the offender in exchange for money and crack cocaine. The offender also paid $40 for sex to other underage girls in a Mexican bar.
- In 2005, a registered sex offender from Maryland was sentenced to 15 years in prison followed by supervised release for life after he pled guilty to sexually molesting young boys in the Philippines and Cambodia. The offender was previously convicted of three separate child sex crimes in

[1] The offender was previously convicted for sexually molesting and assaulting 9- to 13-year-old children in the United States and Latvia.

[2] The offender was previously convicted of rape and has been registered as a sex offender in Arizona since the late 1970s.

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Maryland and was released on parole in 2000 after serving 13 years of an 18-year sentence.

Federal statutes authorize the Secretary of State to deny issuance of a passport in certain circumstances, such as while an individual is imprisoned or on parole or supervised release for a conviction for international drug trafficking or sex tourism[3] or is in arrearages for child support. However, there is currently no comprehensive program to deny passports to applicants who are registered sex offenders.[4] In response to your request, we (1) determined the number of passport recipients who are registered sex offenders and (2) developed and substantiated case studies of passport recipients who are registered sex offenders.

To determine the number of passport recipients who are registered sex offenders, we used State's passport database of all individuals who were issued a passport in fiscal year 2008. We compared the database to DOJ's National Sex Offender Registry (NSOR) as of December 2008 to determine the number of fiscal year 2008 passport recipients who were registered sex offenders. To develop case studies, we judgmentally selected 30 cases primarily based on geography and considered other factors, such as severity of crime. We researched and analyzed court records, police reports, and other investigative sources. Our investigators also interviewed certain passport recipients from our case studies. While these case studies cannot be generalized beyond the cases reviewed, they serve to illustrate the types of sex offenders that were issued passports in fiscal year 2008.

To determine the reliability of the passport data, we interviewed State officials responsible for those databases about the quality of the data. In addition, we performed electronic testing of the passport database and the NSOR to determine the validity of specific data elements that we used to

[3] Sex tourism involving children is defined as traveling to a foreign country with the intent to engage in sexual activity with a child. Under federal law (18 U.S.C. § 2423), it is illegal for a U.S. citizen to travel abroad intending to engage or attempting to engage in sexual activity with a child younger than 18 years old that would be illegal if it occurred in the United States. Individuals who commit these crimes are subject to prosecution in the United States even if the crime was committed on foreign soil.

[4] Under 22 C.F.R. § 51.60(b)(2), State may refuse to issue a passport if the applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act.

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perform our work.[5] Based on our discussions with agency officials and our own testing, we concluded that the data used for this report were sufficiently reliable for our purposes.

We conducted this forensic audit from October 2009 to June 2010[6] in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted our related investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

Background

The National Sex Offender Registry

All states, the District of Columbia, U.S. territories, and some Indian tribes have laws or codes requiring convicted sex offenders to register with local or state law enforcement authorities to enhance public protection and provide an additional investigative tool to law enforcement agencies. In most states, the sex offender registry is centrally maintained by a state criminal justice agency, such as the state police or a department of public safety.

The Adam Walsh Child Protection and Safety Act of 2006 (Walsh Act)[7] requires states to submit sex offender registrant information to the Attorney General for inclusion in a national registry. The Federal Bureau of Investigation (FBI) maintains this database, the NSOR. In addition, the Walsh Act established a comprehensive set of minimum standards for states to follow for reporting sex offenders, including who must register, what information must be in the registries, how often registrants must reappear in person to verify their registration information and be

[5] Data validation edits include (1) tests to see if numeric fields contain nonnumeric data and (2) tests on a value to see if it falls within the range established for the data element.

[6] Initiation of our audit was delayed significantly because of State's refusal to comply with our request for the passport recipient database for over a year. We requested access to the database in September 2008, but did not obtain it until October 2009.

[7] Pub. L. No. 109-248, 120 Stat. 587 (2006) (codified at 42 U.S.C. § 16901 et seq.).

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rephotographed, the number of years that offenders must maintain their registration, and guidelines for the penalties for failing to register.[8]

Convicted sex offenders who fail to satisfy registration requirements are subject to state or federal prosecution. The Walsh Act requires states to impose criminal penalties (including a maximum potential prison term of more than 1 year) on sex offenders who fail to comply with registration requirements. In addition, the Walsh Act makes failure to comply with registration requirements a federal crime (punishable by up to 10 years in prison) for sex offenders who travel between states or Indian tribal jurisdictions, or whose offenses are for federal, District of Columbia , Indian, or territorial crimes.

Restrictions on Issuance of U.S. Passports

Although federal law permits certain restrictions on the issuance of passports to individuals, the Secretary of State is not authorized to restrict the issuance of passports to individuals because they are listed in the NSOR. As with any other convicted felon, State lacks the authority to identify such status on these individuals' passports. Federal law permits the Secretary of State to deny or revoke the issuance of passports only in certain circumstances, including, but not limited to, when the individual

- is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act;[9]
- is over $2,500 delinquent in child support;[10]
- is delinquent in certain State debts;[11]
- has an outstanding felony warrant;[12]

[8] The requirements are specified in the Sex Offender Registration and Notification Act (sometimes referred to as SORNA), which is title I of the Walsh Act. In July 2008, DOJ issued final guidelines for implementing the requirements, which are applicable to all 50 states, the District of Columbia, the principal U.S. territories, and federally recognized Indian tribes.

[9] 22 C.F.R. § 51.60(b)(2).

[10] 42 U.S.C. § 652(k).

[11] 22 U.S.C. § 2671(d)(3), 22 C.F.R. § 51.60(a)(1).

[12] 22 C.F.R. § 51.60(b)(1), (9).

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- has an outstanding foreign felony warrant;[13]
- is subject to an extradition request that has been presented to a foreign country;[14]
- has been declared legally incompetent;[15]
- used a passport or crossed an international border to commit an act based on which the individual was subsequently convicted of certain drug trafficking crimes, but only during the period the individual is imprisoned or on parole or supervised release;[16] or
- used a passport or crossed an international border to commit an act based on which the individual was subsequently convicted under the federal "sex tourism" statute, but only during the period the individual is imprisoned or on parole or supervised release.[17]

The Department of State Issued Thousands of Passports to Registered Sex Offenders in Fiscal Year 2008

About 4,500 registered sex offenders were issued a passport in fiscal year 2008. However, this number is likely understated because many of the records in the passport database and the NSOR lacked valid Social Security numbers, the key field that we used to match these two databases.[18] In addition, the NSOR does not currently contain a comprehensive listing of all sex offenders from the states. As such, we believe that the 4,500 registered sex offenders is the lowest approximation of registered sex offenders who were issued passports in fiscal year 2008.

According to the NSOR, about half of these passport recipients lived in five states—California, Texas, Florida, New York, and Michigan. The reasons for this large concentration in these five states include that they have large populations, border or are close to foreign countries, and may provide a more comprehensive reporting of sex offenders to the NSOR. The NSOR data also indicated that about 50 registered sex offenders who

[13] 22 C.F.R. § 51.60(d).

[14] 22 C.F.R. § 51.60(b)(5).

[15] 22 C.F.R. § 51.60(b)(4).

[16] 22 U.S.C. § 2714.

[17] 22 U.S.C. § 212a.

[18] Federal law does not require that an individual have a Social Security number as a prerequisite to obtaining a passport, although the law does require those with Social Security numbers to disclose them on the passport application. According to State officials, State cannot therefore deny a passport solely for a missing Social Security number.

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were issued passports either lived outside of the United States or their whereabouts were unknown. (See table 1.)

Table 1: Geographic Distribution of Registered Sex Offenders Who Were Issued U.S. Passports in Fiscal Year 2008

Location	Number of registered sex offenders who were issued passports	Percentage
California	1,020	22.8
Texas	502	11.2
Florida	315	7.1
New York	227	5.1
Michigan	206	4.6
Other U.S. states and territories	2,150	48.1
Outside United States or whereabouts unknown[a]	46	1.0
Total	**4,466**	**100**

Sources: Departments of State and Justice.

[a]This information is based on data in the NSOR.

Note: Percentages do not add to 100 due to rounding.

In addition, we identified at least 30 federal employees[19] who were registered sex offenders and were issued passports by matching our data with federal civilian salary data from the Department of the Treasury, the U.S. Postal Service, and the Defense Finance and Accounting Service. Further, at least 12 individuals were landlords in the Department of Housing and Urban Development's (HUD) Section 8 housing program during fiscal years 2006 and 2007 while they were registered sex offenders.[20]

[19] The U.S. Postal Service recently announced its intention to start conducting an ongoing data comparison program to identify any current Postal Service employees who are required by law to register as sex offenders. Specifically, the Postal Service plans to extract records for each current employee and compare them to records on the National Sex Offender Public Web site. After the data have been verified for accuracy, the Postal Service plans to conduct a case-by-case analysis to determine the appropriate action to take, if any. Among other factors, the Postal Service will consider the seriousness of the offense, the date of the offense, and the nature of the employee's position. Data Comparison Program - Postal Service and Public Sex Offender Registries, 74 Fed. Reg. 65,172 (Dec. 9, 2009).

[20] Five of these 12 sex offenders were still landlords in the Section 8 program as of January 2010.

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As discussed earlier, although federal law permits certain restrictions on the issuance of passports to individuals, the Secretary of State is not authorized to restrict the issuance of passports to individuals who are listed in the NSOR or to identify such individuals on their passports. State has indicated that it would like to study any proposed legislation to provide additional authority to deny passports to sex offenders, including constitutional, policy, and practical issues that may arise in its application and use. A State official said that the department recently began working with DOJ to develop a procedure for tracking these convictions and a procedure to notify State of those convictions. The official also said that once the agency has worked out these procedures, it will amend the regulations accordingly.

Case Studies Highlight Registered Sex Offenders Who Were Issued Passports despite Other Criminal Convictions or Who Fled the United States

The 30 registered sex offenders investigated for this report were all males who represented a wide array of professions and criminal backgrounds. At the time of their criminal offenses, many of them held positions of public trust—for example, health care provider, school teacher, religious layman, law enforcement official, federal employee, and owner of HUD Section 8 houses. Other cases involve registered sex offenders who owe child support or are currently in prison or whose whereabouts are unknown according to the NSOR. In one case study, the sex offender was issued a passport in his name while in prison, which is allowed under federal law, while another was issued a passport after becoming delinquent in child support, an offense for which State must deny passports. Based on interviews with local police departments, several of our cases showed that sex offenders left the country and moved to Mexico. According to State officials, Mexico does not have a sex offense registration system, so these offenders are likely unknown to authorities and their neighbors. The officials also stated that Mexico is one of the destinations known for sex tourism. Finally, another individual has illegally failed to register with the police department as a sex offender for several years.

Table 2 highlights 15 cases of registered sex offenders who were issued their U.S. passports after their initial offenses. Appendix I provides details on the other 15 cases we examined.

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Table 2: Examples of Registered Sex Offenders Who Were Issued U.S. Passports

Case	State	Passport issuance date	Details
1	Texas	October 2007	• State legally issued a passport in the name of the offender while he was incarcerated. • The offender stated that he applied for the passport in 2007 while on supervised release from a previous incarceration. • The offender stated that he never received his passport. He said that he plans to live in Mexico after he serves his sentence to avoid registering as a sex offender. • In the late 2000s, the offender was convicted of possession of child pornography and is currently incarcerated. The offender had prior sex convictions in early 2000s, which include possession of child pornography and intent to promote child pornography. The offender solicited trips to Mexico to find "young friends" with other "boy lovers." The FBI found cameras and a medical bag with Spanish language flyers advertising lice removal for children, a procedure that requires the children to undress.
2	California	October 2007	• According to local authorities, the location of the offender is unknown and the offender has not complied with sex offender registration requirements since 2003. • In the mid-1990s, the offender was convicted of lewd or lascivious acts with a child under 14 years old. • The offender was under the influence of drugs and molested a 14-year-old boy while the victim was sleeping. • The offender frequently crossed the Mexican border by vehicle after receiving his passport.
3	Texas	December 2007	• In the early 1990s, the offender was convicted of sexually assaulting a 7-year-old girl. • According to local authorities, the offender informed the police department that he moved to Mexico. • The offender has frequently crossed the Mexican border since receiving his passport.
4	Virginia	December 2007	• In the early 2000s, the offender was convicted of taking indecent liberties with children and aggravated sexual battery. • The offender molested two of his nieces on separate occasions—the victims were approximately 8 and 10 years old. • The offender traveled to Peru after receiving his passport.
5	Florida	January 2008	• The offender owns two properties for which he is currently receiving HUD Section 8 funds from the federal government. • In the late 1980s, the offender was convicted of sexual battery on a child under 12 years old. The offender was also convicted of other crimes later, including possession of cocaine and violating probation.
6	Texas	March 2008	• At the time of the offense, the offender was a physical therapist. The offender is still employed as a therapist, providing physical therapy to the public, including high school athletes. • In the mid 2000s, the offender agreed to a pretrial diversion program for indecency with a child, including sexual contact. • The offender engaged in sexual contact with a 15-year-old girl.

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Case	State	Passport issuance date	Details
7	California	March 2008	• At the time of the offense, the offender was a U.S. postal carrier. He was still employed as a postal carrier as of fiscal year 2008. • In the mid-1990s, the offender was convicted of annoying and molesting children. • The offender molested a 12-year-old girl inside the victim's house while the victim's parents were not home. According to the police report, he told authorities he was aware of her age but felt that his affectionate activity that involved inappropriately touching the child was "no different than a handshake." • The offender traveled to Taiwan and Japan after receiving his passport.
8	New York	April 2008	• At the time the passport was issued, the offender was a HUD landlord for two properties, receiving Section 8 money from the federal government. • In the early 2000s, the offender was convicted of sodomy. • According to local law enforcement records, the offender was caught by a police officer in the act of having sex with his 16-year-old foster son in the backseat of his car. • The police report indicated that at the time of the offense, the offender was serving as a foster parent for multiple children and was also employed as a police officer.
9	Texas	April 2008	• At the time of the offense, the offender was employed as a U.S. postal carrier. The Postal Service was aware of the conviction and the offender is still employed as a postal carrier. The assigned route for the postal carrier goes through a residential area that includes an elementary school. • In the mid-1990s, the offender was convicted of indecency with a child, including sexual contact. • According to the police report, the offender was intoxicated and molested his 13-year-old stepdaughter. • The offender planned to use the passport for trip to a Mexico, but the trip was subsequently canceled.
10	Texas	May 2008	• In the mid-1980s, the offender was convicted of sexually assaulting a 16-year-old girl. According to the victim's statement to the police, the offender and two of his friends "grabbed" the victim while she was walking home, put her in a car, and drove her to an unknown location against her will. The offender then threatened the girl with a knife and raped her in the car. • The offender has prior convictions, including conspiracy to manufacture controlled substances. • According to local authorities, the offender informed the police department that he moved to Mexico. • The offender frequently crossed the Mexican border by vehicle after receiving passport.
11	Virginia	June 2008	• The police report indicates that at the time of the offense, the offender worked for the Army as a nutrition supply person at a hospital. • In the mid-2000s, the offender was convicted of taking indecent liberties with children. • The offender raped his 11-year-old stepdaughter.

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Case	State	Passport issuance date	Details
12	Delaware	July 2008	• The offender has multiple sex offense convictions, including unlawful sexual contact with an 11 year old in the late 1990s and unlawful sexual contact with another 11 year old in the mid-2000s. • The offender has traveled to the Philippines, Germany, and France since receiving his passport. • The offender has recently been indicted for possession of child pornography, attempted production of child pornography, and enticement and coercion of a minor for attempting to have sex with a 2-year-old female.
13	Ohio	July 2008	• The offender fled to the Philippines shortly after the FBI seized computer images of child pornography from his computer. The offender was issued a passport subsequent to fleeing from the FBI. The offender was later convicted of transporting child pornography in interstate commerce and failure to comply with sex offender registration requirements. • In the mid-1990s, the offender was convicted of gross sexual imposition and pandering obscenity. • The offender has committed multiple sex offenses in multiple states.
14	Georgia	July 2008	• In the late 1990s, the offender was convicted of committing a lewd act with a child. The police reported that the offender performed oral sex on an early teenage boy. • In the early 2000s, the offender was convicted of failing to comply with sex offender registration requirements. • The offender has traveled to Philippines, Ireland, and Panama since receiving his passport.
15	Maine	September 2008	• In the early 2000s, the offender was convicted of two counts of unlawful sexual contact with a minor under 14 years old. • The offender pled guilty to molesting two boys, ages 8 and 11. Both victims were friends with the offender's son and occasionally spent the night at the offender's home. The offender entered his son's room during sleepovers and molested the victims while they were sleeping. • The offender currently has child support debt of about $21,000 and owed child support at the time the passport was issued. • The offender traveled to Mexico after receiving his passport.

Source: GAO's analysis of Department of State, Department of Justice, public, and other records.

Agency Comments and Our Evaluation

We provided a draft of this report to DOJ and State for comment. DOJ stated that it did not have comments on the report. State's comments are reprinted in appendix II, and its technical comments were incorporated as appropriate.

In its written response to our report, State said that our report and its title are misleading because they do not mention the low percentage of passports that were issued to registered sex offenders. Although we made a slight modification to the title to address State's concern, we believe that

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our report and its title are fair and factually accurate. About 4,500 registered sex offenders were issued a passport in fiscal year 2008.[21] Further, this number is likely understated because many of the records in State's passport database and the NSOR lacked valid Social Security numbers, the key field that we used to match these two databases.

In addition, State said that we should make clear that we did not find evidence that it failed to exercise its authority to deny a passport to any sex offender identified in this study. However, we clearly explain that State is not authorized to restrict the issuance of passports to individuals because they are listed in the NSOR. State also said that we should include other relevant data, such as the number of convictions by DOJ under the relevant sex tourism statute and whether the passport could have been denied based on a sex tourism conviction. However, while the federal statute criminalizing sex tourism was in effect during the time period of our data (October 1, 2007, through September 30, 2008), the statute that requires State to deny passports to those convicted under that law did not go into effect until after this time period elapsed (December 23, 2008). Furthermore, it is our understanding that State recently began reviewing the statute that requires passports to be denied to these individuals in April 2010, after we brought this statute to its attention because State was not aware of the statute.

State also wrote that our report suggested that the issuance of passports to certain Americans facilitated their commission of sex offenses abroad, adding that there was no evidence connecting the sex offenders to sex crimes overseas following their convictions. We disagree. In our report, we did not state that the issuance of passports to sex offenders in fiscal year 2008 facilitated their commission of sex offenses abroad. This was not part of our objectives for this review. However, our introduction does cite examples from DOJ in which prior sex offenders committed sex crimes overseas. Our investigation did find several cases where the passport recipients traveled to locations known for sex tourism, and one of our 30 cases is currently under indictment related to sex crimes overseas.

State also said that there was no logical connection between the issuance of passports and sex offenders' travel to Mexico, adding that our evidence was based on hearsay information and that a passport was not required to

[21] In its response, State claimed that less than .0003 percent of passport books and cards were issued to registered sex offenders. However, we calculated it to be about .03 percent.

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enter the United States from Mexico (via land border) until June 2009. In our report, we state that convicted sex offenders are required to register with local or state law enforcement authorities. As part of this requirement, the pertinent police departments stated that the offenders informed them of their moving to Mexico.

Finally, State wrote that our report provides graphic details that were used to suggest that State knew these details at the time of passport issuance and should have taken action to prevent the issuance of the passport. State's assessment of the details of our case studies as "graphic" is the result of the nature of the criminal acts of the passport recipients; the offenses are directly relevant to our objective to develop case studies of passport recipients who are sex offenders. In addition, State said that the details of two of our cases in the Highlights could be construed as indicating an "anti-gay" bias. However, the descriptions of these case studies are at the same level of detail that we report in other case studies, describing illegal activities between an adult and a child of either gender. Furthermore, because these case studies only discuss sexual abuse of children, we have not made any assumptions or implications regarding the sexual orientations of these individuals. We do not believe the public would condone such illegal activities, regardless of the genders of the sex offenders or their victims.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to interested congressional committees, the Secretary of State, and the Attorney General. The report also will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-6722 or kutzg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the

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last page of this report. GAO staff who made major contributions to this report are listed in appendix III.

Gregory D. Kutz
Managing Director
Forensic Audits and Special Investigations

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Appendix I: Additional Examples of Registered Sex Offenders Who Were Issued U.S. Passports

Case	State	Passport issuance date	Details
16	California	October 2007	• As of fiscal year 2009, the offender was a federal employee with an entity that manages a national historical landmark. • In the mid-1990s, the offender was convicted of committing a lewd or lascivious act with child under 14 years old.
17	Texas	October 2007	• The offender is currently incarcerated. • In the early 2000s, the offender was convicted of indecency with child, including sexual contact. • According to the victim's statement to the police, the offender restrained and had sexual activity with her. The victim was an 8-year-old girl. • The offender has multiple parole violations and in the mid- to late 2000s, failed to comply with sex offender registration requirements, evaded arrest with a vehicle, and assaulted a public servant.
18	California	November 2007	• At the time of the offense, the offender was a practicing physician assistant. • In late 1990s, the offender was convicted of sexual battery. • The offender used his position as a physician assistant to seduce, sexually abuse, and have sexual relations with multiple patients in violation of the doctor-patient trust.
19	Maryland	December 2007	• In the early 2000s, the offender was convicted of misdemeanor sexual abuse of a child. • The offender was volunteering as an usher for a church and inappropriately touched a 14-year-old boy while the boy was using a urinal. • At the time of the offense, the offender was a licensed physician.
20	Virginia	December 2007	• The police reported that at the time of the arrest, the offender was a sworn sheriff's deputy and was near completing training at a corrections officer academy. • In the late 2000s, the offender was convicted of taking indecent liberties with children. • According to police, the offender attempted to meet someone he believed was a 13-year-old girl for sexual relations on two separate occasions. The case was initiated by an undercover operation targeting adults who were trying to exploit children on the Internet.
21	Texas	January 2008	• At the time of the offense, the offender was employed with the Department of the Treasury (Treasury). Although the position was one of "public trust," Treasury was aware of the conviction and has maintained his employment at the Bureau of Engraving and Printing. • In the mid-1990s, the offender was convicted of aggravated sexual assault of a child. • According to police reports, the offender had sex multiple times with the 7-year-old daughter of his girlfriend. • The offender regularly traveled to Caribbean islands and Mexico after receiving his passport.

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Case	State	Passport issuance date	Details
22	Texas	April 2008	• In the late 1990s, the offender was convicted of sexual contact with a minor while traveling on an airplane. • According to the prosecutor, the offender sexually assaulted an 11-year-old girl while intoxicated and traveling on an airplane. • The offender traveled to Mexico after receiving his passport.
23	Maryland	May 2008	• At the time of the offense, the offender was a practicing physician. The offender lost his medical license for several years after his conviction for child pornography. • In the early 2000s, the offender was convicted of possession of child pornography. • The offender knowingly and intentionally possessed three discs containing images of child pornography and responded to a solicitation—by the state police in a sting operation—to purchase additional pornographic images involving teens and preteens. • After his license was reinstated, the offender began practicing medicine in a practice specializing in providing home visits to adult patients. • The offender traveled to a Caribbean island after receiving his passport.
24	Texas	May 2008	• The offender was employed at a company that constructs toilet partitions and restroom compartments. • In the early 2000s, the offender was convicted of indecency with a child, including exposure. • The offender exposed himself to a 10-year-old child and mother in the parking lot of a sporting goods store. • The offender has a prior conviction for indecent exposure for sexually exposing himself, driving his vehicle without pants, and masturbating at a red light. • The offender stated that he needed the passport for a business trip to Europe but that the trip was subsequently canceled. He does not expect to use the passport in the future.
25	Alabama	May 2008	• In the mid-1990s, the offender was convicted of felony sodomy of a 9-year-old girl and misdemeanor assault. • The offender traveled to the Caribbean after receiving his passport.
26	California	June 2008	• At the time of the offense, the offender was a licensed physician assistant. • In the early 2000s, the offender was convicted of attempted sexual abuse of a child, a felony. • The offender attempted to rape a child with special needs while the child was sleeping.
27	Texas	June 2008	• At the time of the offense, the offender was employed as an aerospace engineer for the National Aeronautics and Space Administration and is currently employed with the agency. The agency does not require a security clearance for this position. • In the early 2000s, the offender was convicted of indecency with a child, including sexual contact. • According to the police report, the offender molested his 15-year-old stepdaughter by fondling, kissing, and touching the victim approximately 20 times in the span of about 9 months. • The offender stated that he used the passport to travel to Japan for business.

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Case	State	Passport issuance date	Details
28	Florida	July 2008	• At the time of the offense, the offender was a religious layman employed as a teacher at a Catholic school and lured a 15-year-old boy into a storage room and fondled him. • According to the police report, after the offense, the offender stalked the victim repeatedly in the school hallways and bathroom. In the bathroom, the offender engaged in inappropriate sexual contact. • In the late 2000s, the offender was convicted of child abuse that he committed in the late 1970s.
29	Colorado	July 2008	• At the time of the offense, the offender was a U.S. Postal Service employee. The offender was still employed by the Postal Service as of fiscal year 2008. • In the mid-1990s, the offender was convicted of aggravated incest and sexual assault of a child.
30	California	August 2008	• In the early 2000s, the offender was convicted of assault with intent to commit rape, sodomy, or oral copulation. • The offender was also convicted of contributing to the delinquency of a minor in early 1970s. According to the police report, the offender offered a car ride to a 13-year-old girl as she walked home from school. The victim jumped out of the offender's moving car after the offender exposed himself while driving. • In an interview with police, the offender stated that he was receiving psychiatric treatment before the offense and admitted that he exposed himself to five or six unknown females in a 3-year span. • According to local authorities, the offender has moved to Mexico. • The offender frequently crossed the Mexican border by vehicle after receiving his passport.

Source: GAO's analysis of Department of State, Department of Justice, public, and other records.

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Appendix II: Comments from the Department of State

United States Department of State

Chief Financial Officer

Washington, D.C. 20520

MAY 25 2010

Ms. Jacquelyn Williams-Bridgers
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "DEPARTMENT OF STATE: Passports Issued to Thousands of Registered Sex Offenders," GAO Job Code 192298.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Jonathan Rolbin, Director, Bureau of Consular Affairs at (202) 663-2491.

Sincerely,

James L. Millette

cc: GAO – Matthew Valenta
CA – Janice Jacobs
State/OIG – Tracy Burnett

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Department of State Comments on GAO Draft Report

DEPARTMENT OF STATE: Passports Issued to Thousands of Registered Sex Offenders
(GAO-10-643, GAO Code 192298)

Thank you for giving the Department of State the opportunity to comment on the draft report to the Senate Committee on Finance concerning the issuance of passports to persons registered as sex offenders.[1] Please find our general comments and concerns set forth below. Our technical comments with requested changes to the text are provided separately.

We think the report is very misleading. Starting with the title, "Passports Issued to Thousands of Registered Sex Offenders," we are concerned that it conveys more "shock value" than factual accuracy. The fact is that the State Department lacks legal authority to deny a passport to a registered sex offender and the title of the report should reflect this. Furthermore, of the over 16 million passport books and cards issued in 2008, less than 0.0003 percent were issued to registered sex offenders according to GAO estimates. Additionally, the title fails to reveal the very low percentage of passports that were issued to registered sex offenders in 2008 and the use of the word "thousands" without a reference point implies otherwise. Moreover, the title fails to convey that GAO found no lawful reasons for the Department to deny or revoke the passports of the case study sex offenders based on their status as sex offenders.

[1] The Department provided data to the GAO on over 16 million individuals who were issued passports in calendar year 2008. Due to extremely sensitive personal data contained in our records and our responsibility for protecting American citizens' privacy, the Department provided an extract of data which included the applicants' Social Security numbers, the date the passports were issued and the first four letters of the applicants' last names. The Department specified that this data be used by GAO only to identify (1) the passport recipients that might owe federal taxes and the magnitude of those taxes by comparing the passport data against the IRS tax delinquent data and (2) the passport recipients who might be sex offenders by comparing the passport data against the FBI sex offender data. To the extent that this report includes other information about passport applicants, it was not derived from Department of State records nor was Department data used to perform further analysis of the passport applicants. In agreeing to the provision of its passport data to the GAO, the Department understood that GAO on a limited basis intended to use the results of matching passport data to the IRS and FBI databases to perform further analysis, but would not use Department data to do so.

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The title also fails to convey that GAO found no evidence that the offenders used their passports to commit sex offenses abroad. To be accurate and balanced, the title should read: "Existing U.S. Law Allows Passports to Be Issued to Registered Sex Offenders, Although GAO Found No Evidence That Sex Offenders Used Their Passports to Travel Abroad to Commit Sex Offenses."

The Secretary of State has responsibility for issuing passports to U.S. nationals and may only deny an application for a passport if there is a legal basis for denial. The Department takes this responsibility very seriously. To that end, trained adjudicators review each passport application and supporting documentation extremely carefully to determine if the individual is entitled to a passport. In most cases, U.S. citizens are entitled to receive a passport regardless of the fact that they previously committed or were convicted of a crime.

The Department does have legal authority to deny passports in certain circumstances, including limited authority to deny in cases involving sex offenders. As noted in the draft report, Congress has already provided the Department authority to deny passports to individuals convicted of the crime of sex tourism involving minors and who used their passport or passport card or otherwise crossed an international border in committing an offense. The Department is currently working with the Department of Justice (DOJ) to implement this legislation. The Department also has authority to deny passports to individuals for whom an order of probation or parole as been entered by a court forbidding departure from the United States. When such orders are entered for sex offenders, the Department has authority to deny their passports on that basis.

To be accurate and fair, the draft report should make clear that GAO found no evidence that the Department failed to exercise its authority to deny a passport to any sex offender identified in this study. It should also include data relevant to this issue, such as the number of convictions by DOJ in fiscal year 2008 under the relevant sex tourism statute, and the number of those convicted who already had valid passports at the time they committed these crimes. The case studies themselves could explain whether there is any evidence that the passport could have been denied based on a sex tourism conviction, whether the criminal courts failed to enter orders of probation/parole for the applicants forbidding departure from the United States, or whether such orders had expired prior to passport issuance.[2]

[2] The case studies themselves provide particularly graphic details which we think are irrelevant and tend to sensationalize the report, such as details about the age and sex of the victims.

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The report appears to suggest, without any foundation, that the Department's issuance of passports to certain Americans facilitated their commission of sex offenses abroad. There are no facts in the report which show that any of the thirty individuals included in the case studies used his passport to travel to a foreign country to commit a sex crime. Rather, it appears that most (if not all) the individuals included in the case studies committed sex crimes either within their own state or after traveling to a neighboring state. There also is no evidence connecting the sex offender to sex crimes overseas following their convictions.

Moreover, there is no logical connection between the Department's issuance of passports and the case studies involving travel to Mexico. First, there is little factual data in the report (beyond mere hearsay) that supports the conclusion that any of the sex offenders in the case studies actually moved to Mexico. But even if they did, the report fails to explain that a passport was (and is) not necessary for U.S. citizens to enter Mexico, and was not required to enter the United States from Mexico via the land border until June 1, 2009.

Ultimately, the Department would want to study any legislative proposal to prohibit issuance of passports to sex offenders beyond our existing authorities. As noted above, we currently have limited authority to deny passports to certain sex offenders. To the extent that this report is prepared for those considering such legislation, the report should provide a more detailed discussion of the FBI's sex offender data and the limitations that data provides generally and with respect to this study. The Department's understanding is that such data is derived from individual state reporting and that there may be concerns, even by the Department of Justice, with respect to its accuracy. Each state may choose which offenses to report on, and report on a range of sex offenses. The nature of those offenses, e.g., the elements and penalties, and the reporting requirements differ from state to state. Moreover, as we understand it, the GAO only ran State Department passport data against the social security numbers included in the database and did not attempt to determine which offenses or which range of sex offenses the matched individuals committed. Data on the nature of the offenses committed by the matched individuals could be useful in determining whether legislation is needed.

Including such detail suggests the Department knew or should have known of these details at the time the passport was issued and should have taken some action to prevent issuance of the passport. We are also concerned that the only two case studies highlighted prominently on the first page of the report that describe the sex of both the offender and the victim are descriptions of crimes involving two people of the same sex. The descriptions of the sodomy of a male child and a search for "boy lovers" abroad could be construed to suggest the report has an anti-gay bias. We strongly recommend that GAO revisit its decision to highlight these case studies.

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Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Gregory Kutz, (202) 512-6722 or kutzg@gao.gov

Acknowledgments

In addition to the contact named above, the following individuals made major contributions to this report: Andrew O'Connell, Assistant Director; Matthew Valenta, Assistant Director; Scott Clayton; Arturo Cornejo; Paul Desaulniers; Alberto Garza; Ken Hill; Steve Martin; James Murphy; Daniel Silva; and Tim Walker.

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