

7 FAM 460

PROLONGED IMPRISONMENT

(CT:CON-093; 10-29-2004)
(Office of Origin: CA/OCS/PRI)

7 FAM 461 DEFINITION

(CT:CON-093; 10-29-2004)

Generally, prolonged imprisonment implies that the accused has been tried, convicted and has begun serving the sentence the judicial power imposed, although appeals may be pending. While your most time-consuming and effective actions tend to take place before this - during the early arrest, interrogation, and trial phases - the convicted prisoner should also be provided with adequate consular support while serving his or her term. Please note that the guidance in this section pertains **only** to U.S. prisoners in **post-sentence** status.

7 FAM 462 CONSULAR REQUIREMENTS

(CT:CON-093; 10-29-2004)

Your professional obligations during a convicted U.S. citizen or national's imprisonment generally include:

- (1) Arranging visits with the prisoner on a scheduled basis consistent with the conditions of imprisonment (See 7 FAM 463.2 below);
- (2) Monitoring the prisoner's health and mental well being, taking appropriate action whenever you believe there is reason for concern;
- (3) Administering any ongoing OCS TRUST or EMDA-1 programs. (See 7 FAM 430);
- (4) Bringing the prisoner funds, mail, reading material, etc. as circumstances warrant;
- (5) Remaining alert for any signs of mistreatment by authorities or other prisoners;
- (6) Assisting the prisoner in maintaining contact with his or her attorney, particularly when there is an appeal pending; and
- (7) Providing current information on the prisoner's status to family members, congressional inquirers, and the Department.

7 FAM 463 PRISON VISITATION

(CT:CON-093; 10-29-2004)

Visiting and providing consular protection and assistance to U.S. citizen or national prisoners is a core ACS function, and is **not discretionary**.

- (1) Articles 36(b) & (c) of the Vienna Convention on Consular Relations (VCCR) specifically provide for access to and protection of detained nationals of the sending states by their consular representatives in the receiving state, either upon request of the detained person (who must be notified of their right to request consular assistance) or upon demand of the consular official.

FYI: The more general provisions in Articles 5, 37(a) and (b) of the VCCR may also be relevant to the protection of prisoners.

- (2) Bilateral consular conventions invariably contain similar, or even more specific, provisions for consular access to and protection of detained U.S. citizens.

7 FAM 463.1 Purpose Of Visits

(CT:CON-093; 10-29-2004)

In addition to directly providing assistance and protection to individual incarcerated U.S. citizens, prison visits serve important collateral purposes:

- (1) Impressing upon the host government, and prison authorities the importance the Department places on the welfare of our citizens abroad, even those convicted of a crime;
- (2) Permitting reporting first-hand information and observations to family members, congressional inquirers and the Department; and
- (3) Possible discovery of other imprisoned U.S. citizens, including dual nationals, whose detention was not previously known to the post.

7 FAM 463.2 Frequency Of Visits

(CT:CON-093; 10-29-2004)

The Department has the discretion to determine the conduct and frequency of prison visits. The following guidance relates **only** to post-sentencing prison visits. Guidance pertaining to initial and pre-trial visits is contained in 7 FAM 430.

7 FAM 463.2-1 General Standard

(CT:CON-093; 10-29-2004)

Each U.S. citizen prisoner in post sentence detention should be visited not less than semi-annually – that is, visits not more than six months apart.

7 FAM 463.2-2 More Frequent Visits

(CT:CON-093; 10-29-2004)

The general policy outlined above in no way limits the discretion of a post to conduct more frequent visits where warranted. While a schedule of more frequent visits is left to post's discretion, they generally should occur whenever:

- (1) There is reasonable concern about the prisoner's health or mental well-being;
- (2) There is a reasonable concern over possible abuse by prison authorities or other inmates;
- (3) There has been a recent incident at the prison, such as a riot, strike, lock-down, etc;
- (4) The semi-annual visit is inadequate for the necessary delivery of funds, dietary supplements, reading materials, etc., and there are no practical alternatives; and
- (5) The Department, after consultations with post, directs a more frequent visit schedule.

7 FAM 463.2-3 Less Frequent Visits

(CT:CON-093; 10-29-2004)

You may apply to the Department for permission to visit a prisoner in post-sentence status annually, supplemented by a semi-annual telephone call in lieu of the second visit. These exceptions are on a case-by-case basis, and will only be considered under the following circumstances:

- (1) The standards of care (food, clothing, medical attention) are high;
- (2) The distance to the prison from post (stated in both distance and time) is significant;
- (3) The prisoner is consulted in advance and does not object to an annual visit supplemented by a semi-annual telephone call;
- (4) The prisoner's statement of "no objection" must be in writing, with a signed copy made part of the case file at post; and
- (5) The statement must include the fact that the prisoner understands

he or she can revoke the "no objection" at any time, and return to a semi-annual visit schedule.

7 FAM 463.2-4 Prisoners Not Wishing Visits

(CT:CON-093; 10-29-2004)

Department believes that prisoners who do not wish to be visited should generally have their wishes respected.

- (1) Determine to your satisfaction that a prisoner really does not wish to be visited. You should try to get confirmation of this directly from the prisoner.
- (2) Report the circumstances to the Department (CA/OCS/ACS).
- (3) Monitor the prisoner's welfare as best you can by checking with prison officials or asking other US citizen prisoners during your routine visits to the prison.
- (4) If subsequent events indicate that the prisoner has changed this decision, or that over-riding considerations may make an interview necessary, you should not hesitate to ask to see the prisoner.

7 FAM 463.3 Persons Authorized To Conduct Visits

7 FAM 463.3-1 Background

(CT:CON-093; 10-29-2004)

The Department believes there is generally no detrimental effect if U.S. citizen or national prisoners in post-sentencing status are visited regularly by an FSN, a consular or professional associate, a consular agent, or even a non-consular officer, instead of a consular officer, as long as the visit is under consular guidance.

- (1) Such visits are often more consistent with the "caseworker" approach the Department advocates as being the most beneficial to U.S. Prisoners.
- (2) Prisoners with family in country, particularly dual-national prisoners generally do not need personal access specifically to a consular office.
- (3) Long term prisoners who are settled in their environment often prefer visits by a known person to visits by a series of unfamiliar consular officers.
- (4) Caseworkers who see a prisoner on a regular basis over the long term are in the best position to assess well-being, and to take note of any apparent deterioration in mental or physical health.

- (5) This flexibility may enhance consular managers' ability to better tailor prison visits to posts' and the prisoners' actual circumstances.

7 FAM 463.3-2 Policy

(CT:CON-093; 10-29-2004)

Consular officers are authorized to arrange for prison visits to U.S. citizen prisoners by any of the following post employees **provided** the subject employee operates under the direction of and is subject to the supervision of a consular officer, and local authorities have no objections.

- (1) **FSN's:** Normally this should be a consular FSN with arrest case experience, although a non-consular FSN can be used if circumstances warrant and sufficient supervision and guidance is exercised.
- (2) **Consular & Professional Associates.**
- (3) **Consular Agents.**
- (4) **Other Officers:** Officers from other sections and agencies may conduct prison visits in remote locations while on other official business, provided the prison visit is conducted under the guidance of and pursuant to the general instructions of a consular officer.

7 FAM 463.3-3 Preliminary Actions

(CT:CON-093; 10-29-2004)

Under the VCCR, only **consular officers** have the **right** to make prison visits. However, this does not preclude host states from permitting other members of the mission from performing such functions. Before sending a non-consular officer to conduct prison visits, you should:

- (1) Review the employee's official status in the host country to ensure that the employee will be permitted to make the visit on essentially the same terms as a consular officer;

Generally, the absence of privileges and immunities (if using an FSN, etc) are not a concern in the context of basic prison visits. Be mindful, however, that employees without testimonial immunity could be compelled to testify about their conversations with prisoners.

- (2) Seek the express permission of host government authorities if in your opinion this seems necessary or prudent;
- (3) Brief the person making the visit on prison procedures, individual

- cases, actions to take and observations to make;
- (4) Be sure the person understands the provisions of the Privacy Act; and
 - (5) Make it clear that information they gain from conversing with prisoners must be treated as protected and shared only with those at post and in the Department on a need-to-know basis.

7 FAM 463.3-4 Private Persons

(CT:CON-093; 10-29-2004)

Visits to prisoners by private persons, including U.S. citizens resident in the host country, are beneficial and should be encouraged if the prisoner is amenable. You **cannot substitute** such visits, however, for the semi-annual visit by a consular officer or one of the post employees listed above.

7 FAM 463.3-5 Mandatory Consular Officer Visits

(CT:CON-093; 10-29-2004)

You should personally conduct a post-sentencing prison visit:

- (1) Where mistreatment or a violation of rights is alleged or apparent;
- (2) Where the case is high profile or controversial;
- (3) When specifically asked to visit by the prisoner or by the prisoner's family; and
- (4) When directed to do so by the Department.

7 FAM 464 PRISONER HEALTH

(CT:CON-093; 10-29-2004)

It is critical that you actively monitor the ongoing health, including mental health, of U.S. prisoners during the entire period of incarceration.

7 FAM 464.1 Medical Care

(CT:CON-093; 10-29-2004)

The provision of adequate medical care is a recognized and essential responsibility of the imprisoning authority. However, national standards of medical care vary greatly from country to country.

- (1) A level of care considered acceptable by local standards may be woefully inadequate by U.S. standards.

FYI: You may want to consult with the RMO or your panel physicians on possible actions to take, and to obtain their recommendations for a local doctor, particularly if the medical condition seems to warrant a specialist.

- (2) Prison authorities may not be able to provide the same care available outside in the local community.
- (3) While you should insist whenever possible that the imprisoning authorities meet their medical responsibilities, in many instances this may be impossible or futile.

7 FAM 464.1-1 Consular Actions

(CT:CON-093; 10-29-2004)

Your first responsibility is to the prisoner. If you believe that internal medical resources are nonexistent or inadequate, seek outside resources to meet medical needs of prisoners.

- (1) Request prison authorities to bring in competent medical help from the outside.
- (2) If the medical condition seems chronic, you should attempt to secure the prisoner's prior medical history to assist whoever takes on the prisoner's care.
- (3) If the prison has a hospital or clinic, try to get the prisoner admitted.

Note: Prison authorities may be reluctant to hospitalize prisoners because of past experience with prisoners feigning or exaggerating illness. Your insistence that a U.S. citizen prisoner be hospitalized until an adequate professional diagnosis is made will often make the critical difference.

- (4) If prison medical facilities are nonexistent or inadequate, press authorities to relocate the prisoner under guard to a local hospital or clinic.
- (5) Bear in mind that prisoners are known to feign or exaggerate illness in order to relocate to a hospital where life is easier, or escape more possible.
- (6) Do not offer any guarantees regarding the prisoner's actions or behavior. It is the responsibility of the host government to provide,

and pay for, adequate security for any prisoner in, or being transported to or from, a hospital or clinic.

7 FAM 464.2 Dental Care

(CT:CON-093; 10-29-2004)

Even prisons that provide an adequate level of medical services may have little or no dental care available to prisoners.

- (1) While dental care may not seem important or relevant to the incarcerating authorities, there is a growing body of research that indicates dental problems, particularly those involving possible infection, may be the precursors or symptoms of more serious illness.
- (2) Generally, you should assist a prisoner with dental complaints or pain as you would one requiring medical attention, and take the steps above that seem appropriate.
- (3) This normally does not include purely cosmetic dental or orthodontic work, although you may be of reasonable assistance to the prisoner who is paying, or whose family is paying, for such treatment during his or her incarceration.
- (4) If warranted by local circumstances, try to locate sources within the local community that will provide toothbrushes, toothpaste, floss, etc. These relatively inexpensive items can be a major help in encouraging adequate oral hygiene among prisoners.

7 FAM 464.3 Nutrition

(CT:CON-093; 10-29-2004)

Many penal systems do not, for various reasons, provide an adequate, nutritious diet. In these circumstances, you must pay careful attention to the prisoner's health. Should it appear that the prison diet is chronically inadequate, there are steps you can take:

- (1) Try to persuade the responsible prison officials to improve the diet;
- (2) Arrange for contributions of vitamins and minerals from locally-represented U.S. citizen-owned companies, from the local U.S. citizen community, or from other sources;
- (3) Assist prisoners who are the beneficiaries of OCS/TRUST funds or who have money to purchase supplements;
- (4) Have the family or friends of the prisoner send dietary supplements; and

- (5) Utilize the dietary supplement part of the EMDA-I Program. (See 7 FAM 430).

7 FAM 464.4 Mental Health

(CT:CON-093; 10-29-2004)

- a. Many of the U.S. citizens imprisoned abroad are first-time offenders, and others may be serving their first time in prison. As a result, they will often suffer severe emotional reactions to incarceration. Even those with previous U.S. prison experience may exhibit severe morale problems as a result of the alien cultural environment in which they find themselves.
- b. While it is obviously well beyond your ability as a consular officer to eliminate, or even moderate, the basic causes of this reaction, there are a number of actions you might take:
- (1) Ensure that prisoners are aware of whatever mental health services might exist at the prison, (visiting psychiatrist or social worker, group discussions, etc.) and encourage them to participate;
 - (2) Remind them of the value of exercise in reducing or managing stress, and encourage them to participate in whatever physical activities might be available to them;
 - (3) Emphasize the usefulness of voluntary work programs, hobbies, correspondence courses, etc. to relieve boredom and reduce depression; and
 - (4) Encourage prisoners to stay in touch with family members back home, and remind family members of the importance to the prisoner's mental well being of letters, phone calls and visits.

7 FAM 465 AMENITIES AND MORALE BOOSTERS

(CT:CON-093; 10-29-2004)

There are a number of things you can do, or arrange for others to do or provide, that will help prisoners maintain an adequate level of mental health. The suggestions below should be useful, but are by no means all-inclusive. We encourage you to be creative in your efforts to establish programs or obtain items that will be beneficial to the U.S. citizen or national prisoners in your district, and to share your concepts with the Department and other posts.

7 FAM 465.1 Reading Materials

(CT:CON-093; 10-29-2004)

Make English language reading material (especially of U.S. origin) such as books, magazines, and newspapers, available to prisoners. This is a key factor in easing the problems of confinement in an alien society. While there are no EMDA or other Departmental funds available for this purpose, there are a wide variety of other sources that you can tap for reading material:

- (1) Have family members purchase books or magazine subscriptions that can be mailed directly to prisoner;

Note: Caution families and prisoners against material that might be construed as pornographic, inflammatory, or contrary to the religious beliefs of the host country, and subject to confiscation.

- (2) Set up a drop-box in the consular section and encourage post staff to contribute used books and periodicals;
- (3) If your post already has a "Swap Library" work with your CLO to obtain duplicates, older books, etc;
- (4) Suggest that officers departing post donate the remainder of any existing magazine subscriptions;
- (5) Talk with American clubs, religious organizations, etc; and
- (6) See if local publishers or booksellers are willing to donate English-language overstocks or outdated material.

7 FAM 465.2 Holiday Meals

(CT:CON-093; 10-29-2004)

U.S. holidays, especially the family-oriented ones, are particularly difficult emotional periods for U.S. citizen prisoners. A "traditional" holiday meal or other small reminders can help.

- (1) Ask prison officials if they could prepare and serve a traditional meal.
- (2) See if local American clubs, church groups, charities, etc. are willing to provide holiday meals or special delicacies.

7 FAM 465.3 Prison Employment

(CT:CON-093; 10-29-2004)

In many penal systems, work is available to some or all prisoners, and can be beneficial to U.S. citizen or national prisoners by alleviating boredom, increasing socialization, and providing a source of pocket money or credit.

- (1) You should learn what programs exist in prisons holding U.S. citizen or national prisoners.
- (2) Determine that the programs provide some type of remuneration (small salary, percentage of profits from sale of items, credit at prisoner store) or count toward reduction of sentence.
- (3) Establish that the work is not physically debilitating or performed under harsh, unhealthy or dangerous conditions.
- (4) If appropriate, you may encourage U.S. citizen or national prisoners to participate in such programs.
- (5) If feasible, you should also assist U.S. citizen or national prisoners who want to volunteer for programs. In prisons where the opportunities exist but are limited, your expression of interest may make the difference with prison authorities.

7 FAM 465.4 Family Visits

(CT:CON-093; 10-29-2004)

Few things provide a greater emotional boost to the prisoner than visits by family members, particularly when the family is back in the U.S. and visits are infrequent. Normally, you should encourage family members to visit if possible, and assist them during the visit.

7 FAM 465.4-1 Communicate With Family In Advance Of The Visit

(CT:CON-093; 10-29-2004)

- a. Ask family members to tell you as far in advance as possible of an impending long-distance visit.
- b. Provide them with oral or written guidance on prison regulations and what they might reasonably be able to bring to give to the prisoner.
- c. Take the opportunity to request they bring documents or information that might be useful now or later in the case (e.g.: birth certificate, old passport, prescriptions for medicine and eyeglasses, medical record, dental records).

7 FAM 465.4-2 Advise Prison Authorities In Advance, If Appropriate

(CT:CON-093; 10-29-2004)

- a. Ask them to ensure the prisoner will be available at that time.
- b. Arrange for an exception if the visit is outside of normal visiting days or hours.
- c. Arrange if possible for a relatively private and quiet meeting place in the prison.

7 FAM 465.4-3 Assist The Family Members On Arrival

(CT:CON-093; 10-29-2004)

- a. Provide reasonable assistance to them as needed in arranging quarters and transportation.
- b. Arrange to meet with them, preferably both before and after the visit, to exchange information and impressions, and to explain your role to them.
- c. If feasible, consider timing a routine consular visit so that you might accompany the family members to the prison. This gives you more time to dialogue, and allows them to better understand the consular role in arrest cases.

7 FAM 465.5 Education & Training

(CT:CON-093; 10-29-2004)

Any training or education made available to the prisoner may do much to alleviate boredom and depression, and even foster skills that will aid in later rehabilitation and return to society. While there are no U.S. Government funds available for this purpose, to the extent possible you should aid and encourage prisoners in pursuing education and training opportunities.

7 FAM 465.5-1 Language Training

(CT:CON-093; 10-29-2004)

A prisoner facing lengthy incarceration in a country where he or she does not know the language can benefit greatly from language training. Some possible sources could include:

- (1) Prison programs if available, or even books or audiotapes from the prison library;
- (2) Your post language training coordinator may be able to help locate teachers or training material;
- (3) Officers at post, who may have recently emerged from language training at The Schultz Center (FSI), may be willing to loan or donate their personal copies of textbooks and audiotapes; and

- (4) A dual-national, bilingual U.S. citizen or national prisoner may be willing to conduct informal classes, either gratis or for a small stipend from fellow prisoners desiring training.

7 FAM 465.5-2 Technical and Trade Skills

(CT:CON-093; 10-29-2004)

Some prison systems do provide various forms of technical or trade training at little or no cost, often as part of a “learn on the job” work program.

7 FAM 465.5-3 Formal Education

(CT:CON-093; 10-29-2004)

Correspondence courses are often the best resource for advancing formal education, from earning a GED through secondary and post-secondary schooling. There are many sources for identifying such courses, including educational organizations and state universities at the prisoner’s legal US residence.

7 FAM 465.6 Mail

(CT:CON-093; 10-29-2004)

Letters and packages from home constitute a real lifeline for many prisoners, and their replies in turn help reassure anxious family members. Given the importance mail has to the U.S. citizen or national prisoner, and the potential effects on mental well-being, you should do everything possible to help ensure a smooth flow of mail between prisoners and their family members: Your assistance could include:

- (1) Make certain that prisoners and particularly family in the U.S. know exactly how to address mail to ensure delivery to the prisoner, and the international postage required;
- (2) Caution families that there is generally no assurance of privacy for mail to and from the prisoner. Many prisons have elaborate censoring procedures, and most will at least open and examine packages and envelopes;

FYI: Some countries may severely restrict the personal effects and literature a prisoner may receive, and may confiscate goods or materials for local ethical or religious reasons that are often not well understood by the family members.

- (3) Sometimes mail is inordinately delayed or confiscated because the

prison authorities do not have the capacity to review correspondence in English. If this problem develops, you may wish to advise families to try obtaining the services of a certifying translator in the United States who can attach a copy in the host country language to letters sent to the prisoner; and

- (4) When families are sending mail directly to the prison, try during your routine visits to determine with the prisoner what mail has been sent and received, so you can help the family identify letters or parcels that have gone astray, or have been rifled or confiscated by local authorities.

7 FAM 465.6-1 Receiving Prisoner Mail At Post

(CT:CON-093; 10-29-2004)

- a. There are instances when prisons do not offer mail service, or are delaying or improperly confiscating mail to the point where the family simply cannot rely on direct mail to the prison.
- b. In such limited cases, and assuming there is no other workable alternative, such as sending mail to the prisoner's attorney, you may make arrangements with family members to send mail for the U.S. citizen or national prisoner through you under the following conditions and restrictions:
 - (1) The mail is to be addressed specifically to you, or another designated consular officer (ACS chief, ARRESTS officer, etc.) and the prisoner's name should not appear on the outside of the envelope or package;
 - (2) The prisoner and family understand that you cannot accept and deliver any sealed mail. You must examine all letters and parcels upon receipt;
 - (3) You may limit the frequency of letters, and/or the size and number of packages, depending upon post resources;
 - (4) You will neither deliver nor return mail that contains contraband, items prohibited by prison authorities, or mail that encourages or outlines any extra-legal activity, such as escape plans;
 - (5) Funds must be transmitted through the OCS TRUST procedure. You cannot accept cash by mail in these circumstances;
 - (6) You can deliver mail directly to the prisoner only if allowed to do so by prison authorities. Mail may have to go through the same screening and censoring procedures as if sent directly to the prison; and
 - (7) Depending upon the distance to the prison, you may not be able to

arrange special trips just to deliver mail. Mail received from family members may not be delivered until the next scheduled consular visit, and outgoing mail collected from the prisoner at the same time.

7 FAM 465.7 Minor Amenities

(CT:CON-093; 10-29-2004)

- a. As with prisoners in pretrial confinement, you may use prisoners' funds on their behalf to purchase everyday items such as postage stamps, toiletries, and stationery as permitted by prison authorities. Such items may be delivered to the prisoner or prison monitors during routine visits, or if feasible, sent to prison authorities for delivery to individual prisoners.
- b. You may also wish to arrange for donations of such items by Mission families, American clubs and other private organizations or sources within the local community.

7 FAM 466 REPORTING

(CT:CON-093; 10-29-2004)

Current, accurate, and factual reporting is just as important in the post-sentencing phase of an arrest case as in the earlier, more active periods.

7 FAM 466.1 What To Report

(CT:CON-093; 10-29-2004)

- a. Any prison visits, including the date, the person conducting the visit, and any information or observations that seem pertinent.
- b. Any interim information gained between visits, such as the scheduling or results of an appeals hearing, relocation of prisoner, phone conversation with the prisoner or attorney, that might be of significance or interest to the Department, family members or congressional inquirers.
- c. Any perceived changes, positive or negative, in the prisoner's health, nutrition, or mental well-being.
- d. Any provision of services such as those outlined in 7 FAM 465.
- e. Any incident or political action that might affect U.S. citizen or national prisoners, or raise questions or concerns among family members, (e.g.: a riot, hunger strike, possible general amnesty, etc.).

7 FAM 466.2 When To Report

(CT:CON-093; 10-29-2004)

The urgency of any report will generally be driven by the nature of the information it contains. As a general rule, however, you should submit routine reports of prison visits, etc. to the Department within three (3) business days.

7 FAM 466.3 Multiple Arrest Reports

(CT:CON-093; 10-29-2004)

You may find it more efficient to report routine updates, such as a simultaneous visit to several U.S. citizens in one prison, in a single cable. The Department considers such combined reporting as a reasonable conservation of consular resources. However, the Department does request that posts send **individual** arrest cables on the following types of cases:

- (1) Cables reporting the initial arrest of a U.S. citizen;
- (2) Cables reporting the release of a specific prisoner;
- (3) OCS TRUST and EMDA-1 cables;
- (4) Cables requesting specific action by the Department; and
- (5) Cables on any case or issue that you believe requires particularly sensitive or urgent handling.

7 FAM 466.4 Responding To Inquiries

(CT:CON-093; 10-29-2004)

You should answer all inquiries received from a prisoner's family members of Congress promptly and as responsively as possible.

- (1) Normally, your response should be sent directly to the inquirer, with a copy to the Department.
- (2) In responding to inquiries, be careful to ensure that you have appropriate, up-to-date Privacy Act waivers.
- (3) At the request of the prisoner, you may call or send an e-mail, fax or letter directly to the specified family member or friend to advise them of a prisoner's needs or to assure them of the prisoner's well being.

7 FAM 467 THROUGH 469 UNASSIGNED

(CT:CON-093; 10-29-2004)