



Australian Government

Department of Foreign Affairs and Trade

HOW TO CONTACT FOREIGN CONSULAR OFFICIALS

To locate the relevant nearest embassy/consulate,
see the list on the Department of Foreign Affairs
and Trade website:
<https://protocol.dfat.gov.au/Public/Display>

Please direct any further questions to:

PROTOCOL BRANCH
protocol.branch@dfat.gov.au
OFFICE HOURS: 02 6261 1111
EMERGENCIES AND OUT OF HOURS: 0418 167 127

DETENTION OR DEATH OF A FOREIGN NATIONAL IN AUSTRALIA

THIS BROCHURE OUTLINES THE RESPONSIBILITIES OF COMMONWEALTH, STATE AND TERRITORY AGENCIES IN THE CASE OF DETENTION, DEATH OR INJURY OF A FOREIGN NATIONAL SO AUSTRALIA CAN MEET ITS INTERNATIONAL OBLIGATIONS. THESE OBLIGATIONS EXIST UNDER THE VIENNA CONVENTION ON CONSULAR RELATIONS (VCCR). SPECIFIC ARTICLES OF THE VCCR ARE IMPLEMENTED IN AUSTRALIAN LAW THROUGH THE CONSULAR PRIVILEGES AND IMMUNITIES ACT 1972.



DETENTION OF A FOREIGN NATIONAL

RIGHTS OF A DETAINED FOREIGN NATIONAL

Where a foreign national is detained, the detainee has the right to request consular services from a relevant foreign consular official. Detainees should be provided with adequate interpreting services where necessary and/or required.

For interpreting services, call Translating and Interpreting Service (TIS National) on 131 450 (costs may apply).

RIGHTS OF CONSULAR OFFICIALS IN RELATION TO DETAINED FOREIGN NATIONALS

Under the Vienna Convention on Consular Relations 1963 (VCCR), consular officials in Australia have rights if requested by a detained foreign national, to:

- visit the detained foreign national who is in prison, custody or detention
- converse or correspond with the detained foreign national
- arrange for their legal representation

WHAT TO DO IF YOU DETAIN A FOREIGN NATIONAL

Inform without delay, or as soon as possible, the detained person of their rights to have the relevant embassy or consular post informed of their detention and to request consular assistance.

Tell detainee: You can ask us to inform your consulate or embassy now or at any time in the future.

Ask detainee: Do you want your consulate or embassy notified of your arrest/detention?

Record the detainee's response regarding consular notification in writing.

If answer is "Yes"

- Notify their embassy/consulate without delay or as soon as practicable of their detention and request for consular assistance.
- Forward any communication addressed to the embassy/consulate by the detainee without delay or as soon as practicable.
- Allow access for consular officials to visit, converse, correspond, and to arrange legal representation for the detainee.

If answer is "No"

- Do not notify the embassy/consulate of the detainee's arrest/detention.
- Exception: In the case of Indonesia, basic, de-identified information will be provided to the embassy/consulate even if the detainee has not provided consent* (see below).

Note additional notification requirements for nationals of the following countries:

China

- If the detainee answers "Yes", notify embassy/consulate, including the reasons for which the national has been detained, within 3 calendar days.
- Access to the detainee should be guaranteed within 2 days of the initial notification of the arrest or detention.
- If the detainee answers "No", do not inform the consulate or embassy.
- In the case of a trial or other legal proceeding, provide the consulate or embassy information on the charges, and permit a consular officer to attend the proceedings. **Note:** this applies regardless of whether or not the individual consents. Contact DFAT as needed to clarify.
- Embassy Tel: 0434 716 788 or 02 6228 3948

Vietnam

- If the detainee answers "Yes", notify embassy/consulate, including the reasons for which the national has been detained, within 3 working days.
- Access to the detainee should be guaranteed within 2 working days of the initial notification of the arrest or detention.
- If the detainee answers "No", do not inform the consulate or embassy.
- In the case of a trial or other legal proceeding, provide the consulate or embassy information on the charges, and permit a consular officer to attend the proceedings. **Note:** this applies

regardless of whether or not the individual consents. Contact DFAT as needed to clarify.

- Embassy Tel: 02 6169 4916

*Indonesia

- If the detainee answers “Yes”, notify embassy/consulate within 3 working days.
- If the detainee is silent or answers “No”, only inform the embassy/consulate in writing that an Indonesian national has been detained; no identifying personal information is to be provided.**
- Embassy Tel: 0450 475 094 or 02 6250 8600

**De-identifying records for Indonesia

Information is de-identified where there is no reasonable likelihood of re-identification occurring. This means ensuring that an individual cannot be reasonably identified from any information provided to, or available to, an embassy or consulate, including from publicly available material and/or from the broader context in which the information is provided.

For example, if information about the detention of a particular foreign national is already in the media, the aggregate effect of that information and the notification to the consulate or embassy should be considered by the detaining authority when notifying the relevant consulate or embassy.

DETAINED DUAL NATIONALS

It is Australian Government policy to allow consular assistance to dual nationals if expressly requested.

If the detainee holds the nationality of Australia and another country, they may request consular assistance from their embassy/consulate.

Record the detainee's response regarding consular notification in writing.

Do not notify the embassy/consulate if they do not agree for them to be notified.

DEATH OR INJURY OF A FOREIGN NATIONAL

NOTIFICATION OF THE DEATH OF A FOREIGN NATIONAL

The authority which registers the death, whether it be police, a coroner or other authority, should inform the relevant foreign embassy or consulate of the death without delay and provide a copy of the death certificate upon request.

INJURY OR HOSPITALISATION OF A FOREIGN NATIONAL

Where a foreign national is seriously injured or hospitalised and is incapacitated, it may be appropriate for authorities to contact the person's consulate or embassy if contact cannot be made with next of kin. In such circumstances, we would encourage authorities to contact the person's consulate or embassy as soon as practical.

If the appointment of a guardian or trustee appears to be in the interests of a foreign minor or other foreign national lacking full capacity, the embassy or consulate should be informed without delay (subject to the laws and regulations of the relevant jurisdiction).

Local authorities having trouble contacting the relevant embassy/consulate of a detained, injured, hospitalised or deceased foreign national should, without delay, advise the Protocol Duty Officer, Department of Foreign Affairs and Trade.

DFAT PROTOCOL BRANCH DUTY OFFICER: 0418 167 127 (24 HRS)