



*State of North Carolina
Department of Public Safety
Prisons*

Chapter: C
Section: .0600
Title: **International Prisoner
Transfer Program**
Issue Date: 08/01/17
Supersedes: 03/09/07

POLICY & PROCEDURES

.0601 GENERAL

The purpose of this directive is to provide a uniform procedure for voluntary transfer of incarcerated foreign nationals to their home countries under treaty arrangements with the U.S. Government and in accordance with North Carolina General Statute # 148-122.

This policy authorizes the Secretary or designee, the sole and absolute authority to approve or disapprove an eligible inmate's application for international transfer. Nothing herein shall be construed to confer upon any inmate a right to be transferred to the custody of a foreign nation.

.0602 PROCEDURE

(a) Notice

(1) Reception. Newly received inmates who are identified as foreign nationals of treaty nations will, as part of the reception process, be advised of the existence of prisoner transfer treaties and the possibility of the initiation of a transfer request. All inmates in custody at the time of implementation will be notified by individually addressed letters. This will be a one-time notification to foreign born inmates from treaty nations. Upon notification from the US Department of Justice of new countries entering into Treaty Agreements, the current inmate population will be reviewed to determine if any inmates are in custody from that country. If so, individual letters will be sent to these inmates advising them of their option to request transfer to their home country.

(2) To inform all prisoners who are citizens of another country, each facility shall maintain:

(A) a copy of this policy and related memoranda

(B) a listing of nations that have prisoner transfer treaties with the United States

(b) Application

(1) An inmate who wishes to be considered for voluntary transfer must request an application from the International Prisoner Transfer (IPT) Manager **who shall be**

the Manager of Classification. The inmate must complete and sign the transfer request form and return it to the IPT Manager. An inmate's custody, control status, health, mental health, and prison adjustment may be considered during screening, but should not automatically prohibit transfer consideration. The IPT Manager shall ensure compliance with NC General Statutes, as well as US Department of Justice criteria when reviewing cases.

- (2) The inmate shall provide documentation of citizenship of the treaty country to which he/she is requesting transfer. It is the inmate's responsibility to provide birth certificate, passport, or other documentation by contacting the appropriate consulate's office.
 - (3) Victims of crimes will be notified of the application for transfer. Negative responses to such transfer will be given consideration during the state review process.
 - (4) Upon assessment of eligibility, the Manager **of Classification** shall forward the request to the Secretary, or designee, along with a recommendation either for or against transfer, as well as, copies of:
 - (A) The inmate's request,
 - (B) A copy of the Judgment and Commitment Order,
 - (C) A copy of the final order of deportation against the inmate from the U.S. Immigration and Customs Enforcement,
 - (D) A copy of the most recent release date computation printout,
 - (E) A copy of the statute(s) under which the inmate was convicted,
 - (F) Copy of the case study and,
 - (G) any other forms or information that may be required by the foreign country or treaty.
- (c) Decision
- (1) Within 30 days of receipt, the Secretary, or designee, shall acknowledge receipt of the application.
 - (2) If the application is disapproved by the Secretary, the referral, including recommendation against transfer, and supporting documents are forwarded to the Office of Enforcement Operation, International Prisoner Transfer Unit, and U.S. Department of Justice. Upon notice of final disapproval, the inmate will be notified by letter of this decision.
- (d) Approvals

If the application is approved, by the Secretary, the referral including recommendation for transfer and supporting documents are forwarded to the Office of Enforcement Operations, International Prisoner Transfer Unit, U.S. Department of Justice for review

and decision. The documentation listed in section .0602 (b)(4) of this policy shall be enclosed with this communication, and the inmate shall be provided a copy of the cover letter.

- (1) The Department of Justice will approve or disapprove the request and will respond to the Division of Prisons with documentation and instructions.
- (2) The Department of Justice will notify the appropriate embassy of its decision and, in cases where it has approved the request, will ask if the other country is willing to accept the prisoner.
- (3) If accepted by the receiving country, the Department of Justice will issue a writ and arrange for a verification proceeding before a U.S. Magistrate Judge.
- (4) Once approved, the housing facility will be instructed to transport the inmate to a U.S. Magistrate Judge for a hearing to approve the transfer. Once the Magistrate Judge approves the transfer, the inmate is released to the U.S. marshals.
- (5) The IP20 screen on OPUS is updated to reflect the international transfer.

NOTE: This entire process, from the inmate's application through approval or denial, typically takes one year, or longer. The inmate will be informed by letter from the Manager of Classification once a final decision is made by the U.S. Department of Justice staff.

(e) Counsel

The federal Government provides counsel for these hearings. When requested, the Superintendent shall allow counsel to interview an inmate prior to a hearing.

(f) Property

The inmate is responsible for disposing of his or her property, in accordance with DOP policy prior to the verification hearing. The inmate will appear before a US Magistrate to determine the inmate's willingness to return to their home country. If the inmate acknowledges this is his/her intent the inmate will be turned over to the custody of the U.S. marshal's. Should the inmate decline the transfer, he/she will be returned to the custody of the Department of Public Safety Prisons to complete service of his/her sentence. Inmates shall be dressed in civilian clothing when appearing before the magistrate.

(g) Qualifications for Transfer to Foreign Countries

- (1) The inmate must be a citizen of the receiving country.

- (2) The inmate must be convicted and sentenced, which means there can be no outstanding appeals of conviction or sentence. Inmate shall not have any pending charges or detainers other than for deportation and shall have paid all fines, costs and restitution associated with his or her conviction.
 - (3) The inmate must not be committed solely for a military or immigration offense.
 - (4) The inmate must have at least 12 months of the active sentence remaining to be served at the time of request for transfer, and must not be serving a sentence with a maximum of death.
 - (5) The inmate must have no pending proceeding by way of appeal or collateral attack upon the current conviction or sentence.
 - (6) The inmate must be convicted of a crime, which is generally punishable as a crime under the laws of the other country.
 - (7) The inmate, North Carolina, the United States, and the receiving country all must consent to the inmate's transfer.
 - (8) At the time of transfer, the inmate must have received a final order of deportation from the U.S. Immigration and Naturalization Service.
 - (9) Inmates who are dual citizens and one of the countries of citizenship is the United States, are not eligible for International Transfer.
 - (10) Inmate who have previously been deported and have returned to the United States will not be considered for International Transfer.
- (h) Rescission of Approval

The Secretary may withdraw prior approval of a transfer application if the inmate engages in criminal conduct or serious disciplinary infraction(s) following his/her request for transfer pursuant to this directive, or if the Secretary becomes aware of any information, which would have led to disapproval of the application.



Director of Prisons

August 1, 2017
Date

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