

7 FAM 400 ARREST OF U.S. CITIZENS ABROAD

7 FAM 400 (This is under the OLD Numbering Scheme)

7 FAM 401 INTRODUCTION

(TL:CON-11; 10-30-84)

Traditionally, one of the basic functions of a consular officer has been to provide a "cultural bridge" between the host community and the officer's own compatriots traveling or residing abroad. No one needs that cultural bridge more than the individual U.S. citizen who has been arrested in a foreign country or imprisoned in a foreign jail.

Neither arrest nor conviction deprives a U.S. citizen of the right to the consular officer's best efforts in protecting the citizen's legal and human rights. Consular officers are obliged to assist arrested or imprisoned U.S. citizens with dedicated professionalism, regardless of their own views as to the innocence or guilt of the individuals.

Although consular officers are the principal action officers in arrest cases, they may need help from other post officers in making prison visits, in attending trials, and in cultivating rapport with and gaining the cooperation of local law enforcement officials. This is especially true at posts where consular resources are limited and the consular workload is heavy. Such cooperation should be encouraged whenever possible.

The guidelines in this chapter should not be taken as defining the limits of a post's responsibility, but rather as furnishing a frame of reference for each post's own creative approach to arrestee and prisoner services.

7 FAM 402 AUTHORITY

There is limited legislative authority for providing consular assistance to U.S. citizens who are detained, arrested, or imprisoned abroad. Public Law 95-45 of June 15, 1977, effective October 1, 1978, provided for emergency medical and dietary assistance (EMDA) to prisoners abroad on a reimbursable basis (see section 7 FAM 450). The Vienna Consular Convention and many current bilateral consular treaties require that host governments of countries which are signatories to such a convention or treaty notify arrestees promptly of their right to communicate with the U.S. consul and/or notify the consular officer of a foreign state of the arrest of one of its citizens (see sections 7 FAM 411.1 and 7 FAM 411.2).

7 FAM 403 DEFINITIONS

The following terms are useful in arrestee assistance work:

- a. "Arrest" means to take or keep a person in custody by authority of law.
- b. "Appeal" means to invoke or call upon a judge or other legal authority concerning charges of crime or a sentence for crime.

c. "Custody" means judicial or penal guarding or safekeeping of a person in accordance with law or local requirement. Custody may mean imprisonment or detention of a person in order to prevent escape.

d. "Deportation" means expulsion of a person from the host country by the legal and/or political authorities of that country.

e. "Detention" means holding a person in custody or confinement before or without charging the person with a violation or crime.

f. "EMDA" means the "Emergency Medical and Dietary Assistance" program, authorized by Public Law 95-45 of June 15, 1977, effective as of October 1, 1978 (see section 7 FAM 450).

g. "Emergency expenditure authorization" means authorization for limited post expenditure without prior Department approval in order to meet emergency medical needs (see sections 7 FAM 452.5 and 7 FAM 452.6 - A).

h. "Maltreatment" or "abuse" of prisoners means rough or cruel or rude treatment; the term "abuse" implies an outburst of harsh words against another person, often someone who is defenseless.

i. "NOK" means next of kin, a person's closest relative, such as spouse, children, or parents.

j. "Notification" means a formal or written notice by a consular officer, to inform the addressee (next of kin, business associate, or friend) of the arrest or detention of a U.S. citizen; also, an oral or written notice to a consular officer of such arrest or detention.

k. "Personal visit" means to call upon an arrestee or prisoner in person, especially to provide encouragement and appropriate assistance.

l. "Prisoner hunger strike" means deviation from normal eating and drinking patterns, in order to gain attention to a perceived need, opinion, or policy or to achieve a specific goal, such as improved prison conditions or release.

m. "Prisoner transfer treaty" means a treaty which provides for transfer of prisoners to the country of origin under controlled conditions, as an alternative to serving a long sentence abroad, without undermining the national systems of justice of the two participating countries.

n. "Prisoner trust account" means funds deposited in an especially designated account with the Department of State to be accredited to a Foreign Service post for disbursement to or on behalf of a specified prisoner to pay for legal fees, fines, and related expenses (see section 7 FAM 422).

o. "Protest" means a formal expression or statement of objection or disapproval of action taken by host country authorities against a detained, arrested, or imprisoned U.S. citizen.

p. "Rehabilitation" means restoration of a prisoner to a good condition, state of good repute, or re-established respectability for recovering rights and privileges lost or forfeited because of or during imprisonment.

q. "Reporting" means providing or rendering a formal account or statement of what was learned by observation and/or investigation about the arrest, detention, or imprisonment of a U.S. citizen or concerning the problems or difficulties encountered by such citizen, as well as an accounting of actions taken by the consular officer on that person's behalf or as instructed by the Department (CA/OCS/EMR).

r. "Rights" means all which is due a U.S. citizen who has been detaining or arrested abroad by just claim. Rights may be civil or legal.

s. "Short term full diet program" means an arrangement for funding the cost of food for U.S. citizen prisoners held temporarily in institutions where food is not provided (see section 7 FAM 453).

t. "Trial" means a formal inquiry or legal examination of charges filed against a person before a judge, or court, or other equivalent legal institutions abroad.

7 FAM 404 THROUGH 409 UNASSIGNED

7 FAM 410 ARRESTS

(TL:CON-11; 10-30-84)

7 FAM 411 NOTIFICATION

In order for the consular officer to perform the protective function in an efficient and timely manner, it is essential that the consul obtain prompt notification whenever a U.S. citizen is arrested. Prompt notification is necessary to assure early access to the arrestee. Early access in turn is essential, among other things, to receive any allegations of abuse, to provide a list of lawyers and a legal system fact sheet to prisoners, to obtain a Privacy Act waiver, and to acquire certain information to enable the post and the Department to respond promptly and accurately to inquiries about the case (see section 7 FAM 412 .)

7 FAM 411.1 Vienna Consular Convention

Article 36 of the Vienna Consular Convention provides that the host government must notify the arrestee without delay of the arrestee's right to communicate with the American consul. Consular officers should be familiar with the Vienna Convention and its provisions on arrest cases. See section 7 FAM 411 Appendix A 411.1 , for an extract from the Vienna Consular Convention and section 7 FAM 411 Appendix A 411.2 , for a current list of signatories to this Convention.

7 FAM 411.2 Bilateral Consular Treaties

Many of our current bilateral consular treaties also require that the arresting authorities directly and promptly notify the consular officer of a foreign state of the arrest of a national of that state. The consular officer must be familiar with the details of bilateral consular treaties between the host government and the United States (see section 7 FAM 411 Appendix A 411.2). The text of applicable bilateral treaties should be inserted into this chapter by consular officers at post for ready reference.

7 FAM 411.3 Relations with Local Authorities

Practical considerations make it imperative that the consular officer be notified immediately by local authorities whenever a U.S. citizen is arrested. For purposes of notification and access, the Department considers a citizen under arrest from the moment the citizen is deprived of liberty by a foreign governmental agency or authority. In order to provide effective protection and assistance to arrested Americans, consular officers are expected to maintain relationships with local authorities and other sources which will secure their cooperation in providing immediate notification, no matter what the language of applicable treaties legally requires. Without such prompt notification of arrest, it is impossible to achieve the essential timely access to a detained U.S. citizen.

7 FAM 412 ACCESS

Experience has demonstrated that prompt personal access to the detained citizen assures both the arrestee and the host authorities of the serious interest of the U.S. Government in the case. Further, it enables the consular officer to provide the arrestee with a list of reputable lawyers or information concerning local legal aid before the arrestee selects a lawyer who may prove to be a charlatan. It provides an opportunity for the consular officer to explain the legal and judicial procedures of the host government and the detainee's rights under that government at a time when such information is most useful. Prompt personal access to the detainee is necessary to forestall physical abuse of the prisoner by the arresting and/or investigating authorities or to ascertain when such abuse has occurred.

If the Department and its posts abroad are to insist that host-country arresting authorities notify an American consular officer without delay following their arrest of a U.S. citizen, it is incumbent upon the consular officer to visit the arrestee as soon as possible following receipt of notification. Otherwise the sincerity and credibility of the U.S. Government about its concern for its arrested citizens' welfare and rights will surely be questioned, and obtaining the cooperation of host country officials on prisoner matters will be more difficult.

Upon receiving notification that a U.S. citizen is being detained, it is absolutely essential that the post achieve timely access to the detainee through one of the following methods.

7 FAM 412.1 Personal Visit

Except under the most extraordinary circumstances, an officer must personally see and visit the arrestee as soon as possible, normally within 48 hours of receipt of notification. Should a personal visit prove impossible and one of the methods described below be employed, the post must explain to the Department the circumstances preventing the personal visit.

7 FAM 412.2 Telephone Contact

If an immediate personal visit by an officer is not possible, efforts must be made to get in touch with the detainee by telephone. Such contact does not eliminate the consular officer's responsibility to follow up with a personal visit at the earliest possible opportunity, normally within a few days.

7 FAM 412.3 Visit by Volunteers

If an immediate personal visit by an officer is not possible, the post may wish to consider enlisting cooperation of U.S. citizens residing in the area of the place of arrest to visit the detained U.S. citizen. Again, this does not eliminate the consular officer's responsibility to follow up with a personal visit as soon as possible, normally within a few days.

7 FAM 412.4 Consular Agents

Pending a visit by a consular officer, a consular agent (if one is available) should visit the arrestee promptly. Posts that have consular agents assigned within their districts should make maximum use of them in protecting the legal and human rights of incarcerated U.S. citizens and assuring their welfare. As a guide to what consular agents may be expected to do in such instances, posts should consult the Consular Agents' Handbook.

7 FAM 413 INITIAL VISITS

In the course of the initial visit to a U.S. citizen arrested or incarcerated abroad, the consular officer must endeavor to give the arrestee a realistic and positive understanding of the U.S. Government's interest in and responsibility for a citizen in this situation. While it is only fair to curb the prisoner's expectations of extraordinary intervention or miraculous remedies, the consular officer must emphasize the actions that can be taken on the arrestee's behalf. A U.S. citizen is entitled to claim consular protection abroad, regardless of evidence of guilt, the nature of the alleged crime, or the personal merit of the citizen. Thus, the consular officer must avoid any display of disdain, self-righteousness, or moral disapproval which might impair the relationship with the arrestee. The officer should accomplish several objectives during or as a result of the initial visit.

7 FAM 413.1 Verification of Citizenship and Identity

Before rendering any substantial service to an arrestee, the consular officer must ascertain that the individual is entitled to the protection of the U.S. Government by being one of the following:

a. A U.S. citizen. In the majority of cases, possession of a passport satisfactorily establishes both the identity and the citizenship of the individual. In countries where citizens customarily travel without passports, however, or where the individual claims a passport has been lost or stolen, the consular officer will have to rely upon secondary documentary evidence or judgment based upon the results of conversation with the prisoner (see chapter 7 FAM 1100 , entitled "Acquisition and Retention of U.S. Citizenship," and chapter 7 FAM 1200 , on Loss and Restoration of U.S. Citizenship, for further clarification).

b. A national who is not a citizen of the United States, which includes natives of American Samoa (see chapter 7 FAM 1100 , entitled "Acquisition and Retention of U.S. Citizenship").

c. A native inhabitant of the Trust Territory of the Pacific Islands (see chapter 7 FAM 1100 on "Acquisition and Retention of U.S. Citizenship").

d. A "third country" national for whom the United States has formally accepted responsibilities as protecting power. In these cases, representation should initially be limited to providing emergency services, and the Department should be consulted for long term services which the post may be expected to provide.

e. Dual nationals. Providing consular protection to dual nationals sometimes poses complex problems because of the conflicting laws and regulations of the United States and other countries. Clearly a dual national traveling in a third country on a U.S. passport is entitled to the full range of consular services provided to any American. On the other hand, a dual national traveling abroad on a passport of that person's other country of nationality may not be entitled to the protective services of the United States consul in a third country. In such a situation, however, the U.S. consul should show an interest in any difficulties that such a person may encounter and be as helpful as possible, should relatives inquire about the case. If the second country of nationality is providing protective services to a dual national, the U.S. consular officer should not become directly involved (see chapter 7 FAM 1100 on "Acquisition and Retention of U.S. Citizenship") but should continue to follow developments in the case and report them to the Department.

The most complex problems regarding provision of protective services to dual nationals arise when the holder of dual nationality experiences difficulties with the law in the non-U.S. country of nationality. It is a generally recognized rule, which may be regarded as a rule of international law, that when a person who is a dual national is residing in either of the countries of nationality, the person owes paramount allegiance to that country. The country of residence generally has the right to assert its claim without interference from the other country. Thus, in the absence of agreements to the contrary between the United States and other nations, if a dual national encounters difficulties in the country of second nationality, the U.S. Government may be able to make representations on that person's behalf which may or may not be successful.

In case of doubt as to the consular officer's responsibility in providing protective services to a dual national in a particular case, the post should refer the matter to the Department (CA/OCS/EMR) for an advisory opinion.

7 FAM 413.2 Determining Potentially Fraudulent or Dubious Claims to Citizenship

Consular officers should be alert to possible passport fraud. When the prisoner is in possession of a U.S. passport or card of identity, but there remains doubt as to identity and/or citizenship, the consular officer should report the circumstances in full to the Department (CA/OCS/EMR). A brief summary should be included in the "Remarks" section of the initial report; in addition, the procedures for verification of passport issuance and identity required under 7 FAM 1333 and 7 FAM 1336 should be followed.

In any case of dubious or unresolved citizenship, the consular officer may furnish provisional consular services, pending resolution of the question. Such provisional services could certainly include routine facilitative services, and might also include informal representation to preclude or terminate mistreatment, but would not ordinarily extend to formal representation to the host government or to the expenditure of U.S. Government funds (such as EMDA funds).

7 FAM 413.3 List of Attorneys

The post's list of attorneys, maintained as required under 7 FAM 900 , may be abridged in accordance with each post's experience concerning the types of arrest cases involving U.S. citizens. Many of the lists prepared by posts are commendably extensive and comprehensive. In arrest cases, however, it is of little use to a prisoner to have a long list of attorneys and law firms handling only civil cases. Posts with extensive lists should extract from them information on attorneys and firms handling criminal cases and print an abbreviated list for arrestee use. Lawyers found to be dishonest, incompetent, or inattentive to their U.S. citizen clients' interests should be excluded from the list whenever such a determination is made by the post.

7 FAM 413.4 Providing Judicial Procedures Information

Legal systems vary greatly, particularly outside common law areas. U.S. citizens arrested abroad often have an imperfect understanding of American criminal procedure and may have absolutely no understanding of the legal procedures of the country in which they are detained. Thus, it is essential that each mission (or where variations in local conditions warrant, each constituent post) prepare informational material for delivery to each arrested U.S. citizen regarding the judicial process the arrestee is likely to face. Posts should prepare a packet of information covering initial arrest, remand procedure, trial procedure, appeal process, and penal conditions and rules.

The purpose of this material is not to usurp the function of legal counsel or encourage a "do it yourself" approach. Rather, it serves the purpose of helping arrestees understand what is happening to them and provides a yardstick against which they can measure an attorney's performance. Such informational material should be updated regularly, and copies forwarded to the Department (CA/OCS/EMR).

7 FAM 413.5 Obtaining Privacy Act Consent

Because U.S. citizens arrested abroad usually have family or friends who will inquire about the arrestee, the consular officer should attempt to obtain Privacy Act consent from the prisoner to pass information to persons likely to have an interest in the arrest (see 7 FAM 413 Exhibit 413.5). Such persons might include parents, brothers or sisters, attorneys, members of Congress, or close friends.

7 FAM 413.6 Confiscation of Prisoner's Personal Property

In some countries it is the practice of arresting officials to confiscate the personal property (such as money, clothing, watches, rings, automobile, and passport) of newly arrested persons. Often no receipts are given for these items and, with no records, they may disappear. During the initial visit to a U.S. citizen arrestee, the consular officer should ask the prisoner if any personal property, including a passport, was taken by the arresting authorities and, if so, whether a signed and dated receipt was given in exchange. If these procedures were not followed by the arresting authority, the consular officer should take immediate steps to determine the whereabouts of the confiscated items and to obtain a receipt acknowledging custody from the local authorities. Prompt action is necessary if the items are to be located and retrieved.

Under no circumstances should an officer assume responsibility for holding or storing personal property or money on behalf of a citizen, whether a prisoner or at liberty (see 7 FAM 600).

7 FAM 414 PRISONER'S CONDITION AND ENVIRONMENT

7 FAM 414.1 Abuse of Prisoners

In the first contact with a prisoner, whether in person or by phone, the consular officer should, if possible, determine from the prisoner if there has been any physical abuse or violation of rights. Whenever a prisoner alleges physical abuse, it is imperative that the prisoner be seen by an officer at the earliest possible opportunity.

7 FAM 414.1-1 Examination by an Officer

The officer should verify during the initial visit whether there are any marks or signs of abuse such as bruises, scratches, or cuts, bearing in mind, however, that many forms of physical abuse, including systematic torture, are calculated to leave no physical evidence. Torture by electric shock and various forms of "water treatment" are two of the more common forms of torture which normally do not leave marks. Where such methods are alleged to have been used, the personal interview of the prisoner is equally imperative. In all cases of allegations of abuse, it is essential that the officer exercise judgment on the basis of all evidence at hand, including assessment of the prisoner's credibility, in determining the probable veracity of the allegation.

7 FAM 414.1-2 Examination by Independent Physician in Cases of Abuse

The consular officer should arrange, if possible, to have the prisoner examined by a private medical doctor to determine the extent and probable cause of any injury. Emergency Medical/Dietary Assistance (EMDA) funds may be used for this examination, provided all the relevant criteria are met (see section 7 FAM 450).

7 FAM 414.1-3 Written Statements from Prisoners

When a consular officer has good reason to believe that allegations of abuse made by a prisoner are true, the officer should encourage the prisoner to make a formal declaration under oath or sign a written statement about the abuse. Merely requesting such a declaration or statement may often prevent false or exaggerated allegations of abuse. The documents may be useful should the consular officer, with the permission of the prisoner, protest the maltreatment to host country authorities (see Section 7 FAM 415 Protests).

7 FAM 414.2 Conditions of Detention

Prison conditions vary widely, particularly from country to country, but also often within a country. At the time of the initial visit to an arrested U.S. citizen, the officer should observe the physical conditions under which the prisoner is being held. If it is determined that the conditions do not meet generally accepted international standards, the consular officer should attempt to obtain improvement through direct intervention with the responsible prison authorities. If this does not achieve results, formal protests at the local, state, or national level should be considered. For a further discussion of prison conditions, see Section 7 FAM 440 Prolonged Imprisonment.

7 FAM 415 PROTESTS

7 FAM 415.1 General Information

If the legal and human rights of U.S. citizens arrested abroad are to be adequately protected, it is necessary to protest substantiated violations of those rights. The purposes of such protests include: protecting American prisoners against further abuse or violation of their rights; impressing the host government that the U.S. Government is seriously concerned about the welfare and rights of its citizens and will not condone or tolerate their violation; protecting future American detainees against similar maltreatment; and improving the general level of treatment of U.S. citizens arrested and detained in foreign countries. Experience has demonstrated that a well-conceived and executed system of protests can achieve these objectives in many countries. Not to protest when the situation warrants a protest only tends to perpetuate abuse.

7 FAM 415.2 Method of Protesting

Protests may be made at various levels in the host government's hierarchy and by different methods (oral, written, formal, and informal). The level at which the protest is made and the method are left to the post's discretion. However, the Department has discovered that one effective strategy is to protest first at a lower level and, if no satisfactory response is received, to escalate the protest to the state or federal level. For a sample diplomatic note of protest, see 7 FAM 415 Exhibit 415.2 .

7 FAM 415.3 Reporting

All protests and the circumstances that warranted such action must be reported to the Department (CA/OCS/EMR) in full detail to permit the Department to decide on what follow-up action should be taken. Furthermore, all instances in which the host government failed to notify the post promptly of the arrest of a U.S. citizen, or in which maltreatment has been alleged, must be reported to the Department (CA/OCS/EMR) by telegram in addition to protest by the post.

7 FAM 415.4 Host Government Actions Meriting Protest

7 FAM 415.4-1 Failure to Promptly Notify the Post of the Arrest of a U.S. Citizen

Whenever host government authorities fail to notify the post of the arrest of a U.S. citizen within 72 hours of the arrest, the post should protest immediately, especially if the host country is a party to the Vienna Convention or to a bilateral consular convention requiring prompt notification (see section 7 FAM 411 Appendix A 411.1 and section 7 FAM 411 Appendix A 411.2). While it is not necessary to obtain the permission of the prisoner before protesting a notification violation, the post should ascertain before making a protest whether or not the prisoner requested that the U.S. consular officer be notified. The protest should include a request for an investigation of the notification violation and a report from the investigating authority within a specified time, such as 10 days or 2 weeks.

7 FAM 415.4-2 Maltreatment

Whenever a consular officer is convinced of the truth of a prisoner's allegations of maltreatment at the hands of host government authorities (arresting officers, interrogation officers, or prison officials), an attempt should be made to gain the prisoner's permission to protest the mistreatment. Although some maltreated prisoners refuse such permission out of fear of reprisals, others can be persuaded to permit a protest. It is especially important to obtain prisoners' permission to protest in consular districts where maltreatment is chronic, for otherwise this insidious practice will never cease. In the absence of a prisoner's permission to protest, no protest should be made without the post's first consulting the Department. When making a protest of maltreatment, the consular officer should request an investigation and a report of the findings within a specified period of time.

7 FAM 415.4-3 Other Violations of Rights

Other violations of a U.S. citizen's legal or human rights that may warrant a protest include: excessively lengthy pre-trial detention; confiscation of a prisoner's personal property; inhumane prison conditions; a prison diet insufficient to maintain a minimally acceptable standard of health; discriminatory treatment of U.S. prisoners; and obstructionism with respect to consular officer's right of access to a prisoner.

7 FAM 416 REPORT OF ARREST

It is imperative that posts submit prompt and comprehensive reports by priority telegram on the arrest and detention of any U.S. citizen which involves any one of the following factors: (1) detention over 24 hours, (2) physical abuse or denial of human rights, or (3) circumstances which in the judgment of the post involve special public relations considerations.

Prompt reports to the Department are absolutely necessary because families and friends of the arrestee, and Members of Congress, usually call upon the Department for information and assistance as soon as they receive word of an arrest. It is clearly preferable that the family learn of an arrest from the consular officer or the Department, rather than from the news media. Inquiries about arrests on which the Department has no information, especially if received several days after the arrest, are a source of embarrassment and can reflect badly on the Department and its overseas posts. An arrest report must be submitted to the Department within 24 hours of the receipt of notification to the post of the arrest, even if all items on the format cannot be completed. A follow-up report should be submitted, keyed to the initial report, to supply missing data.

7 FAM 416.1 Report Format

The format in 7 FAM 416 Exhibit 416.1 for reporting an arrest must be followed. In view of the Privacy Act and other considerations, separate reports must be submitted on each person arrested. The items set forth serve (1) to facilitate the entry of the arrest data into the Department's computer system; (2) to enable the Department to respond more accurately and comprehensively to questions posed by families and friends of the arrestees, and (3) to aid the Department as it monitors the case in the future. The consular officer should carry copies of the format when access is first obtained, both to assist in developing the information required for the initial and/or subsequent report, and to serve as a guideline in conducting the initial interview.

7 FAM 416.2 Followup Reporting

Posts should keep the Department (CA/OCS/EMR) advised of all new developments in a case and should report telegraphically any change in any item of the initial arrest report. When the post learns that a prisoner has been sentenced or released, the information should be forwarded immediately to the Department. Reports of fines should be given in both local currency and U.S. dollars. Reports of release should include date of release and conditions (provisional, unconditional, completion of sentence, and any other relevant data).

In submitting followup reports, posts may use an abbreviated format of the initial arrest report by referring to the pertinent item number and reporting the change.

7 FAM 417 THROUGH 419 UNASSIGNED

PRIVACY ACT NOTICE

The information requested is authorized by 22 USC 2658 and is voluntary.

The primary purpose for soliciting the information is to establish your citizenship, identity, and entitlement to welfare and protection services by the U.S. Government. The information is also needed to assist you in your present need for consular services.

This information may be made available on a need-to-know basis to personnel of the Department of State and other Government agencies having jurisdiction in the performance of their official duties. It may also be made available to officials of the host government, should the disclosure of such information be considered to be in your interest.

Failure to provide the information requested on this form may make it difficult or impossible for the Department of State to assist you.

7 FAM 415 Exhibit 415.2

(TL:CON-11; 10-30-84)

Sample of a Diplomatic Note of Protest

No. 17

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and has the honor to bring to the attention of the Ministry of Foreign Affairs the following:

On April 27, American citizen Robert David Johnson reported that he had been beaten by two police officers in Rosslandia. Mr. Johnson reported that a dispute arose about his restaurant bill at the restaurant "Papa's" on Wednesday evening, April 18. According to Mr. Johnson, the waitress refused to provide or explain the individual charges, giving only the total of \$57. Mr. Johnson refused to pay the bill without further explanation. Mr. Johnson reported that the police arrived a short time later and beat him with nightsticks. He was then taken to the police station where he was again beaten and locked in a cell.

The Embassy did not learn of Mr. Johnson's arrest until the following Tuesday, April 24, when a former fellow prisoner of Mr. Johnson's delivered a note to the Embassy from him. An Embassy officer immediately contacted the Rosslandia Municipal Jail

where Mr. Johnson reported he was being held. Chief of Police Thompson confirmed Mr. Johnson's detention but denied the Embassy officer's request for immediate access. He said that no one would be allowed to see Mr. Johnson until he had been questioned by the judge. Subsequent requests for access to Mr. Johnson were also denied.

An Embassy officer finally interviewed Mr. Johnson on Friday, April 27, after he was released. At that time Mr. Johnson reported his mistreatment at the hands of the police. He showed the Embassy officer faded bruises on his back and ribs and pointed out two partially healed cuts on his face which he said were the results of police abuse.

The Embassy respectfully requests that the Ministry of Foreign Affairs investigate the physical mistreatment of Mr. Robert Johnson and provide the results of its investigation to the Embassy. It is further requested that the Ministry of Foreign Affairs take appropriate measures to ensure that other instances of mistreatment of Americans do not occur.

The Embassy also wishes to protest the failure of the police Rosslandia to notify the Embassy of Mr. Johnson's arrest

and their refusal to provide prompt access to him. This is clearly in violation of Article 36 of the Vienna Consular Convention to which both the United States of America and the Republic of Erehwon are signatory. In addition, the U.S.-Erehwon Consular Convention requires the receiving state to notify the sending state within forty-eight hours of the arrest of a national from the sending state and provide access within forty-eight hours of notification. The Embassy respectfully requests that the Ministry of Foreign Affairs inform all law enforcement agencies of their obligations under both the Vienna Convention on Consular Relations and the U.S.-Erehwon Consular Convention.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America,
Rosslandia, April 30, 1984.

7 FAM 416 Exhibit 416.1

Sample of an Initial Arrest Report Telegram

(Page 1 of 6)

Sample of an Initial Arrest Report Telegram

TELEGRAM

INDICATE
 COLLECT
 CHARGE TO

12356 E.O. 12812 TAGS: SUBJECT: ACTION:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; font-size: 0.8em;">FROM Amembassy SEOUL</td> <td style="width: 50%; font-size: 0.8em;">CLASSIFICATION UNCLASSIFIED</td> </tr> </table> <p>N/A</p> <p>CASC (WOZA, Kristi Renee) ①</p> <p>Arrest: Case of Kristi Renee Woza ②</p> <p>SECSTATE WASHDC PRIORITY ③</p> <p>UNCLAS SEOUL</p> <p>Following American arrested:</p> <ol style="list-style-type: none"> 1. NAME: WOZA, Kristi Renee. ④ 2. SEX: Female. ⑤ 3. DPOB: October 28, 1950, Nevada. ⑥ 4. PASSPORT: S0000493, issued June 29, 1982, Miami. ⑦ 5. LAST KNOWN U.S. ADDRESS: 1028 Maxwell, Lansing, Illinois 02589. ⑧ 6. DATE/PLACE OF ARREST: November 3, 1983, Kimpo International Airport, Seoul. ⑨ 7. ARREST CONDITION: Sick; complains of stomach pains, sore throat, and residual bleeding as a result of a recent miscarriage. Consoff spoke with prison officers to alert them to possible medical problems. ⑩ 8. CHARGES: Charged with possession, trafficking, and distribution of 400 grams of cocaine. ⑪ 9. PLACE OF DETENTION: Kangso Prison Hospital, Seoul. ⑫ 10. STATUS OF CASE: Under investigation. ⑬ 	FROM Amembassy SEOUL	CLASSIFICATION UNCLASSIFIED	7
FROM Amembassy SEOUL	CLASSIFICATION UNCLASSIFIED			
DRAFTED BY: CONS:CRHurst:def <i>CRH</i>	DRAFTING DATE 11/4/83	TEL. EXT. 26302	CONTENTS AND CLASSIFICATION APPROVED BY: DCM:ALFletcher <i>ALF</i>	
CLEARANCES:				

UNCLASSIFIED

CLASSIFICATION

50153-101

OPTIONAL FORM 153
 (Formerly FS-413)
 January 1975
 Dept. of State

Sample of an Initial Arrest Report Telegram — Continued

Classification

Page _____ of _____

MRN

11. TRIAL/HEARING DATE: Initial hearing ¹⁴ set for November 23, 1983.

12. POSSIBLE SENTENCE: Maximum 25 years ¹⁵ in jail and/or 100,000 dollars fine; minimum, 10 years and fine.

13. ATTORNEY: Yes, Hergen and Glarus Associates, 923 Sejong-Ku, Seoul. TEL: 634-9332. ¹⁶

14. PRIVACY ACT WAIVER: Yes, ¹⁷ to family members and friends. Not to general public, press, or Members of Congress. ¹⁸

15. NOK: Thomas P. Woza (brother), 2003 Sugar Lane, Union, Illinois 09823. TEL: (808) 892-6563. ¹⁹

16. NOTIFICATION: Embassy was notified telephonically on November 4, 1983 by police. ²⁰

17. ACCESS: Immediate access ²⁰ was authorized and a consoff visited Ms. Woza on November 4, 1983.

18. OTHER AMERICANS ARRESTED: None. ²¹

19. MISTREATMENT: Mistreatment ²² Confirmed: Consoff noted that Woza has bruises on upper arm area. Subject claims bruises were inflicted by arresting official with a leather paddle during interrogation. Pending report of doctor's examination, protest withheld. Will protest upon confirmation by medical authority.

20. PROPERTY CONFISCATED: Passport, camera, clothing. ²³

21. JUDICIAL PROCEEDINGS: Unknown. ²⁴

22. EMDA: ²⁵ Powdered milk being provided.

23. REMARKS: ²⁶ Woza described circumstances of her arrest as follows: trip started November 3, from Los Angeles. A friend gave her a package as a bon voyage

Classification

OPTIONAL FORM 153A
(Formerly FS-413A)
January 1975
Dept. of State

Sample of an Initial Arrest Report Telegram — Continued

UNCLASSIFIED

Classification

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MRN

[gift and suggested she not open it until after arrival]
in Seoul. As Woza was clearing customs, official
asked her what was in wrapped package. Woza replied
that it was a gift from a friend and that she forgot
to open it on the plane. Customs official demanded
that she open it immediately, which she did. Drugs
were discovered at that time.

(27)

24. ADVISING NOK OR OTHERS: Department is requested to
notify next of kin as stated in Para 15.

ALLEN

UNCLASSIFIED

Classification

OPTIONAL FORM 153A
(Formerly FS-413A)
January 1975
Dept. of State

Sample of an Initial Arrest Report Telegram — Continued

Guide for Preparation of an Initial Arrest Report Telegram

The post's telegram initially reporting the arrest of a U.S. citizen abroad should include, in the order listed:

- ① TAGS line: CASC (Surname, first name, middle initial).
- ② SUBJECT line: ARREST, Case of (Full name).
- ③ ACTION line: The post's telegram should include the following addressee: SECSTATE PRIORITY
- ④ MESSAGE Item 1: Arrestee's name (last, first, middle); and, if applicable, maiden name, aliases, professional or religious name.
- ⑤ MESSAGE Item 2: Arrestee's sex.
- ⑥ MESSAGE Item 3: Arrestee's date and place (State) of birth.
- ⑦ MESSAGE Item 4: Arrestee's passport number, with date and place of issuance.
- ⑧ MESSAGE Item 5: Arrestee's last known U.S. address (including zip code).
- ⑨ MESSAGE Item 6: Date and place of arrest.
- ⑩ MESSAGE Item 7: Arrest condition (see standardized reporting language - Paragraph A).
- ⑪ MESSAGE Item 8: Charges. If they involve narcotics, specify the type and amount involved (see standardized reporting language - Paragraphs B, C, and D).
- ⑫ MESSAGE Item 9: Place of detention. State full name of prison where arrestee is detained and the city where the prison is located.
- ⑬ MESSAGE Item 10: Brief status of case (see standardized reporting language - Paragraph E).
- ⑭ MESSAGE Item 11: Date of trial and/or hearing.
- ⑮ MESSAGE Item 12: Possible sentence (maximum/minimum).
- ⑯ MESSAGE Item 13: Whether arrestee has an attorney: Yes/No. If yes, include attorney's name, mailing address, and telephone number.

Sample of an Initial Arrest Report Telegram — Continued

Guide for Preparation of an Initial Arrest Report Telegram--
Continued

- ①7 MESSAGE Item 14: Privacy Act Waiver. Has prisoner given consent for release of information? If yes, to whom?
- ①8 MESSAGE Item 15: Next of kin (name, mailing address, relationship; also home, office, and/or other telephone numbers).
- ①9 MESSAGE Item 16: Notification. State date when consular officer was notified of the arrest, and how notified (see standardized reporting language - Paragraph F).
- ②0 MESSAGE Item 17: Access. State the date and means of first consular access to the prisoner (see standardized reporting language - Paragraph G). Also, report date of first visit by consular officer, date of most recent visit, and total number of visits as of the date of the reporting telegram.
- ②1 MESSAGE Item 18: Names of other U.S. citizens arrested in the same case (names are for cross-reference only; separate reports are required on each individual cited).
- ②2 MESSAGE Item 19: Mistreatment. All alleged or confirmed cases of mistreatment should be reported. Include when mistreatment occurred and a brief description of the mistreatment. Report formal or informal protests made (see standardized reporting language - Paragraph H).
- ②3 MESSAGE Item 20: Property confiscated (see standardized reporting language - Paragraph I).
- ②4 MESSAGE Item 21: Judicial proceedings. Report pleas, sentence, date of sentencing, fine, date the fine was paid, length of sentence, possible release date (see standardized reporting language - Paragraph J). Report fine in both U.S. and local currency.
- ②5 MESSAGE Item 22: EMDA. Is arrestee eligible for or receiving EMDA? If yes, report date of assistance and amount received or needed for emergency medical care, short term feeding, and/or dietary supplements.
- ②6 MESSAGE Item 23: Remarks. Provide whatever additional information and comments consular officer considers warranted and useful concerning the circumstances of the arrest and welfare of the person arrested.
- ②7 MESSAGE Item 24. Advising next of kin or others. Report whether arrestee wishes to have next of kin or other designated person notified of the arrest. Advise whether Department is requested to make the notification or whether post has done so. In cases involving minors or others not capable of making sound mental judgments, post should seek assistance/decision of the Department (CA/OCS/EMR).

Sample of an Initial Arrest Report Telegram — Continued

Guide for Preparation of an Initial Arrest Report Telegram--
Continued

STANDARDIZED REPORTING LANGUAGE

- A. ARREST CONDITION: Drug addict; requires psychiatric care; requires medical care; pregnant; normal; injured; sick. Briefly describe nature of injury or sickness and what is being done to remedy this condition.
- B. CHARGES: Attempted murder; arson; assault; bad check; blackmail/extortion; burglary; contraband; counterfeiting; customs violation; currency violation; debts; drunk/disorderly; drugs; espionage; fraud; hijacking; homicide/murder; immigration violation; kidnapping/abduction; morals; manslaughter; robbery; rape; theft; terrorism; motor vehicle/traffic violation; vagrancy; vandalism; other (specify); unknown.
- C. DRUG CHARGES: Possession; trafficking; importing/exporting; producing; transporting; selling; buying; consumption; suspicion; conspiracy.
- D. DRUGS: Marijuana; hashish; hashish oil; cocaine; heroin; LSD; amphetamines; barbiturates; cannabis resin; opium; equipment used in drug production/traffic; not applicable; other (specify).
- E. CASE STATUS: Appeal pending; bail; expelled; died in jail; escaped; hearing in progress; serving sentence; deported; pending deportation; parole, acquitted; pretrial; released; suspended sentence; charges dropped; executed; pending execution; returned under treaty.
- F. NOTIFICATION: Notified by: drug enforcement agency; family/friends; government, police, prison officials; other prisoner; self; media; other (specify); unknown.
- G. ACCESS: Visit by consular officer or local employee; visit by consular agent; telegram; telephone; letter; third party visit; unknown.
- H. MISTREATMENT:
 - (1) OCCURRENCE: No mistreatment alleged; mistreatment alleged (but unconfirmed); mistreatment confirmed.
 - (2) WHEN: During arrest; during interrogation; during arrest and interrogation; during detention; during arrest and detention; during interrogation and detention; during arrest, interrogation, and detention.
 - (3) PROTESTS: Not protested; informally protested; formally protested. Explain reasons for not protesting.
- I. PROPERTY CONFISCATED: Airplane; boat; money; vehicle; other.
- J. JUDICIAL PROCEEDINGS:
 - (1) PLEAS: Guilty; not guilty; unknown.
 - (2) SENTENCES: Acquittal; deportation; execution; fine; prison term; expulsion; suspended sentence.

7 FAM 411 Appendix A 411.1

(T:CON-11; 10-30-84)

Extract

Vienna Convention on Consular Relations and Optional Protocol on Disputes

April 24, 1963

ARTICLE 36

Communication and contact with nationals of the sending State

"1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

- (a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State.
- (b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph.
- (c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended."

7 FAM 411 Appendix A 411.2

(TL:CON-11; 10-30-84)

Consular Treaties In Force With The United States

December 31, 1983

<u>Country</u>	<u>Vienna Convention Ratification or Accession Deposited</u>	<u>Bilateral Consular Convention in Force</u>	<u>Treaties Containing Consular Provisions</u>	<u>Havana Convention on Consular Agents - 1932</u>
Afghanistan	--	--	Yes - 1936	--
Albania	--	--	--	--
Algeria	Yes	--	--	--
Andorra	--	--	--	--
Angola	--	--	Yes - 1853	--
Argentina	Yes	--	Yes - 1815	--
Australia	Yes	--	Yes - 1928	--
Austria	Yes	--	--	--
Bahamas	Yes	Yes - 1951	--	--
Bahrain	--	--	--	--
Bangladesh	Yes	--	--	--
Barbados	--	Yes - 1951	--	--
Belgium	Yes	Yes - 1951	--	--
Benin	--	--	--	--
Bhutan	--	--	--	--
Bolivia	Yes	--	Yes - 1858	--
Botswana	--	--	--	--
Brazil	Yes	--	Yes - 1828	Yes
Brunei	--	--	Yes - 1850	--
Bulgaria	--	Yes - 1974	--	--
Burma	--	--	Yes - 1815	--
Burundi	--	--	--	--
Cambodia	--	--	--	--
Cameroon	Yes	--	--	--
Canada	Yes	--	Yes - 1974 (Jay)*	--
Cape Verde	Yes	--	--	--
Central African Rep.	--	--	--	--
Chad	--	--	--	--
Chile	Yes	--	Yes - 1833	--
China, Peoples Rep. of	Yes	Yes - 1982	--	--
China, Rep. of	--	--	Yes - 1943	--
Colombia	Yes	Yes - 1850	Yes - 1846	Yes
Comoros	--	--	--	--
Congo	--	--	--	--
Costa Rica	Yes	Yes - 1948	--	--
Cuba	Yes	Yes - 1926	--	Yes
Cyprus	Yes	Yes - 1951	--	--
Czechoslovakia	Yes	**	--	--
Denmark	Yes	--	Yes - 1826	--

Djibouti	--	--	--	--
Dominican Republic	Yes	--	--	Yes
Ecuador	Yes	--	Yes - 1839	Yes
Egypt	Yes	--	--	--
El Salvador	Yes	--	--	Yes
Equatorial Guinea	Yes	--	--	--
Estonia	--	--	Yes - 1925	--
Ethiopia	--	--	Yes - 1951	--
Fiji	Yes	Yes - 1951	--	--
Finland	--	--	Yes - 1934	--
France	Yes	Yes - 1966	--	--
Gabon	Yes	--	--	--
Gambia	--	Yes - 1951	--	--
German Democratic Republic	--	Yes - 1981	--	--
Germany, Federal Republic of	Yes	--	Yes - 1923	--
Ghana	Yes	Yes - 1951	--	--
Greece	Yes	--	Yes - 1903	--
Grenada	--	Yes - 1951	--	--
Guatemala	Yes	--	Yes - 1849	--
Guinea	--	--	--	--
Guinea-Bissau	--	--	--	--
Guyana	Yes	Yes - 1951	--	--
Haiti	--	--	--	Yes
Honduras	Yes	--	Yes - 1927	--
Hungary	--	Yes - 1972	--	--
Iceland	Yes	--	--	--
India	Yes	--	Yes - 1815	--
Indonesia	--	--	--	--
Iran	Yes	--	Yes - 1955	--
Iraq	Yes	--	Yes - 1951	--
Ireland	Yes	Yes - 1950	--	--
Israel	--	--	--	--
Italy	Yes	Yes - 1878	--	--
Ivory Coast	--	--	--	--
Jamaica	Yes	Yes - 1951	--	--
Japan	--	Yes - 1963	--	--
Jordan	Yes	--	--	--
Kenya	Yes	--	--	--
Korea, Democratic Peoples Rep. of	--	--	--	--
Korea, Rep. of	Yes	Yes - 1963	--	--
Kuwait	Yes	Yes - 1951	--	--
Laos	Yes	--	--	--
Latvia	--	--	Yes - 1928	--
Lebanon	Yes	--	--	--
Lesotho	Yes	--	--	--
Liberia	--	Yes - 1938	--	--
Libya	--	--	--	--
Liechtenstein	Yes	--	--	--

Lithuania	--	--	Yes - 1934	--
Luxembourg	Yes	--	Yes - 1962	--
Madagascar	Yes	--	Yes - 1822	--
Malawi	Yes	--	--	--
Malaysia	--	Yes - 1951	--	--
Maldives	--	--	--	--
Mali	Yes	--	--	--
Malta	--	Yes - 1951	--	--
Mauritania	--	--	--	--
Mauritius	Yes	Yes - 1951	--	--
Mexico	Yes	Yes - 1942	--	Yes
Monaco	--	--	--	--
Mongolia	--	--	--	--
Morocco	Yes	--	Yes - 1836	--
Mozambique	--	--	--	--
Nauru	--	--	--	--
Nepal	Yes	--	Yes - 1947	--
Netherlands	--	--	Yes - 1956	--
New Zealand	Yes	--	Yes - 1815	--
Nicaragua	Yes	--	Yes - 1956	Yes
Niger	Yes	--	--	--
Nigeria	Yes	Yes - 1951	--	--
Norway	--	--	Yes - 1929	--
Oman	Yes	--	Yes - 1958	--
Pakistan	Yes	--	Yes - 1959	--
Panama	Yes	--	Yes - 1935	Yes
Papua New Guinea	Yes	--	Yes - 1815	--
Paraguay	Yes	--	Yes - 1859	--
Peru	Yes	--	--	Yes
Philippines	Yes	Yes - 1947	--	--
Poland	--	Yes - 1972	--	--
Portugal	Yes	--	--	--
Qatar	--	--	--	--
Romania	Yes	Yes - 1972	--	--
Rwanda	Yes	--	--	--
San Marino	--	--	--	--
Sao Tome and Principe	--	--	--	--
Saudi Arabia	--	--	Yes - 1933	--
Senegal	Yes	--	--	--
Seychelles	--	--	--	--
Sierra Leone	--	Yes - 1951	--	--
Singapore	--	Yes - 1951	--	--
Somalia	Yes	--	--	--
South Africa	--	--	Yes - 1815	--
Soviet Union	--	Yes - 1964	--	--
Spain	Yes	--	Yes - 1902	--
Sri Lanka	--	--	Yes - 1815	--
Sudan	--	--	--	--
Surinam	--	--	Yes - 1956	--
Swaziland	--	--	--	--

Sweden	Yes	Yes - 1910	--	--
Switzerland	Yes	--	Yes - 1850	--
Syria	--	--	Yes - 1924	--
Tanzania	Yes	Yes - 1951	--	--
Thailand	--	--	Yes - 1966	--
Togo	--	--	Yes - 1966	--
Tonga	Yes	Yes - 1951	--	--
Trinidad and Tobago	Yes	Yes - 1951	--	--
Tunisia	Yes	--	Yes - 1904	--
Turkey	Yes	--	Yes - 1929	--
Uganda	--	--	--	--
United Arab Emirates	Yes	--	--	--
United Kingdom	Yes	Yes - 1951	Yes - 1974 (Jay)*	--
Upper Volta	Yes	--	--	--
Uruguay	Yes	--	--	--
Venezuela	Yes	--	Yes - 1836	--
Vietnam, Soc. Rep. of	--	--	--	--
Vietnam, South	Yes	--	Yes - 1961	--
Western Samoa	--	--	--	--
Yemen, Arab Rep.	--	--	Yes - 1946	--
Yemen, Peoples Dem. Republic of	--	--	--	--
Yugoslavia	Yes	Yes - 1881	--	--
Zaire	Yes	--	--	--
Zambia	--	Yes - 1951	--	--
Holy See	Yes	--	--	--

*Jay Treaty signed at London on November 19, 1794 (8 Stat. 116).

**U.S.-Czechoslovakia Consular Treaty signed July 9, 1973; not ratified.

