

7 FAM 490 POST-CONFINEMENT AND RELEASE ISSUES

*(CT:CON-133; 04-10-2006)
(Office of Origin: CA/OCS/PRI)*

7 FAM 491 RELEASE

(CT:CON-133; 04-10-2006)

It is essential that the release of a U.S. citizen who has been imprisoned be reported promptly to the Department (CA/OCS/ACS). This should be done using the ACS Plus system, email and followed by priority telegram. This confirmation requirement applies even though an earlier interim report may have provided the exact date of the scheduled release.

7 FAM 492 DETENTION AND DEPORTATION

(CT:CON-133; 04-10-2006)

In some countries it has become the practice of law enforcement officials to attempt to release U.S. citizen/non-citizen national petty offenders, such as those apprehended with fewer than 100 grams of marijuana, to the custody of the U.S. consular officer, with the understanding that the latter will see to it that the offender promptly leaves the country. **The consular officer has no authority to accept the custody of a U.S. citizen in such a situation, nor can the officer guarantee that the released citizen will depart the country.** While the consular officer should do all that is legally permissible to facilitate the citizen's departure, the officer cannot assume custody nor make a commitment that the released U.S. citizen/national will depart.

7 FAM 493 RELEASE ON BAIL

(CT:CON-133; 04-10-2006)

In many instances, U.S. citizens/nationals arrested abroad are released on bail pending trial, but their passports are held by the local authorities. Should such U.S. citizens/nationals apply for another passport, the consular officer should follow the guidance in 7 FAM 1380 regarding confiscated passports. 7 FAM 473 provides discussion about escaped prisoners.

7 FAM 494 REQUEST FOR CONSULAR ASSISTANCE FOREIGN PROBATION/PAROLE OFFICERS IN COMPILING PRE-SENTENCE BACKGROUND REPORTS

(CT:CON-133; 04-10-2006)

Occasionally, posts will receive requests from foreign judicial or penal authorities for assistance from the United States in compiling pre-sentence background reports for probation officers assigned to U.S. citizen arrestees abroad. CA/OCS/PRI can make inquiries on a case by case basis with the Administrative Office of U.S. Courts, Federal Public Defender Service to ascertain what if any assistance is available to the host country. Contact us at ASKPRI@state.gov.

7 FAM 495 REQUESTS FOR CONSULAR OFFICERS TO SERVE AS PROBATION/PAROLE OFFICERS

(CT:CON-133; 04-10-2006)

Occasionally, parole officers in the United States make inquiries about whether a released prisoner may report to a U.S. consular officer abroad as a condition to permit the individual to travel outside the United States. Probation is when a person is put under supervision of a court in lieu of going to prison. Parole is supervision after a period of incarceration. The answer is “no.” Of course, the former prisoner would be free to execute a notarial before a U.S. consular officer, which requires a personal appearance and presentation of proof of identity. (See 7 FAM 800). Posts should not undertake other duties with respect to former prisoners without express permission from CA/OCS/PRI, in consultation with L/CA. CA/OCS generally suggests that posts inquire whether there is a counterpart in the host country such as a probation or parole office or organization to whom the individual could report.

7 FAM 496 RELEASED PRISONERS PROPERTY ISSUES

(CT:CON-133; 04-10-2006)

Consular officers should not take custody of the personal property of a U.S. citizen released from prison abroad or act as an agent in shipping personal property of a prisoner to the United States. (See 7 FAM 423.8 and

7 FAM 485.4 and 7 FAM 620).

7 FAM 497 CRIMINAL RECORD QUESTIONS

(CT:CON-133; 04-10-2006)

Prisoners may inquire whether their foreign conviction will result in a criminal record in the United States. See the U.S. Department of Justice discussion about this issue in the CA/OCS Intranet prisoner transfer feature, International Prisoner Transfer Prior Record. If the prisoner is concerned about civil disabilities because of the prior conviction (e.g., unable to serve on a jury, prohibited from holding public office, unable to vote, unable to be a union representative or prohibited from possessing a firearm) these disabilities usually require the conviction to be a "Federal, State or Local" court and a foreign conviction would not count. Most laws regarding civil disabilities are state laws. Whether a foreign conviction will result in a criminal record in the United States or otherwise affect whether the individual will be eligible to vote or exercise other rights and privileges in the United States is a matter the prisoner may wish to discuss with an attorney in his or her state of residence in the United States or state law enforcement authorities, since it is largely a matter of state law. 7 FAM 1730 provides information regarding mandatory reporting requirements concerning certain crimes against children (sexual exploitation) under the Protect Act, 18 U.S.C. 2423.

7 FAM 498 RELEASED PRISONERS AND EMDA AND/OR REPATRIATION DEBT

(CT:CON-133; 04-10-2006)

Posts should ensure that the names of prisoners being released who incurred Emergency Medical and Dietary Assistance loans as prisoners (see 7 FAM 440) or who are given repatriation loans (see 7 FAM 300) are entered in the CLASS system (see 7 FAM Appendix 1300 (a)), and that they only bear limited validity passports limited for direct return to the United States. (See 7 FAM Appendix 1350 (f)).

7 FAM 499 UNASSIGNED