

7 FAM 1920

CONSULAR OFFICER'S AUTHORITY AND RESPONSIBILITY TO VICTIMS OF SERIOUS CRIMES

(CT:CON-98; 12-13-2004)
(Office of Origin: CA/OCS/PRI)

7 FAM 1921 AUTHORITIES

(CT:CON-98; 12-13-2004)

- a. State and Federal governments have enacted laws that specify the rights of crime victims and many states have amended their State constitutions to accord rights to victims.
- b. Foreign governments have also recognized the unique problems experienced by victims of crime. See the non-binding U.N. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted by General Assembly resolution 40/34 of November 29, 1985.
- c. Consular authority to provide assistance to U.S. citizen victims of crime abroad and their families in the United States is derived from:
 - (1) Article 5 of the Vienna Convention on Consular Relations;
 - (2) 22 U.S.C. 1731 Protection of Naturalized Citizens Abroad;
 - (3) 22 U.S.C. 2715 Procedures Regarding Major Disasters and Incidents Abroad Affecting United States Citizens;
 - (4) 22 U.S.C. 2715a Provision of Information on Certain Violent Crimes Abroad to Victims and Victims' Families;
 - (5) 22 U.S.C. 3904(1) Functions of Service;
 - (6) 22 CFR 71.1 Protection of Americans Abroad; and
 - (7) 22 CFR 71.6 Services for Distressed Americans.

7 FAM 1922 WHAT IS THE ROLE OF THE CONSULAR OFFICER?

(CT:CON-98; 12-13-2004)

PHYSICAL SAFETY OF THE VICTIM AND HIS OR HER SENSE OF SECURITY ARE YOUR MOST IMPORTANT CONCERNS.

- a. In many serious crime cases abroad, the victims and/or family and friends look to you for assistance because they do not know how things work in a foreign country. You must be empathetic and understanding when helping either the victim or his/her family or friend. They are undoubtedly scared, frustrated and emotionally distraught trying to deal with their problems in an unfamiliar, foreign environment with none of their usual support systems available. See Consular Assistance to Victims of Crime Resource Notebook on the CA/OCS Intranet feature (“Notebook”) Tab 7, General Guidelines for Assisting Victims of Crimes. Also see 7 FAM 1930.
- b. The Consular Section should prepare a handout, cleared by CA/OCS/ACS, explaining the criminal justice system in your country. Also include what you can do for the victim so he/she will have written information to review and help him/her make the necessary decisions. Post the handout on your Web site because some victims choose not to report the assault to you, but may still need assistance and information.
- c. See the “Sample Handout Criminal Justice Process” tab in the Consular Assistance to Victims of Crime Resource Notebook on the CA/OCS Intranet feature and the CA/OCS brochure “Help for American Victims of Crime Overseas”.
- d. **Quick Reference Checklist:**
 - (1) Establish immediate contact with the victim or in the event the victim dies, the victim’s family;
 - (2) Express empathy that the victimization occurred or condolences for the family’s loss, and validate their reactions to the traumatic event;
 - (3) Report the incident to CA/OCS/ACS immediately by telephone followed by a cable;
 - (4) Establish a proactive “case-worker approach” in which the victim or family talks primarily to one person who is responsible for communication about the case. An officer in CA/OCS/ACS responsible for the region will facilitate communication with the post

as necessary;

- (5) Assess and address safety issues and immediate emergency medical and physical needs of the victim in coordination with local authorities;
- (6) Assist the victim with immediate basic needs, such as shelter, food and clothing;
- (7) Involve local crime victim assistance specialty programs where available and appropriate, e.g., rape crisis intervention, child protective services, shelters for battered women, and other victim support schemes;
- (8) Consult with CA/OCS/ACS to identify additional services that can be provided, including referral to specialized victim assistance programs and crime victim compensation in the United States;
- (9) Assist the victim with making a police report;
- (10) Ascertain the status of the police investigation into the incident and request a copy of the police report to provide to the victim, with translation if possible;
- (11) Assist the victim with the practical consequences of the crime, such as facilitating contact with family and/or arranging for a prompt return home, etc.;
- (12) Help the victim regain control of his/her life by providing information about what to expect in the immediate future (anticipated treatment, changes in hotel arrangements, law enforcement action and how the return of recovered stolen property is handled, etc.);
- (13) Provide the victim with written information about the host country's criminal justice process and points of contact for additional information about the host government; and
- (14) See 7 FAM 1932 for further guidance regarding specific crimes.

YOU CAN...

- Listen to the citizen's report of what happened and provide information about help in accessing local sources of assistance
- Observe the citizen's behavior, words, and demeanor and offer appropriate assistance.
- Report the case to CA/OCS/ACS in objective terms
- Coordinate with host country authorities, making appropriate representations on behalf of the citizen

- Provide the citizen with written information about resources for crime victims available in the United States
- Relay information to family, friends, Congressional offices, etc., consistent with the Privacy Act. See the CA/OCS Intranet Privacy Act Feature
- Provide financial assistance to citizens through OCS Trust monies sent by family or friends and Repatriation/EMDA loan programs

See 7 FAM 300.

YOU CAN NOT:

- **Act as a social worker, counselor or legal adviser**
- **Pledge the expenditure of U.S. Government funds in payment of expenses for transport or care for a patient beyond what is available under the Repatriation/EMDA programs**

See 7 FAM 300.

7 FAM 1923 WHAT IS THE ROLE OF THE CA/OCS CRIME VICTIM ASSISTANCE UNIT?

(CT:CON-98; 12-13-2004)

- a. Promote consistency in our response to U.S. victims of all serious crimes abroad.
- b. Assist posts in better understanding the impact of crime on victims, the range of services that may be necessary and available and how they may be accessed, key principles of victim assistance and the importance of being proactive in serious crime cases.
- c. Provide posts with information about medical and emotional needs of victims of crime.
- d. Provide posts and CA/OCS/ACS with information and suggestions for appropriate resources in individual cases and serve as liaison with other government agencies.
- e. Promote consistent front-channel reporting of serious crime incidents involving U.S. citizens.
- f. Maintain reference lists of help providers in each state.
- g. Develop and maintain statistics on the number of U.S. citizen victims of crime overseas, including the nature and location of crimes against U.S.

citizens abroad. See 7 FAM 200 (Deaths).

- h. Provide “crime victim assistance training” to posts abroad and keep the Crime Victim Assistance Resource Notebook up to date.

7 FAM 1924 WHAT IS THE ROLE OF CA/OCS/ACS?

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- a. Advise family or friends of an incident that may have involved their relative/friend, or advise posts of an inquiry from family, friends, employers, etc. about a U.S. citizen abroad who may have become a victim of a crime.
- b. Coordinate with other government agencies on repatriation of crime victims in the U.S. and refer victims to appropriate services.
- c. Refer victims returning to the United States to appropriate crime victim assistance programs and state crime victim compensation programs that may pay for medical treatment, counseling, funerals, and other expenses when insurance is not available.
- d. Work with family members of child abuse victims and assist in arranging comprehensive multi-disciplinary evaluations and treatment at children’s advocacy centers in the United States, and facilitate contacts with crime victim compensation programs.

7 FAM 1925 ARE THERE LIMITATIONS ON CONSULAR OFFICERS REGARDING VICTIMS OF CRIMES AND DISCLOSURE OF INFORMATION (PRIVACY ACT)?

(CT:CON-98; 12-13-2004)

- a. Information contained in a name-retrievable system of records concerning a U.S. citizen/national victim of a crime may not be disclosed by any means of communication to any person, or to another agency except:
 - (1) By written authorization by the individual who is the subject of the record; and
 - (2) In accordance with the 12 exceptions to the conditions of disclosure in the Privacy Act, as amended (5 U.S.C. 552a(b)(1) - (12)).
- b. In a victim of crime situation, disclosure could be permissible under one

of the following statutory exceptions:

- (1) 5 U.S.C. 552a(b)(3) - “for a routine use” published in the Federal Register; or
 - (2) 5 U.S.C. 552a(b)(8), (health or safety of an individual) “to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last know address of such individual.”
- c. Potentially applicable routine uses are contained in the system description for the “Overseas Citizen Services Records” (STATE-05).
 - d. The health and safety exception of the Privacy Act (5 U.S.C. 552a(b)(8) makes it possible to release information about the victim of a serious crime without a Privacy Act waiver. The information, however, can only be released to those who can reasonably be expected to assist the U.S. citizen victim and a notification of disclosure must be sent to the last known address of the victim.
 - e. See the CA/OCS Intranet Privacy Act Feature. See also the Privacy Act Tab in the Consular Assistance to Victims of Crime Resource Notebook for other Privacy Act considerations in crime victim cases and 7 FAM 060 (Privacy).
 - f. See 7 FAM 1940 Reporting crime victim cases.

7 FAM 1926 THROUGH 1929 UNASSIGNED