POLICY

INTERNATIONAL TRANSFER OF OFFENDERS

REVIEW/REVISION HISTORY:

Effective: 1/31/98
Revised: 7/9/99
Revised: 1/16/02
Revised: 12/16/06
Revised: 10/8/08
Revised: 8/16/10

SUMMARY OF REVISION/REVIEW:

Major changes, including a new form. Read carefully!

APPROVED:

Signature on file

ELDON VAIL, Secretary
Department of Corrections

7/26/10
Date Signed
REFERENCES:

DOC 100.100 is hereby incorporated into this policy; RCW 72.68.010; WAC 137-67-020; ACA 4-4280

POLICY:

I. The Department will identify offenders who are citizens of other nations and will comply with legal mandates and expectations of the United States Department of Justice (DOJ) and United States Department of State regarding advising Foreign Nationals (i.e., individuals who are citizens of another nation or who have established dual citizenship) of their rights under international law and treaty agreements. Guidelines for Evaluating Prisoner Application for Transfer are available on the Department of Justice website.

II. The Department has an established process for applying for transfer to the respective country of citizenship under the International Treaty Agreement. Participating countries are listed in International Prisoner Transfer Program Participants (Attachment 1).

DIRECTIVE:

I. Notification of Non-United States Citizens Rights
   A. Reception Diagnostic Center (RDC) Counselors will inform offenders they are required to identify their citizenship. Offenders indicating citizenship other than the United States will be informed:
      1. Of the possibility of transfer under the International Treaty Agreement,
      2. That transfers are a privilege rather than a right as outlined in the agreement, and
      3. That transfer requests are voluntary per WAC 137-67-020.
   B. A general notice will be posted in units, along with a complete list of countries with which the United States has an offender transfer relationship.
   C. Offenders who are Foreign Nationals may request transfer under the International Treaty Agreement at any time during their incarceration.

II. Processing Transfer Requests
   A. When an offender requests a treaty transfer, staff will follow the International Treaty Transfer Process (Attachment 2).
B. When an offender requests a transfer at any time during his/her Prison sentence after leaving the RDC, the Counselor will address International Treaty Transfer at the offender’s next scheduled review as follows:

1. Complete DOC 05-144 Transfer Inquiry/Consular Notification, scan into Liberty, and forward to the Classification Unit at Headquarters.

2. Enter an Immigration Service “IS” chrono in the offender’s electronic file (i.e., offender NAME has signed the TIF this date indicating s/he is a citizen of COUNTRY and is/is not interested in a transfer at this time).

3. Complete and/or obtain or assist in obtaining the information contained in DOC 05-689 Checklist for Transfer Packet to Treaty Nation and forward to the Headquarters Classification Unit.

4. Complete the Custody Facility Plan in OMNI to forward to the Headquarters Classification Unit for Headquarters Community Screening Committee (HCSC) review.

C. A request to transfer under the International Treaty Agreement will be processed regardless of conduct or programming as long as the offender meets the legal requirements for application and his/her native country is a participant as listed in Attachment 1. The International Transfer Process will be tracked through check dates and “IS” entries in the offender's electronic record.

1. The next scheduled Facility Risk Management Team review conducted by the offender’s Classification Counselor must address community support in the treaty nation (i.e., a nation which has entered into a formal agreement with the United States regarding the transfer of sentenced persons), including names and addresses when available. The offender's birthplace or right to citizenship will be documented by a birth certificate or other legal means. Outstanding legal financial obligations must be satisfied (i.e., paid).

2. An offender with any of the following will not be eligible for transfer consideration until resolved:

   a. A non-Immigration and Customs Enforcement detainer,

   b. A pending appeal or collateral attack on the current conviction(s),

   c. A pending fine(s)/restitution obligation imposed by a United States court of component jurisdiction, and/or
d. A sentence for civil contempt.

D. If an offender is denied an International Treaty Transfer, s/he may reapply after 2 years if there are extenuating circumstances that may positively affect the chances for transfer. For subsequent requests, the HCSC will review and make a recommendation to the Department Secretary for the final decision.

III. Consular Notifications

A. In the event of a Foreign National’s death, the Classification Counselor will notify the Headquarters Classification Unit. The Headquarters Classification Unit will notify the nearest consulate of the Foreign National’s country.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

International Prisoner Transfer Program Participants (Attachment 1)
International Treaty Transfer Process (Attachment 2)

DOC FORMS:

DOC 05-144 Transfer Inquiry/Consular Notification [4-4280]
DOC 05-689 Checklist for Transfer Packet to Treaty Nation
DOC 05-795 Offender Transfer Application Questionnaire
DOC 12-026 Guidelines for Evaluating a Prisoner’s Application for International Treaty Transfer Evaluation