

7 FAM 620

ACCEPTING PRIVATE PROPERTY FOR SAFEKEEPING

(CT:CON-103; 05-02-2005)
(Office of Origin: CA/OCS/PRI)

7 FAM 621 WHEN CAN YOU ACCEPT PRIVATE PROPERTY FOR SAFEKEEPING?

(CT:CON-103; 05-02-2005)

- a. **Key U.S. Laws:** You are authorized by U.S. law to accept private property for safekeeping in three circumstances:
- (1) When acting as provisional conservator for the estate of a **deceased** U.S. citizen (22 U.S.C. 2715c);
 - (2) When discharging responsibility for the personal effects of a **deceased** seaman (46 U.S.C. 10704);
 - (3) When securing property in connection with a disaster at sea (46 U.S.C. 721).
- b. **Key U.S. Regulations**
- (1) The key U.S. regulation for storage and safekeeping of private property is 22 CFR 71.5.

22 CFR 71.5 provides ... “Except in a public emergency, no officer of the Foreign Service shall accept private property for storage or safekeeping in the office or for transmission to some other destination, unless it is property belonging to the estate of a deceased American citizen, or property over which the officer has jurisdiction as a result of a catastrophe at sea. In public emergencies, officers may accept private property for storage and safekeeping or for transmission to another destination, provided the owner signs a statement to the effect that the property is being accepted for deposit at his request, at his own risk, and with full knowledge that neither the Government of the United States nor any of its officers assumes responsibility therefore.”

- (2) 22 CFR 102.14 Salvage of Mail and Other Property (See 7 FAM 1800 Consular Crisis Management); and
- (3) 22 CFR 102.19 Protection of United States Property (See 7 FAM 1800 Consular Crisis Management).

7 FAM 622 WHEN DOES A PUBLIC EMERGENCY RESULT IN ACCEPTANCE OF PRIVATE PROPERTY?

(CT:CON-103; 05-02-2005)

22 CFR 71.5 anticipates, but does not define, a state of “public emergency” in which U.S. citizens fleeing a situation might seek assistance of the nearest U.S. embassy or consulate for the safekeeping of personal property. The Department (CA) has generally prohibited officers from accepting private property, except in instances where there is clear statutory authority for doing so. Frequently, situations that appear to constitute a public emergency, such as a revolution, civil war, a riot, or a civil disorder, often pose a more direct threat to the security of private U.S. citizens, the post, and its personnel than to private property. Officers of the post, if not themselves directly under attack must concentrate their efforts on measures to protect the lives and safety of U.S. citizens. Protection of property is secondary in such circumstances. Moreover, we recognize that the authority to accept private property as contemplated in 22 CFR 71.5 should be exercised rarely, and only with the express permission of the Department (CA/OCS/ACS and L/CA) as appropriate. Property should never be accepted if you anticipate a post evacuation.

7 FAM 623 ACCOUNTABILITY

(CT:CON-103; 05-02-2005)

All consular personnel should be aware that, in the limited circumstances in which property owned or claimed by U.S. citizens is accepted for safeguarding, the officer who accepts the property is accountable for ensuring that it is properly inventoried, securely stored, and disposed of in accordance with the procedures described in this chapter.

7 FAM 624 EXCEPTIONS TO GENERAL POLICY

(CT:CON-103; 05-02-2005)

Exceptions to this policy regarding non-acceptance of personal property may be made for cases involving a substantial U.S. public interest, such as a request to safeguard private business or scientific documents that are vital to the U.S. national security. This exception may be exercised **only** with express Department (CA/OCS/ACS and L/CA) authorization.

7 FAM 625 PROCEDURES TO FOLLOW IF AUTHORIZED TO ACCEPT PRIVATE PROPERTY

(CT:CON-103; 05-02-2005)

If the Department (CA) authorizes you to accept private property from an owner for storage or transmission, you must take the following steps:

- (1) The owner of the property must sign a disclaimer approved by the Department (CA/OCS and the Office of the Legal Adviser). If the citizen refuses to sign the disclaimer, the officer must refuse to accept the property;
- (2) You must prepare an inventory of the property. The inventory must reflect accurately the contents of any receptacle. The inventory should be witnessed by two disinterested persons (persons who have no claim to the property, who may be consular section employees) and formally acknowledged by the depositor. See 7 FAM 800 Notarial Services. Both the owner and consular officer sign a receipt containing the inventory of the items accepted and all known addresses and telephone numbers of the owner. Each retains a copy of the receipt. A sealed copy should be forwarded to CA/OCS/PRI for safekeeping;
- (3) You should exercise good judgment in the handling of the property. You should not accept any closed or sealed receptacle, such as a sealed envelope, sealed package, or locked suitcase, without thoroughly inspecting its contents in the presence of the person who is relinquishing custody;
- (4) Property accepted for safekeeping should be kept in a secure area, preferably to which only the accountable, consular officer has access;
- (5) The consular officer who accepts the property is personally accountable for storing it in a secure area, keeping an accurate record of accountability, and turning over the inventory, disclaimer, receipt, record of accountability, and property to the officer's successor;

- (6) The consular officer submits a detailed follow up report to the Department (CA/OCS) on the circumstances leading to acceptance of the property; and
- (7) The originals of all completed documents shall be sent promptly to the Department (CA/OCS/PRI). For record keeping purposes, the post may retain an authenticated copy of these documents.

7 FAM 626 RELEASE OF PROPERTY ACCEPTED FOR SAFEKEEPING

(CT:CON-103; 05-02-2005)

- a. Release of property accepted for safekeeping is subject to any applicable Foreign Assets Control regulations. If property accepted for safekeeping is located in a country subject to such regulations, the person applying for release of the property must obtain the appropriate license from the Office of Foreign Assets Control (OFAC).
- b. A person applying for release of the property accepted for safekeeping must establish proof of entitlement. In the event of the death of the original depositor, this could mean presentation of letters testamentary or letters of administration.
- c. A person requesting release of property accepted for safekeeping must be prepared to receive the entire property deposit. Selected items may not be removed from the deposit.
- d. The depositor or authorized representative is responsible for making all arrangements for transporting the property to the United States or other location. Property cannot be transported via the diplomatic pouch.

7 FAM 627 LOST AND STOLEN PROPERTY OF MINIMAL VALUE - WALLETS, HANDBAGS, NAPSACKS AND SIMILAR ARTICLES

(CT:CON-103; 05-02-2005)

- a. The following discussion pertains to property of living persons. For guidance on disposition of personal effects of deceased U.S. citizens see 7 FAM 200.
- b. Despite having little commercial value, lost or stolen billfolds, purses,

luggage, and other personal items ostensibly belonging to U.S. citizens require some consular protective action. Such items, of value primarily to their owners, are often received at post in the mail or directly from third persons.

- c. Lost, stolen, or misplaced property of nominal value may be accepted for transmission only--never for safekeeping. If the owner's address cannot be found readily, request the Department's help in searching passport records for the individual's last known address.
- d. When postage fees are substantial, the consular officer should require advance payment of postage or shipping fees by property owners.
- e. If local authorities advise that they have possession of, or have information about the location of, lost or stolen property of U.S. citizens and that the authorities are willing to retain it, they should be urged to retain the property while the post tries to locate the owner and ascertain the owner's wishes in the matter. The authorities should be asked to provide, if possible, the name and address or other identifying data of the probable owner of recovered, lost, or stolen property. Upon obtaining this information, the consular officer should inform the owner of the whereabouts of the property and how it can be retrieved. You may seek the Department's (CA/OCS/ACS) assistance in notifying property owners.
- f. If the property appears to have more than nominal value, the consular officer should notify CA/OCS/ACS and provide details, before accepting the property.
- g. If hotels, tour guides, or other local holders of lost or stolen property attempt to give property to the post for transmission to the United States, encourage them to return it to the owner directly.
- h. If U.S. citizen ownership has been established, you should request CA/OCS/ACS to notify the owner, in writing and by certified mail, that the lost, stolen, or misplaced property has been located and that the post will arrange for disposal of it if the owner does not respond to the notice within three months. If the owner seeks to reclaim the property, CA/OCS/ACS will advise you what to do with the property. The entire procedure (notification, response, and retrieval of the property) should be completed within one year.
- i. If the owner does not respond within three months, CA/OCS/ACS will advise the post to dispose of the articles by one of the following methods:
 - (1) Donation to a local organization of U.S. citizens;
 - (2) Public sale or auction, if allowable under local law;

- (3) Donation to a local (host country) organization; or
 - (4) Surrender to local authorities. The disposition should accord with local law or practice.
- j. Unclaimed articles must not be sent to CA/OCS/ACS. Instructions in this section should not be confused with instructions on the disposition of unclaimed articles among the personal estates of deceased citizens. See 7 FAM 200.

7 FAM 628 PERSONAL PROPERTY OF PRISONERS

(CT:CON-103; 05-02-2005)

- a. As a general rule, you should not accept the personal property of U.S. citizen prisoners. See 7 FAM 423.8 Protecting Prisoners' Personal Property.
- b. **Prisoner Transfer and Extradition:** This issue has arisen on a number of occasions, sometimes involving the subject of a prisoner transfer who wants to bring back to the United States more items than are permitted by the U.S. Bureau of Prisons regulations. When a prisoner transfer or extradition occurs, the U.S. Department of Justice and Bureau of Prisons or U.S. Marshal's Service will provide CA/OCS and the U.S. embassy with a list of prisoner's property and the dimensions of the package that may accompany the prisoner and escorts. See 7 FAM 485.4 Prisoner Transfer Personal Effects, and 7 FAM 1626.3 Extradition: Disposition of Articles Seized at Time of Arrest.
- c. **Property at Prisoner's Last Residence:** We have also seen cases of prisoners who ask consular officers to go to their last residence and pick up their possessions. Such property may be of concern to host country criminal investigators. It may contain contraband. You should not accept such private property for safekeeping.
- d. **Passports:** Of course, a U.S. passport is the property of the United States government (22 CFR 51.9), not the bearer, and you may accept that document if presented by the prisoner or the host government.

7 FAM 629 UNASSIGNED