



United States Department of State

Washington, D.C. 20520

August 31, 2009

Dear Mr. Tarleton:

Thank you for your letter of May 13 concerning the death of the teenage son of your former constituent, Stephanie Kaye White. We regret the delay in our response.

The U.S. Embassy in Seoul, Korea, reached out to Mrs. White shortly after her son, Stephen Michael "Mike" White, drowned at the Hawaiian Sauna in Gyeongsan, South Korea, on May 10, 2008, and remained in contact with her several times a week and in late July, several times a day. Very much aware that Mike's loss has been devastating to his mother, the U.S. Embassy continues to assist Mrs. White in any way it can.

We are aware that Mrs. White disputes the conclusions of the police-mandated autopsy report as to what caused her son to lose consciousness and drown. Mrs. White has asked the Department for information for citizens who are victims of crime. This information has just been posted on U.S. Embassy Seoul's website at <http://www.asktheconsul.org/>. We are enclosing a copy of "Help for American Victims of Crime in South Korea" that you may share with Mrs. White.

We hope that this information has been helpful. Please feel free to contact us at 202-647-5470 or by email at [mcfadyenlp@state.gov](mailto:mcfadyenlp@state.gov) if we can assist you further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda P. McFadyen".

Linda P. McFadyen  
Citizens Services Specialist  
American Citizens Services and  
Crisis Management

Enclosure: as stated

The Honorable

Cullie M. Tarleton,

North Carolina House of Representatives.



United States Embassy  
Seoul, Republic of Korea

(02) 397-4114, DSN 721-4114; Fax: (02) 397-4101, DSN 721-4101  
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## Help for American Victims of Crime in South Korea

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Please click on this link to read the Department of State's brochure for victims of crime.

### *August 2009*

Being the victim of a crime in a foreign country can be a devastating and traumatic experience. While no one can undo the emotional trauma, physical injury, or financial loss you may have experienced, the U.S. Embassy in Seoul is ready to help. We are very concerned about violent crimes committed against U.S. citizens in Korea. We will assist you in managing the practical consequences of being a crime victim and provide you with information about the local criminal justice system as well as other resources for crime victims abroad. This office can assist you in finding appropriate medical care, contacting family or friends on your behalf, and explaining how funds can be transferred. We can help you to better understand the criminal justice system in Korea, which is very different from the system in the United States.

The information included in this guide is provided for general information purposes only. The information may not be accurate or relevant to a particular case. Questions involving interpretation of Korean law should be addressed to legal counsel licensed to practice law in Korea. The investigation and prosecution of crimes is solely the responsibility of local authorities. The Federal Bureau of Investigation (FBI) may assist local authorities in certain cases of kidnapping, hostage-taking, and terrorism, but is not normally involved in other crimes committed overseas.

**REPORTING CRIMES:** If you are injured during a criminal act, call 112 without delay. If you are dialing from a mobile phone, dial the regional code first, then 112 (In Seoul, 02-112). The number 112 is the Korean emergency number for police calls. There is no charge for the call. Generally, an interpreter is available for callers who do not speak Korean. Victims of crime can file a police report or register a complaint at the local police station nearest to where the incident occurred or nearest to their residence. Victims must file a formal police report or complaint within one year from the day the crime was committed. Foreigners residing in Korea may wish to file their report or complaint at the foreign affairs section of the local police office or at the information desk. In most cases, the police will provide an interpreter. Victims will be given a copy of the report.

The victim must report the crime to the police in person. If you wish to file a police report after you have left the country, you may do so by providing your legal counsel in Korea with a limited power of attorney to report the crime. Otherwise you may write a letter to the appropriate authorities. While the American Citizens Services section would be sympathetic to your situation, it cannot file a complaint on your behalf.

If you have difficulties filing your police report with an official, please contact the U.S. Embassy. You may need a police report to file for crime victim compensation or insurance reimbursement. If you do decide to file a report and are able to do so on your own, please send a copy to us, along with your address and phone number in the event we need to communicate with you. While we are not authorized to act as your legal representative, prosecutor, or investigator, our office can help you track the progress of your case and advise you of any developments.

**INVESTIGATIONS:** Many crime investigations never result in the arrest of a suspect. While the primary responsibility of investigating crimes rests with the Korean police, the cooperation of the victim is critical during

the investigation stage and can help ensure the prompt processing of a criminal case. Victims will be asked to make a detailed statement about the scene of the crime in order for the police to better assess the situation and identify the criminal. The police may request that the victim submit physical evidence (DNA samples, personal items, photos, etc.). Victims may also be required to visit the crime scene with a police officer to confirm certain facts. Your cooperation is essential for investigation of the criminal case. The Korean police will notify the victim of the results of the investigation as it develops.

Victims should report threats, harassment or intimidations by the accused or his or her family or friends at the police station nearest to the location of the incident. The victim may also report to the Prosecutor's Office, which will order the police to investigate the alleged crime.

**ARRESTS:** A warrant is generally required before an individual can be arrested in Korea. The statute of limitations of a crime varies according to the type of crime committed. How long the case will remain open if there is no warrant will depend on the type of crime and the applicable statute of limitation as specified in Korean law. No warrant is required, however, for an individual caught in the act of committing a crime. In addition, no warrant is required where an individual is suspected of committing a serious crime if there is a risk that evidence of the crime may be destroyed or that the individual may try to escape. If someone is arrested, the arrestee will be detained until the trial. The hearing usually takes place within one to two months. The detainee has the right to an attorney. When the detainee is an American citizen, the U.S. Embassy is notified and the American Citizens Services section will visit the detainee and will make follow-up visits. Individuals can be detained by the police for up to ten days before formal charges are filed. At the end of this period, police must move the case to the prosecutor's office. The victim will be asked to identify the detainee. The victim can choose to do so in a line-up, in a line-up from behind a one-way glass panel, or by a selection of photographs. The victim may refuse to make the identification.

**PRETRIAL PERIOD** The public prosecutor then has ten days to determine whether or not to indict the individual; however, the public prosecutor may make a request to the court for an additional ten-day extension. These requests are normally granted by the courts. There is no formal arraignment procedure in the Korean legal system. Separate from detention in jail, Americans may be forbidden to leave the country if legal actions are still pending. Such individuals may be held in Immigration Detention or may merely be subject to an exit ban. "Exit bans," which are bans imposed on individuals to prevent their escaping prosecution, are not imposed on victims, who may leave the country if they so choose. Criminal trials are conducted at the District Court level. Cases punishable by capital punishment, life imprisonment, or sentence of one-year imprisonment or more are tried by the three-judge court. Other cases are tried by the single-judge court. After the case is referred to the court, the prosecutor, as the representative of the government, introduces evidence to the court, questions the defendant, examines the witness, and performs other duties.

**TRIAL:** There are six kinds of courts in Korea: The Supreme Court, High Court, District Court, Family Court, Patent Court, and Administrative Court. Courts are required to complete a case within six months of receipt from the public prosecutor's office.

**SENTENCING AND PAROLE:** In the closing statement, the prosecutor suggests the suitable form and length or amount of punishment. The court then renders the final judgment, deciding whether the defendant is guilty, and if so, the severity of the sentence.

A prisoner is eligible for parole after serving one-third of the sentence. The Ministry of Justice establishes criteria for the use of local wardens in determining which prisoners to recommend for parole. The Ministry of Justice criteria for parole may vary from one year to another and for different categories of offenses. The victims have input on the sentencing. The perpetrator begins serving his or her sentence as soon as the sentence is passed. There is no follow-up with the victim once the sentence is passed. The victim is not informed when the perpetrator is transferred or released.

**APPEALS:** The prosecutor and/or the defendant who disagrees with the judgment rendered by the trial court has the right to appeal to an appellate court. The High Court hears the appeals of judgments rendered by the three-judge courts, whereas the appeals of judgments of single-judge courts are tried by the appellate division of the

District Court. The prosecutor and/or the defendant has the right to re-appeal to the Supreme Court when dissatisfied with the judgment on appeal.

**ATTORNEYS:** You may want to consider hiring a local attorney to secure appropriate legal guidance. Local legal procedures differ from those in the United States. The public prosecutor is responsible for prosecuting your case, while an attorney you hire can promote your interests with the police and the court. While our office cannot recommend specific attorneys, we can provide you with a list of attorneys who have expressed interest in representing U.S. citizens. This list is available on the Embassy website at:  
<http://seoul.usembassy.gov/uploads/images/PbLUjBREe1mwGfCExFHKNA/lawyerlist.pdf>.

**VICTIM COMPENSATION IN THE REPUBLIC OF KOREA:** South Korea has a crime victim compensation program to provide financial compensation for victims of violent crime. Eligible claimants are victims of crime who suffer from serious injuries and dependents of deceased victims. Foreigners can also apply, according to the principle of reciprocity.

Application forms can be obtained from police stations or prosecutor's offices. Disability relief funds for victims typically range from 3,000,000 to 6,000,000 won. Family relief funds for deceased victims are typically 10,000,000 won.

For more information about this program:  
Telephone: +82-2-530-1114  
Fax: +82-2-530-2609  
Website: [www.scourt.go.kr](http://www.scourt.go.kr)

**ADDITIONAL INFORMATION:** The BBB ("Before Babel Brigade") service (tel. 1588-5644) offers 24-hour telephone interpretation in 17 different languages.

Foreigners' Human Rights Protection Centers are located in police stations and offer counseling and support in matters such as extortion, family abuse, overdue wages, and other violations of human rights of foreigners. They provide counseling services, help explain the process of a criminal case, serve as a liaison with related authorities, and provide legal and medical services. More information on the Foreigners' Human Rights Protection Centers can be found at <http://www.police.go.kr/eng/index.jsp>

Also available to assist foreigners living in Korea is the Organization and Institution for Non-Koreans/Human Rights Monitor for Foreign Labor (tel.1588-1138). This organization is primarily responsible for safeguarding human rights for non-Korean laborers by providing medical support, legal consultation, educational resources, and other information.

**REGISTRATION:** Americans living or traveling in South Korea are encouraged to register with the U.S. Embassy through the State Department's travel registration website so that they can obtain updated information on travel and security within Korea. The website address is: <https://travelregistration.state.gov/ibrs/ui/>.

Americans without internet access may register directly with the nearest Embassy. By registering, American citizens make it easier for the Embassy to contact them in case of emergency.

**EMBASSY LOCATION:** The U.S. Embassy is located 32 Sejongno, Jongno-gu, Seoul, Korea 110-710; tel: 82-2-397-4114, fax: 82-2-397-4101, website: [www.asktheconsul.org](http://www.asktheconsul.org), email address: [Seoul\\_ACS@state.gov](mailto:Seoul_ACS@state.gov).

**SPECIAL INFORMATION FOR CASES OF SEXUAL ASSAULT AND RAPE:** The Korean National Police Agency defines sexual violence as any kind of physical, verbal, or psychological violence that forces sexual relations against a victim's will. This includes rape, attempted criminal assault, sexual misconduct, sexual harassment, child assault, and spousal assault. Crimes of sexual violence in Korea are punished only if the victim makes an accusation, except in the following types of cases:

- when a victim is raped or sexually victimized by a robber or thief;
- when a victim is injured or killed by the offender while raped or victimized;
- when a victim is raped or sexually victimized by two persons or more;
- when a victim is raped or sexually victimized by a relative;
- when a victim of sexual violence is under age or disabled.

Physical evidence is very important in sexual assault cases and can deteriorate as time passes. As such, victims are encouraged to avoid changing clothes and bathing, if possible, before having a physical exam at the first opportunity. If you are the victim of a sexual assault, you should take these steps even if you are unsure about whether to report the crime to police. If you decide to pursue a prosecution at a later time, these steps can preserve evidence that will assist the prosecutor.

There are 14 designated hospitals in the Republic of Korea that offer integrated support for victims of sexual assault free of charge. Such support ranges from medical services, counseling, recording of statements, and collection of evidence as necessary for investigation to legal assistance and referrals to NGOs. These hospitals are available round-the-clock not only for victims of sexual assault, but also for cases involving school and domestic violence and sex trade. For a list of designated clinics, see <http://www.police.go.kr/eng/index.jsp>. Victims of domestic and/or sexual violence can also contact the Migrant Women's Emergency Call Center (1577-1366).

If you are the victim of a sexual assault, you should get prompt medical attention to determine if you have been injured in any way and to discuss treatment and prevention options for pregnancy and sexually transmitted diseases. Whether sexual assault charges can be filed without an exam depends on the prosecutor in charge, but it will certainly be more difficult to pursue further legal action without the evidence that a physical exam provides. HIV prophylaxis and emergency contraception is also available in Korea.

Rape cases, in general, are taken seriously in Korea. Usually a female police officer will be designated to interview the victim. Depending on the case, multiple persons may interview the victim. Korea has also enacted special laws to protect the identity of sexual assault survivors. Media attention is possible, but the identity of the victim will not be disclosed to the public. The rape crisis hotline is the same as the police emergency hotline, #112. English-speaking operators are available.

Forensic sexual examinations are not mandatory in Korea for every sexual assault case. However, the victim should always seek the assistance of medical professionals as soon as possible after the attack both for the sake of her own personal health and to obtain as much relevant evidence as possible for later prosecution. The police may also request that a forensic examination be done, depending on the type of case. Spousal rape is not a crime in Korea. Homosexual assault is not commented on at all in Korean law.

**SPECIAL INFORMATION FOR CASES OF DOMESTIC VIOLENCE:** Domestic violence is considered a crime in Korea. Victims of domestic violence can seek a protection/restraining order by contacting their local police or the domestic violence assistance hotline listed below. Restraining orders are enforced through the court system. If a defendant breaks the restraining order and is reported, s/he could be imprisoned for up to two years and/or fined up to 20,000,000 won. The act of stalking is defined as the obsessive following, observing, or contacting of another person and is punishable as a criminal offense. People seeking and obtaining someone's personal information in order to contact that person will be regarded as stalkers under the law.

The Korean Ministry of Gender Equality manages around 40 domestic violence shelters throughout the country. The names and locations of the shelters are kept confidential and only exposed to those government agencies that are concerned with domestic violence directly. Most shelters have 10-30 beds. Generally, shelters will accept clients on a walk-in basis if clients know where they are located. Since the location of domestic violence shelters is officially kept private, most victims reach them through police or government assistance and referral. Young children are generally allowed to stay with their parent in the shelter, but children who have reached the age of puberty, particularly males, are encouraged to move to separate children's facilities.

A special domestic violence assistance hotline exists for foreigners who are victims of domestic violence in Korea. The number is 1577-1366. The hotline operators are able to provide assistance in English.

**SPECIAL INFORMATION FOR CASES OF CHILD ABUSE:** The Korean Ministry for Health, Welfare, and Family Affairs is charged with the protection of children and juvenile policy in general. Some overlap exists with the Ministry of Gender Equality in the areas of sexual violence. The Ministry of Health sends counselors to investigate allegations of child abuse. These counselors are not usually government employees, but contractors who have been educated in matters of child welfare from a verified institution and are authorized by the government to conduct investigations.

If a child, foreign or domestic, is the victim of physical or sexual abuse, the counselor may send him/her to a nearby hospital for an examination, accompanied by a separate investigator. If the examination occurs within 20 hours of the crime, the examination will be done in the presence of the investigator and all physical evidence, such as semen samples in the case of sexual abuse, will be collected by the doctor in the presence of the investigator. If the counselor determines that the child needs to be removed from the home, the preferred alternate placement is with relatives. This is true for foreign children as well as Korean children. If no relatives can be found or the counselor deems it inappropriate or unsuitable to send the child to relatives, an abused child removed from their home could be sent to a temporary shelter or entrusted to a volunteer temporary foster family. If both parents have problems deemed serious enough to hinder their ability to raise the child and no relatives are available, the child could be placed with an adoption agency.

Victims of child abuse are rarely expected to testify if their abuser is brought to trial, but the possibility exists that they may be asked to do so. To help protect child victims from the trauma of testifying, courts allow, in most cases, for the child to give testimony via video recording instead of live in court.

Suspected child abuse can be reported by calling the National Child Protection Agency at (02) 558-1391. Interpreters are available for foreign victims or persons reporting crimes. Reports of suspected child abuse can also be made to the police or any local child protection agency. Anyone can report child abuse in Korea. Teachers in a juvenile educational institution and those who work at medical facilities have an affirmative duty to report any suspected child abuse, but there is no enforceable penalty for failure to report. Kidnapping is a serious crime in Korea and punished severely.

**SPECIAL INFORMATION FOR CASES OF HOMICIDE:** An autopsy is required in all homicide cases whether the victim is foreign or not. A warrant from the court, therefore, is sufficient authority to conduct the autopsy and no special permission or agreement from surviving family members is required or even considered. Autopsy results can take several weeks to be completed.

The investigation and prosecution of the case is handled entirely by the local police and the prosecuting attorney in charge. Every effort is made to keep surviving family members informed on the process. Family members may attend the hearing and may petition the court for permission to speak or to have input in the sentencing.

Homicide victims may be eligible to receive up to 10,000,000 won from the government as compensation under Korea's crime victim compensation program. All monies, along with other personal items in the estate of the victim, will be returned to the victim's family. Personal items marked as evidence in the homicide case also will be returned to the family after the case is closed.