

The Role of the U.S. Government in Arrest Cases

While in Burma, a U.S. citizen is subject to Burmese laws and regulations, which sometimes differ significantly from those in the United States and may not provide the same protections available in the United States. Penalties for breaking the law can be more severe than in the United States for similar offenses. Persons violating the law, even unknowingly, may be expelled, fined, arrested, or imprisoned. Penalties for possession, use, or trafficking in illegal drugs in Burma are strict, and convicted offenders can expect jail sentences and fines. A citizen arrested in Burma must go through the Burmese legal process to be charged or indicted, prosecuted, convicted and sentenced, and for any appeals.

The United States Government cannot arrange for a U.S. citizen to be released from a jail or prison.

U.S. citizenship does not entitle anyone to special privileges in the Burmese legal system. The U.S. Embassy does not have authority to intervene in the Burmese justice system and cannot act as a legal representative or provide legal advice to U.S. citizens.

The Role of the Consular Officer

While there are definite limits on the role they can play, Consular officers can provide a wide variety of services to U.S. citizens who are incarcerated in Burma.

A consular officer may do the following:

- Visit an arrested U.S. citizen in jail after being notified of the arrest, to check on the prisoner's treatment by law enforcement authorities and to monitor the state of his/her health and well-being.
- On request of the prisoner, notify family and friends regarding the situation, and relay requests for financial or other aid.
- Provide information about judicial procedures in Burma.
- Provide a list of local attorneys. (Note: The consular officer cannot help to select an attorney from the list, nor can the officer provide legal advice.)

- Work to facilitate communications with family, friends, and legal counsel, subject to local law and regulations.
- Work to ensure that the individual's basic rights under local law are protected and that he/she is treated humanely in accordance with internationally accepted standards.
- Follow the progress of the individual's case in the judicial system.
- Visit an incarcerated U.S. citizen regularly and report on those visits to the Department of State.
- If convicted, provide dietary supplements (vitamins/minerals), if necessary.
- Assist in arranging for medical and dental care, if not provided by prison, to be paid for from prisoner's funds; funds provided by family; or, if applicable and subject to conditions, funds loaned to the prisoner by the U.S. government under the Emergency Medical/Dietary Assistance (EMDA) program for destitute U.S. citizens incarcerated abroad.
- With concurrence from the State Department in Washington DC, protest any mistreatment by local officials while incarcerated.

A consular officer cannot:

- Demand the immediate release of a U.S. citizen arrested in Burma, or otherwise cause the citizen to be released.
- Represent a U.S. citizen at trial, give legal advice or pay legal fees and/or fines with U.S. Government funds.
- Intervene in the Burmese judicial system.
- Identify and/or contract an attorney to represent the individual before the court.