

Consular Notification and Access

Sources of Authority

Vienna Convention on Consular Relations (VCCR)

Other bilateral agreements, conventions or treaties

Right of foreign national to notify consulate

- When a foreign national is arrested or detained, they must be advised of their right to notify their consulate

Required notification of consulate

- 1. When arrested or detained foreign national requests notification
- 2. When foreign national's country is on the Mandatory Notification List
- 3. When a guardianship or trusteeship is being considered in respect to a foreign national who is a minor, or incompetent adult
- 4. Death of a foreign national
- 5. When foreign ship or plane wrecks or crashes

Notification and Access

Notification takes place to the nearest consulate

Consular officials are entitled to access their foreign national in detention

Mandatory Notification Countries

Mandatory notification countries must be notified even if the foreign national does not want notification

- But, if the foreign national is seeking Asylum, this fact is not to be revealed to the consulate

Appointment of Guardian or Trustee for Foreign National

- “Whenever a probate court or other legally competent authority considers appointing a guardian or trustee with respect to a foreign national who is a minor or an adult lacking full capacity, the nearest consular authorities for that national’s country must be informed without delay.”
- Vienna Convention Article 37

“Without Delay”

- -immediately
- -within one, two or three days
- Failure to timely notify consulate - latter is better than never.
- The foreign national is to be told that the consulate has been notified.

Who is Responsible for Notification for Appointment of Guardian or Trustee

- 1. Court officials, or
- 2. Representative of state or local equivalent of Attorney General, or
- 3. Other appropriate official involved in the guardianship process.

Resources

- The U.S. Department of State has a very useful website that contains detailed information about consular notification and access including a list of mandatory notification countries and a listing of all the consulates in the U.S.
- Go to travel.state.gov
- Click on laws and policy
- Click on consular notification and access
