



LIBRARY of PARLIAMENT
BIBLIOTHÈQUE du PARLEMENT

BACKGROUND PAPER



Passport and Consular Services

Publication No. 2015-43-E
26 October 2015

Julie Béchar

Legal and Social Affairs Division
Parliamentary Information and Research Service

Library of Parliament ***Background Papers*** provide in-depth studies of policy issues. They feature historical background, current information and references, and many anticipate the emergence of the issues they examine. They are prepared by the Parliamentary Information and Research Service, which carries out research for and provides information and analysis to parliamentarians and Senate and House of Commons committees and parliamentary associations in an objective, impartial manner.

© Library of Parliament, Ottawa, Canada, 2015

Passport and Consular Services
(Background Paper)

Publication No. 2015-43-E

Ce document est également publié en français.

CONTENTS

1	INTRODUCTION.....	1
2	PASSPORTS AND OTHER TRAVEL DOCUMENTS.....	1
2.1	Legal Framework	2
2.1.1	Passport Eligibility and Issuance.....	3
2.1.2	Loss of Passport Privileges	3
2.1.2.1	Refusal of Passports and Revocation – <i>Canadian Passport Order</i> (Sections 9, 10, 10.1 and 10.3)	3
2.1.2.2	Cancellation of Passports (Sections 11.1, 11.2, 11.4, 12 and 13)	5
2.1.2.3	The Administrative Process and Procedural Safeguards.....	5
3	CONSULAR SERVICES	7
3.1	The <i>Vienna Convention on Consular Relations</i> and Other Treaties.....	7
3.2	Consular Services Provided by the Department of Foreign Affairs, Trade and Development Canada	7
3.2.1	Information: Publications and Travel Advisories	8
3.2.2	Consular Services in the <i>Department of Foreign Affairs, Trade and Development Act</i>	8
3.2.3	Main Services to Canadians and Distressed Canadians Abroad	9
3.3	Dual Citizenship	10

PASSPORT AND CONSULAR SERVICES

1 INTRODUCTION

A passport is “an official Canadian document that shows the identity and nationality of a person for the purpose of facilitating travel by that person outside Canada.”¹ The Canadian passport is recognized worldwide.

In a recent annual report, Passport Canada estimated that the number of valid Canadian passports in circulation would reach 23 million in 2013.² The passport possession rate in Canada has grown by 20% since 2008.³ One factor that has contributed to this increase is the Western Hemisphere Travel Initiative, which in 2007 began to require passports from Canadians entering the United States by air, and in 2008 extended this requirement to all travellers.⁴

Canadians travel for leisure and work, as well as in order to live abroad. Canadian diplomatic missions that provide consular services are the closest official link Canadians have to their country when they are outside Canada. A portion of the fee paid to obtain a passport goes toward services provided by Canada’s consular program. These services are considered complementary to the issuance of passports: passports facilitate travel, and consular services provide information to Canadians before their departure and assistance when they are abroad.

The first part of this paper briefly describes the Canadian passport and other travel documents issued by Passport Canada. It explains the legal framework and eligibility requirements for these documents, and the circumstances in which a passport may be revoked. The second part focuses on consular services, including assistance to distressed Canadians abroad; it covers the legal framework for those services, the department responsible for them, and the special situation of dual nationals.

2 PASSPORTS AND OTHER TRAVEL DOCUMENTS

Since 2 July 2013, Passport Canada has been part of the Department of Citizenship and Immigration Canada (CIC); before that date, it was the responsibility of the Department of Foreign Affairs, Trade and Development Canada (DFATD).⁵ DFATD still issues travel documents outside Canada on behalf of CIC. Service Canada facilitates passport delivery services, and the Royal Canadian Mounted Police as well as the Canadian Security Intelligence Service play key roles in ensuring the security and integrity of passport issuance.

Passport Canada issues four types of passports and other types of travel documents.⁶

The regular passport with a blue cover represents 98% of the 5 million travel documents issued per year by Passport Canada. The other passport types are:

- the burgundy diplomatic passport;
- the green special passport (for persons holding office, such as parliamentarians and government officials travelling for work without diplomatic immunity); and
- the white temporary travel passport.

Canadians can be issued an emergency travel document when a temporary passport cannot be issued.

The two other types of travel document are intended for refugees and permanent residents who do not have a passport from their country of origin. These documents do not allow the bearer to travel to the country of origin.

Since 2 July 2013, all new passports have been issued as ePassports,⁷ meaning that biometric information about the bearer as well as encrypted information confirming the passport's authenticity are contained on an electronic chip that conforms to international standards. This ensures that the Canadian passport is reliable, secure and tamper resistant.

2.1 LEGAL FRAMEWORK

The authority to issue passports resides with the executive branch of government through royal prerogatives exercised by the Governor in Council, and therefore does not require an Act of Parliament.⁸

The *Canadian Passport Order* (CPO) granting this authority came into force in June 1981. The Order has been amended slightly over time to conform to evolving international norms and to respond to heightened security concerns.

For instance, in 2001, the “one person/one passport” policy was implemented, amending the CPO⁹ to require the issuance of a separate passport for each child. Before the implementation of this policy, children under the age of 16 could be included on the passport of a parent or a legal guardian. Passport Canada explained that this practice was first adopted by the International Civil Aviation Organization (in 1999) and was “designed to reduce the risks related to the international trafficking of children.”¹⁰

The CPO sections on the refusal and revocation of passports were also amended in 2001 to ensure that for any person already in possession of a valid Canadian passport (one that had neither expired nor been revoked), no other passport would be issued.¹¹ In 2004, the CPO was amended to provide the minister with the discretionary right to refuse or revoke a passport for reasons of national or international security.¹² In 2013, the CPO was amended to include the possibility for the Minister of Citizenship and Immigration to grant authorization to the Minister of Employment and Social Development Canada as well as to the Minister of Foreign

Affairs to cancel or withhold passports. Cancellation is distinct from revocation. A passport reported stolen to the authorities will automatically be cancelled.

In 2015, the Minister of Public Safety and Emergency Preparedness was given a prominent role in passport revocation in situations where “the decision is necessary to prevent the commission of a terrorism offence.”¹³ The possibility of cancelling passports was extended to the Minister of Citizenship and Immigration and to the Minister of Public Safety and Emergency Preparedness with the creation of a new procedure.

2.1.1 PASSPORT ELIGIBILITY AND ISSUANCE

Any person who is a Canadian citizen may be issued a passport under the CPO.¹⁴ Proof of Canadian citizenship, such as a citizenship certificate, a birth certificate issued by the competent provincial or territorial authority, or a certificate of retention of Canadian citizenship¹⁵ is required.¹⁶ For children under the age of 16, the Passport Order requires that the application be made by a parent or a legal guardian and that the application include any relevant court order or separation agreement.¹⁷ At all times, Passport Canada can request additional information concerning any matter relating to the issue of the passport.¹⁸

Section 3 of the CPO states that every passport shall be issued in the name of the Minister of Citizenship and Immigration on behalf of Her Majesty in right of Canada and that the document remains, at all times, the property of the Government of Canada. The passport is issued on condition that the bearer will return it to Passport Canada if requested and that it must be signed by the person to whom it is issued.

2.1.2 LOSS OF PASSPORT PRIVILEGES

2.1.2.1 REFUSAL OF PASSPORTS AND REVOCATION – *CANADIAN PASSPORT ORDER* (SECTIONS 9, 10, 10.1 AND 10.3)

Four sections of the CPO lay out the grounds on which passports may be refused or revoked. Concurrent with the decision to refuse to issue a passport or to revoke one, a decision can explicitly state a maximum period of 10 years during which passport services will be refused to the applicant.¹⁹

Passport Canada may refuse to issue a passport on the following grounds:

- the national security of Canada or another country;
- the prevention of any act or omission in relation to sexual offences against children;²⁰
- criminality, which includes charges – not only convictions – in Canada or abroad;²¹
- imprisonment or a court-ordered interdiction to leave Canada or a foreign country;
- passport fraud;

- the omission of information from the passport application;
- a debt owed to the Crown by the applicant for consular services requested abroad, such as repatriation or other financial assistance; and
- a valid passport having already been issued and in the possession of the applicant.

A passport may be revoked for any of the reasons listed above, except for the last. The CPO provides the following additional reasons for revocation; for the first two, a burden of proof is placed on the minister to show that there are reasonable grounds to believe that any of the following events has occurred:

- the passport has been used to commit an indictable offence;
- the passport has been lent to someone else for use;
- Canadian citizenship has been lost;
- the passport is no longer in the possession of the person to whom it was issued, and it has been cancelled;
- the person to whom the passport was issued has failed to return when asked, and the passport has been cancelled; and
- the passport has been cancelled in order to prevent the commission of an offence related to sexual offences against children.

In 2004, section 10.1 of the CPO was added and until 2015 indicated that passports may be refused or revoked “if the Minister is of the opinion that such action is necessary for the national security of Canada or another country.” This provision was a direct response to the Government of Canada’s strategic framework and action plan for national security.²² Case law²³ makes use of the accompanying “Explanatory Note” to shed light on the intention behind the provision:

Canada is facing an increasingly complex and changing security environment, both domestically and internationally, underscored by growing threats of terrorism and organized criminal activity. ... The passport program, which is part of Canada’s national security framework, must be adjusted to meet this evolving threat environment.²⁴

The meaning of “national security” is not defined in the CPO, but it was developed in jurisprudence.²⁵ The Federal Court of Appeal followed the interpretation of the expression “danger to the security of Canada” that the Supreme Court of Canada established in *Suresh v. Canada*.²⁶

Subject to these qualifications, we accept that a fair, large and liberal interpretation in accordance with international norms must be accorded to “danger to the security of Canada” in deportation legislation. We recognize that “danger to the security of Canada” is difficult to define. We also accept that the determination of what constitutes a “danger to the security of Canada” is highly fact-based and political in a general sense. All this suggests a broad and flexible approach to national security and, as discussed above, a deferential standard of judicial review. Provided the Minister is able to show evidence that reasonably supports a finding of danger to the security of Canada, courts should not interfere with the Minister’s decision.²⁷

The Federal Court of Appeal found that the use of the term “necessary” in section 10.1 of the CPO introduced a causal connection between national security and the refusal to issue a passport. This causal connection is what limits the minister’s discretion for refusal and revocation. The wording in section 10.1 of the CPO does not specify where the Canadian citizen may be when his or her passport is revoked. A revoked passport is no longer valid for travel, and therefore a Canadian citizen abroad would most likely need to request an emergency travel document in order to return to Canada after passport revocation.

Currently, section 10.1 gives the Minister of Public Safety and Emergency Preparedness the discretionary power to refuse or revoke a passport if he or she has reasonable grounds to believe it will prevent the commission of a terrorism offence as defined in the *Criminal Code*, as well as for the national security of Canada or a foreign country. A passport may also be revoked by the Minister of Public Safety and Emergency Preparedness if it has already been cancelled to prevent the commission of a terrorism offence. These provisions came into force at the same time as the *Prevention of Terrorist Travel Act* on 23 June 2015.²⁸

2.1.2.2 CANCELLATION OF PASSPORTS (SECTIONS 11.1, 11.2, 11.4, 12 AND 13)

The CPO stipulates that the cancellation of passports by the Minister of Citizenship and Immigration may be justified on the following grounds:

- to prevent the commission of any act that may be related to sexual offences against children;²⁹
- when the person to whom a passport was issued is deceased or is no longer in possession of it;³⁰ and
- when the person to whom a passport was issued has been asked to return it but has failed to do so.³¹

The Minister of Public Safety and Preparedness has the authority to cancel passports without notice to prevent the commission of a terrorism offence.³²

When the responsibility for Passport Canada was transferred to CIC in 2013,³³ the CPO was amended to empower the Minister of Citizenship and Immigration to authorize, under specified circumstances, the Minister of Employment and Social Development Canada to collect and cancel valid passports,³⁴ as well as to withhold passports or to recover passports that had been delivered.³⁵ The same discretionary authorization may be given to the Minister of Foreign Affairs in relation to passport applications abroad.³⁶

2.1.2.3 THE ADMINISTRATIVE PROCESS AND PROCEDURAL SAFEGUARDS

Passport Canada is responsible for the review of information provided by the applicant and all other information at its disposal to ensure that the issuance of a passport complies with the CPO. In some cases, it may be necessary to request additional information from the applicant before requesting that Passport Canada’s Security Bureau launch an investigation. If an investigation takes place, the applicant

will receive a letter indicating the nature of the investigation and will be given the opportunity to make a written submission.

For passport adjudicators to know whether a person has criminal charges that would warrant either a refusal of passport issuance or a revocation, Passport Canada uses its own watch list. The fiscal year 2009–2010 was the first in which increased capacity in information sharing led to significant numbers of revocations or refusals: cases of passport revocation were up 63% from the previous year. Of these cases, 331 were subject to direct revocation or refusal of a passport and an additional 114 were referred for investigation and forwarded to adjudication for a recommendation of passport revocation or refusal.³⁷

The decision to refuse or revoke a passport by Passport Canada is final; however, it can be subject to judicial review.³⁸ The authority of the Minister of Public Safety and Emergency Preparedness to refuse to issue a passport or to revoke a passport for national security reasons – even if it comes from a royal prerogative – is also subject to judicial review.

The CPO at section 11.3 provides for reconsideration when passports have been cancelled with a view to preventing offences related to terrorism or sexual offences against children. Since these passports can be cancelled without notice, the person has 30 days from the moment he or she becomes aware of the cancellation to apply for reconsideration. The *Prevention of Terrorist Travel Act* also creates a right of judicial appeal of a ministerial decision (made under section 11.1 of the CPO) to cancel a passport on the grounds of preventing terrorism offences or safeguarding national security. The rules provided for in the Act that the judge must follow are stringent, and are intended to protect against the disclosure of information that could be injurious to national security or endanger the safety of a person. During such an appeal, the Federal Court judge would take the following actions:

- hear evidence or other information in the absence of the public or the person who is concerned by the decision, as well as his or her counsel;³⁹
- ensure that the individual is provided with a summary of the evidence, which would be required to exclude any sensitive information;⁴⁰ and
- base his or her decision on all of the information provided even if that evidence would be inadmissible in a court of law,⁴¹ and ignore any information withdrawn by the Minister.⁴²

Judicial review, which is distinct from the specific mechanism described above, requires leave to appeal to the Federal Court; in such a case, the individual must first prove the serious nature of the issue before being granted a hearing. If the application for leave is granted, the Federal Court is limited to determining whether the decision-making process conformed to the CPO. The Federal Court cannot substitute a decision with one of its own; however, if it concludes that an error was made, the case must be returned to the decision-making entity.

In a situation where a person was denied a passport for national security reasons, the Federal Court would review whether the link between the refusal to issue a passport and the national security of Canada – or another country – has been

established.⁴³ The *Prevention of Terrorist Travel Act* establishes rules for the judiciary in relation to evidence heard during judicial review of decisions to refuse or revoke passports in order to prevent a terrorism offence or for reasons of national security.⁴⁴ These rules are similar to those that must be followed by a judge during an appeal. That said, one main difference can be found: the rules pertaining to judicial review do not allow a judge to receive evidence found reliable and appropriate if that evidence would be inadmissible in a court of law or to base his or her decision on this information.

3 CONSULAR SERVICES

Fees recovered for the issuance of passports include a nominal fee for Canada's consular services program.⁴⁵ Consular services are the responsibility of the Department of Foreign Affairs, Trade and Development Canada (DFATD). Consular services are available to Canadians who encounter difficulties while travelling or living abroad, such as having their passport stolen, being arrested or detained, or needing repatriation because of illness.

3.1 THE VIENNA CONVENTION ON CONSULAR RELATIONS AND OTHER TREATIES⁴⁶

The *Vienna Convention on Consular Relations*⁴⁷ (the Convention) is widely ratified and is recognized as one of the oldest doctrines of international law. It provides for States to protect their nationals abroad from mistreatment.⁴⁸ Article 5 of the Convention lists the various consular functions that apply to individuals and corporations. The first function is focused on protecting the rights of nationals who are subject to the laws of the foreign country where they are located, and reconciling those rights with the minimum protections available in international law. In the case of arrest and detention, article 36(1) of the Convention provides that consular officers shall be free to communicate with their nationals and have access to them. For this to occur, competent authorities of the foreign state must inform the consular post at the request of the individual in distress. Article 36(2) states that local laws must enable the rights accorded under article 36(1).⁴⁹

Other treaties also inform the norms for consular assistance; for example, the *Hague Convention on the Civil Aspects of International Child Abduction*⁵⁰ seeks to promote assistance between countries when a child is removed from his or her habitual residence. The *International Transfer of Offenders Act*⁵¹ allows Canada to implement treaties with other countries in order for Canadians to finish serving their sentences in Canada and not in a foreign prison. A number of such bilateral treaties have been established.⁵²

3.2 CONSULAR SERVICES PROVIDED BY THE DEPARTMENT OF FOREIGN AFFAIRS, TRADE AND DEVELOPMENT CANADA

The Consular Services program has a dual mandate: to inform Canadians before their departure about their country of destination, and to assist them, once they are in the foreign country, if any difficulties arise.

In 2015, DFATD offered consular services at more than 260 points of service in 150 countries and also provided an after-hours service called the Emergency Watch and Response Centre, based in Ottawa.⁵³ In countries where Canada has no diplomatic mission, a Canadian traveller may turn to Australian or Swedish consular offices that, by special agreement, provide assistance to distressed Canadians.⁵⁴

3.2.1 INFORMATION: PUBLICATIONS AND TRAVEL ADVISORIES

Travel advisories are available online from DFATD to provide travellers with up-to-date information on the situation in many countries.⁵⁵ These advisories sometimes take the form of warnings to limit any unnecessary travel to a specific country or region.

Passport Canada promotes one publication with every new passport issued: *Bon Voyage, But... Essential Information for Canadian Travellers*. Over time DFATD has created a number of publications for specific audiences such as women travelling alone, Canadians teaching English overseas and Canadians imprisoned abroad.⁵⁶ Most are available online.

3.2.2 CONSULAR SERVICES IN THE *DEPARTMENT OF FOREIGN AFFAIRS, TRADE AND DEVELOPMENT ACT*

International law places no obligation on a state to provide consular services to its nationals.⁵⁷ However, in 2004, the Federal Court established that Canadians have a legitimate expectation that their government will provide consular services.⁵⁸ The Federal Court made this finding on the basis of the wording of the (since repealed) *Department of Foreign Affairs and International Trade Act*⁵⁹ in conjunction with the contents of its *Guide for Canadians Imprisoned Abroad*.

According to the Federal Court, the verb “shall” at section 10(2) of the Act, which read “in exercising and performing his or her powers, duties and functions under this Act, the Minister *shall* conduct all diplomatic and consular relations on behalf of Canada,” when interpreted alongside the quote below taken from the guide for prisoners, creates a legitimate expectation and an obligation to provide consular services if requested.

The Government of Canada will make every effort to ensure you receive equitable treatment under the local criminal justice system.⁶⁰

The current *Department of Foreign Affairs, Trade and Development Act*⁶¹ – which came into force in 2013 – describes the powers of the minister in relation to consular services using slightly different wording than in the previous act. Section 10(2)(a) now states that “in exercising and performing his or her powers, duties and functions under this Act, the Minister *is to* conduct all diplomatic and consular relations on behalf of Canada.” [Author’s emphasis]

3.2.3 MAIN SERVICES TO CANADIANS AND DISTRESSED CANADIANS ABROAD

Consular services include many activities, for which DFATD has established different service standards, such as immediate assistance in the case of an emergency and contact within 24 hours in the case of arrest or detention.⁶² It is recommended that Canadians travelling for a length of time or living abroad register with DFATD so they may be reached in case of an emergency in the local country. Consular services pertain to the six main areas itemized below:

- Protection and assistance:
 - response to an emergency
 - communications with family and/or friends in the event of an emergency
 - assistance for repatriation, urgently needed medical or professional attention
 - notification of next of kin in the event of death or life-threatening illness or injury
 - contact with arrested or detained persons
 - missing persons
 - financial transfers (fees apply)
 - child custody
 - kidnapping
- Prisoners:
 - establishing and maintaining contact; this service varies from country to country depending on needs and conditions.
- Passports and Citizenship:
 - Passport services: issuance of emergency, temporary and regular passports
 - Citizenship services: advice and guidance, and forwarding to the Registrar of Canadian Citizenship (fees apply)
- Information about Canada:
 - customs regulations
 - civil aviation
 - taxation
 - pensions
 - social services
 - voting abroad
 - travel – third countries
 - immigration
 - banking
 - education

- Information about the local country: categories similar to those under “Information about Canada”
- Legal and Notary Services
 - emergency notary service (fees apply)
 - assistance under the *Canada Evidence Act* (fees apply)
 - letters to foreign authorities to assist Canadian citizens in respect to visas, residency, exit, marriage, etc. (fees apply)
 - formal transmission of documents in private legal matters
 - claims against foreign states by Canadians (including corporations; fees apply)
 - legalization, serving and obtaining documents (fees apply)
 - acting as commissioner of a Canadian court (fees apply)
 - reciprocal enforcement of judgments
 - translations of legal documents
 - assistance in extradition matters
 - assistance under the Hague Convention
 - assistance under prisoner transfer treaties
 - support for rogatory commissions (fees apply)
 - property and estate management
 - trust account management (fees apply)
 - assistance under Part 1 of the *Canadian Shipping Act*

In 2011, the two most common types of assistance provided to distressed Canadians were related to arrest and detention (1,800 new arrest and detention cases were opened) and deaths due to natural causes (1,180 Canadians).⁶³ The 2011 consular activity report states that 1,700 Canadians were imprisoned abroad, of whom three quarters were in the United States.

3.3 DUAL CITIZENSHIP

The travel advisories provided by the consular service program strongly suggest that dual nationals inform themselves of their rights and obligations before leaving Canada for their other country of nationality.

A person who travels to a country where he or she is a national can expect to be treated like any other citizen of that country. In situations of detention, for example, it is unlikely that Canadian consular services would be able to provide much assistance to a dual citizen.

The consular agreement between Canada and the People’s Republic of China⁶⁴ is a good example of this. Article 12 of this agreement provides explicit rules for consular services in the case of a dual national. At paragraph 3, the agreement limits access to Canadian consular services by virtue of the fact that it recognizes the Canadian status of a distressed dual national for the period provided in a visa (or lawful visa-free entry) only if the dual national entered China on his or her Canadian passport.

1. The Contracting Parties agree to facilitate travel between the two States of a person who may have a claim simultaneously to the nationality of the People's Republic of China and that of Canada. *However, this does not imply that the People's Republic of China recognizes dual nationality.* Exit formalities and documentation of that person shall be handled in accordance with the law of the State in which that person customarily resides. Entry formalities and documentation shall be handled in accordance with the law of the State of destination. [Author's emphasis]

2. If judicial or administrative proceedings prevent a national of the sending State from leaving the receiving State within the period of validity of his visa and documentation, that national shall not lose his right to consular access and protection by the sending State. That national shall be permitted to leave the receiving State without having to obtain additional documentation from the receiving State other than exit documentation as required under the law of the receiving State.

3. *A national of the sending State entering the receiving State with valid travel documents of the sending State will, during the period for which his status has been accorded on a limited basis by visa or lawful visa-free entry, be considered as a national of the sending State by the appropriate authorities of the receiving State with a view to ensuring consular access and protection by the sending State.*⁶⁵ [Author's emphasis]

In 2011, China ranked fourth with respect to the number of Canadians in distress – 351 – who required consular assistance; in that year, with 98 new cases, China ranked third with respect to the number of Canadians arrested or detained.⁶⁶ The United States, Egypt and Mexico ranked first, second and third respectively in the number of distressed Canadians who received assistance that year.

It is up to Canadian travellers who have another citizenship to verify what this entails. For example, the travel advisory for Venezuela indicates that dual nationals must travel with both their Canadian and their Venezuelan passports; if they are travelling with only their Canadian passport they may be required to have a Venezuelan visa or identity document at the Venezuelan border.⁶⁷

NOTES

1. [Canadian Passport Order](#), SI/81-86, s. 2 [CPO].
2. Passport Canada, "Canadian Passport Possession Rate," [Annual Report 2012–2013](#), p. 11.
3. Ibid.
4. U.S. Embassy & Consulates in Canada, [Passport Requirements](#).
5. [Order Amending the Canadian Passport Order](#), SI/2013-57. The rationale appears in Passport Canada, "[Preface](#)," [Annual Report 2012–2013](#):

Passport Canada's IT system is nearing the end of its lifespan and significant investment will be required to bring it up to date whereas [Citizenship and Immigration Canada]'s current operating IT system has the capacity and security features for a move to online applications, and also offers Canadian taxpayers a sensible, cost-effective alternative.

6. Citizenship and Immigration Canada, [Types of passports and travel documents](#).
7. Citizenship and Immigration Canada, [The Canadian ePassport](#). The validity of the passport can be of five or 10 years.
8. Henri Brun et al., “La prérogative royale,” *Droit Constitutionnel*, Éditions Yvon Blais, 5th ed., Cowansville, 2008, p. 711. Consequently, the legislative framework for the issuance of passports is not subject to parliamentary oversight or review, and can be amended by the Governor in Council when desired by publishing changes directly in the *Canada Gazette*.
9. [Order Amending the Canadian Passport Order](#), SI/2001-121, 10 December 2001, in *Canada Gazette*, Part II, Vol. 135, No. 26, 19 December 2001, p. 2903.
10. Passport Office, [Heightened Vigilance: Annual Report 2001–2002](#), p. 10.
11. [Order Amending the Canadian Passport Order](#), SI/2001-121.
12. [Order Amending the Canadian Passport Order](#), SI/2004-113, 1 September 2004, in *Canada Gazette*, Part II, Vol. 138, No. 19, 22 September 2004, p. 1310.
13. [Order Amending the Canadian Passport Order](#), SI/2015-33, 7 May 2015, s. 4, in *Canada Gazette*, Part II, Vol. 149 (2015), 20 May 2015. This section came into force on 23 June 2015 and replaced section 10.1.
14. CPO, s. 4(1).
15. The *Citizenship Act* contained a retention requirement from 1977 to 2009.
16. CPO, s. 6.
17. CPO, s. 7.
18. CPO, s. 8.
19. CPO, ss. 10.2 and 10.4.
20. CPO, new s. 9(2), which refers to [Criminal Code](#), R.S.C. 1985, c. C-46, s. 7(4.1) (Offence in relation to sexual offences against children).
21. The criminality that is at issue here pertains to indictable offences in the *Criminal Code*, which are the subject of more serious sentences such as armed robbery, murder or manslaughter.
22. Privy Council Office, [Securing an open society: Canada's national security policy](#), 27 April 2004.
23. [Kamel v. Canada](#), 2009 FCA 21, para. 39. Refusal to issue a passport under section 10.1 was found to be justified under the *Canadian Charter of Rights and Freedoms*. Leave to appeal to the Supreme Court of Canada was refused.
24. [Order Amending the Canadian Passport Order](#), SI/2004-113, “Explanatory Note,” p. 1311.
25. [Kamel v. Canada](#), para. 30.
26. [Suresh v. Canada \(Minister of Citizenship and Immigration\)](#), [2002] 1 SCR 3, paras. 80–88.
27. *Ibid.*, para. 85.
28. [Order Amending the Canadian Passport Order](#), SI/2015-33, s. 7. The Order in Council amending the *Canadian Passport Order* came into force when the *Economic Action Plan 2015, no. 1* received Royal Assent and provided for the coming into force of the [Prevention of Terrorist Travel Act](#), S.C. 2015, c. 36, s. 42 (Division 2 of Part 3 of the former Bill C-59, 2nd Session, 41st Parliament).

29. CPO, s.11.1(1), which refers to s. 7(4.1) of the *Criminal Code*.
30. *Ibid.*, ss. 11.2(a) and (b)
31. *Ibid.*, s. 11.2(c).
32. *Ibid.*, s. 11.1(2) and (3).
33. *Order Amending the Canadian Passport Order*, SI/2013-57.
34. CPO, s.12(1)(g).
35. *Ibid.*, s.12(1)(k).
36. *Ibid.*, s. 13(1).
37. Citizenship and Immigration Canada, “Security and Fraud Detection,” [Focus on Excellence: Annual Report 2009–2010](#).
38. Citizenship and Immigration Canada, [Administrative decision process for the refusal or revocation of passport services](#).
39. *Prevention of Terrorist Travel Act*, s. 4(4)(a).
40. *Ibid.*, s. 4(4)(c).
41. *Ibid.*, s. 4(4)(e).
42. *Ibid.*, s. 4(4)(g).
43. *Kamel v. Canada*, para. 31.
44. *Prevention of Terrorist Travel Act*, s. 6(2).
45. [Consular Services Fees Regulations](#), SOR/95-538.
46. Government of Canada, Travel and tourism, [Consular Services Delivery Framework](#).
47. [Vienna Convention on Consular Relations, 1963](#), 24 April 1963, 596 U.N.T.S. 261, entered into force on 19 March 1967. There were 177 parties to the convention as of April 2014. For more context on the treaty, including jurisprudence, see United Nations, [“Vienna Convention on Consular Relations,” Audiovisual Library of International Law](#). Canada agreed to be bound by this treaty after it acceded to it in 1974.
48. John H. Currie, Craig Forcese and Valerie Oosterveld, *International Law: Doctrine, Practice, and Theory*, Irwin Law, Toronto, 2007, p. 542.
49. *Ibid.*, p. 544.
50. Hague Conference on Private International Law, [Hague Convention on the Civil Aspects of International Child Abduction](#), 25 October 1980. Canada signed this treaty in 1980 and became bound by it after ratification in 1983.
51. [International Transfer of Offenders Act](#), S.C. 2004, c. 21.
52. Transfer-of-offender treaties have been signed with the following countries: Argentina, Barbados, Bolivia, Brazil, Cuba, Dominican Republic, Egypt, France, Mexico, Mongolia, Morocco, Peru, Thailand, Venezuela, United States; see also Government of Canada, [Commonwealth Scheme for the Transfer of Offenders](#), and the Council of Europe [Convention on the Transfer of Sentenced Persons](#).
53. Government of Canada, travel.gc.ca, [“21st Century Consular Plan,” About consular services](#), and [“Request emergency assistance”](#) (contact information), *Assistance abroad*.
54. Government of Canada, Travel and tourism, [Embassies and consulates](#).
55. Government of Canada, Travel and tourism, [Travel advice and advisories](#).

PASSPORT AND CONSULAR SERVICES

56. Government of Canada, Travel and tourism, [Publications](#).
57. Currie, Forcese and Oosterveld (2007), p. 544.
58. [Khadr v. Canada \(Minister of Foreign Affairs\)](#), 2004 FC 1145, paras. 20–22.
59. *Department of Foreign Affairs and International Trade Act*, R.S.C., 1985, c. E-22.
60. Foreign Affairs, Trade and Development Canada, [A Guide for Canadians Imprisoned Abroad](#), 2014, p. 5.
61. [Department of Foreign Affairs, Trade and Development Act](#), S.C. 2013, c. 33, s. 174.
62. Government of Canada, Travel and tourism, [Consular Services: Service Standards](#).
63. Government of Canada, Travel.gc.ca, [Consular Activity in 2011: Incident Report for Canadians Abroad](#) [Consular Activity Report, 2011].
64. Government of Canada, Travel and tourism, [Consular Agreement between the Government of Canada and the Government of the People's Republic of China](#).
65. *Ibid.*, art. 12.
66. Government of Canada, Travel.gc.ca, Consular Activity Report, 2011.
67. Government of Canada, Travel and tourism, "[Venezuela](#)," *Travel Advice and Advisories*.