

October 2018

OFFICE OF EVALUATIONS AND SPECIAL PROJECTS

Review of Allegations of Improper Seizures of Passports at Embassy Sana'a, Yemen



HIGHLIGHTS

Office of Inspector General
United States Department of State

ESP-19-01

What OIG Found

The Department does not have a central system to track passport confiscations or retentions. As a result, OIG could not determine the number of passport seizures that occurred at Embassy Sana'a from 2012 to 2014, and the total number remains uncertain. However, because one document provided by the Department contained a list of 31 names with dates on which the passports were taken, OIG focused on these cases. There are two bases in Department regulations that govern its authority to take passports from U.S. citizens: "retention" and "confiscation." Regardless of the authority by which the Department took the passports at issue here, the Department did not follow relevant standards. If the Department "retained" the passports, officials did not comply fully with required procedures. Furthermore, although the Department acknowledged that retentions are temporary measures, it held many of the passports in question for months (and in some cases, over a year), suggesting that the Department effectively confiscated these documents. Confiscation is permitted only after revocation or pursuant to an arrest. Revocation is the formal process by which the Department invalidates an individual's passport. Neither an arrest nor revocation occurred before any of the passports were taken.

The Department also failed to comply with relevant standards when it ultimately revoked the passports in all but one of the cases OIG examined. Although the Department must notify the holders in writing of the reason for revocation and their right to appeal, OIG could not confirm that these notices were sent in every case. Even if notices were sent, the affected individuals remained uninformed about the status of their passports for lengthy periods (in one case, almost 2 years). OIG also identified instances where individuals contacted the Department with questions and received limited information or no response at all.

OIG also identified other concerns. First, the lack of a single legal authority within the Department led to significant difficulties in resolving key legal issues. Second, although the Department has updated its policies, issues remain unresolved, including conflicting interpretations of the Department's authority to seize passports and uncertainty regarding eligibility for limited validity passports.

What OIG Reviewed

In January 2016, OIG received a complaint alleging that an Assistant Regional Security Officer for Investigations (ARSO-I) at Embassy Sana'a, Yemen, failed to follow regulations and Department policies when, as part of an ongoing passport fraud investigation from 2012 through 2014, he took the passports of individuals holding citizenship from both Yemen and the U.S. These U.S. citizens were unable to leave Yemen, which was in the midst of ongoing violent conflict.

OIG examined the circumstances surrounding the allegations to determine whether the ARSO-I and other Department staff followed applicable regulations and policies in seizing the passports. OIG did not address whether the citizens making the allegations committed passport fraud nor assess the quality of the ARSO-I's fraud investigation. Several factors affected the nature and timing of OIG's analysis, including difficulty in locating relevant information, evolving Department assertions about the authority by which it took the passports, and adoption of revised policies.

What OIG Recommends

OIG made four recommendations: develop databases to track and manage passport revocations, retentions, and confiscations; issue guidance on the procedures required to revoke and confiscate passports; clarify the circumstances in which individuals are entitled to limited validity passports to return to the United States if their documents are taken while they are abroad; and clarify the role of the Legal Adviser as the senior legal authority for the Department, including considering whether attorneys in other offices should report directly to the Legal Adviser. The Department concurred with all of OIG's recommendations.