



**U.S. Department of Justice**  
Federal Bureau of Prisons

PROGRAM STATEMENT

OPI: CPD/CPB  
NUMBER: P5140.40  
DATE: August 4, 2011

## **Transfer of Offenders To or From Foreign Countries**

/s/

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Acting Director, Federal Bureau of Prisons

### **1. PURPOSE AND SCOPE**

#### **§527.40 Purpose and scope.**

**Public Law 95-144 (18 U.S.C. 4100 et seq.) authorizes the transfer of offenders to or from foreign countries, pursuant to the conditions of a current treaty which provides for such transfer. 18 U.S.C. 4102 authorizes the Attorney General to act on behalf of the United States in regard to such treaties. In accordance with the provisions of 28 CFR 0.96b, the Attorney General has delegated to the Director of the Bureau of Prisons, and to designees of the Director, the authority to receive custody of, and to transfer to and from the United States, offenders in compliance with the conditions of the treaty.**

28 CFR 0.96b provides that:

**“The Director of the Bureau of Prisons and officers of the Bureau of Prisons designated by him are authorized to receive custody of offenders and to transfer offenders to and from the United States of America under a treaty as referred to in Public Law 95-144; to make arrangements with the States and to receive offenders from the States for transfer to a foreign country; to act as an agent of the United States to receive the delivery from**

**Federal regulations from 28 Code of Federal Regulations, Part 527, are shown in this type. Implementing instructions are shown in this type.**

**a foreign government of any person being transferred to the United States under such a treaty; to render to foreign countries and to receive from them certifications and reports required under a treaty; and to receive custody and carry out the sentence of imprisonment of such a transferred offender as required by that statute and any such treaty.”**

a. **Summary of Changes.** This revision of the Program Statement includes the following changes:

*Directive Rescinded*

P5140.39      Transfer of Offenders to or from Foreign Countries (12/4/09)

- Eliminates Form BP-A0298, Notice Regarding International Prisoner Transfer.
- Modifies Form BP-A0297, Transfer Inquiry, to include a statement that the inmate should contact his/her consulate office if interested in a treaty transfer. Additionally, a statement is added indicating the inmate understands he is not eligible to apply for transfer if he/she has an appeal or collateral attack pending. Verbiage is also added to the non-interest section.
- Deletes Attachment A, List of Treaty Countries. The list of participating countries will be maintained separately on the Correctional Programs Intranet page. A current list of participating countries will be available for inmate access in the institution's law library. The general public may access a list of participating countries on the Department of Justice (DOJ), Office of Enforcement Operations (OEO), International Prisoner Transfer Unit (IPTU) website at:  
<http://www.usdoj.gov/criminal/oeo/links/intlprisoner/intlprisoner.html>.
- Removes Attachment B, Certified U.S. Case Summary of (Country) Citizen, as an attachment to the Program Statement. Form BP-A0964, U.S. Case Summary, replaces Attachment B. Signatures from the Case Management Coordinator, Associate Warden, and Warden have been removed and only signatures from the case manager and unit manager are required. Additional information (Emergency Contact Person, height and weight of the inmate) is requested. Several changes were made as to where information is provided on the form.
- Delegates signature authority for the re-application memo to the unit manager.
- Eliminates the requirement for a progress report for re-application packets. Instructions are provided to include a memorandum if there is new information which was not submitted in the initial packet – disciplinary action, current medical/mental health issues, sentence changes, updated Emergency Contact Person, Financial Responsibility status, etc.
- Requires the Visiting and Phone lists be included in the Initial and Re-application packets.
- Adds additional Case Management Assignments (CMA) to provide better tracking and monitoring of treaty cases.
- Removes the requirement that there will be only one CMA assignment for each case.

- Changes Regional Designator to the Designation and Sentence Computation Center (DSCC).
- Provides updated Canadian application forms (CSC/SCC 0308E Request for Transfer to Canada and CSC/SCC 0614E Information in Support of a Request for Transfer to Canada) on Sallyport Forms Directory, and the Correctional Programs Intranet page. The general public can access the Canadian website at: <http://www.csc-scc.gc.ca/text/frmlrs/index-eng.shtml>.
- Provides clarification regarding dual citizenship, committed fines, cases on appeal or collateral attack, and cases with detainers or pending charges.

c. **Program Objectives.** Expected results of this program are:

- Inmates will be notified of the “Treaty Transfer Program” during the Admission and Orientation Program (A&O).
- Inmate transfers will be voluntary and must be approved by both countries.
- An inmate with a committed fine (Old Law case) will not be transferred to his/her country of citizenship without the consent of the United States Court that imposed the fine.
- Eligible inmates approved for transfer will be transferred to or from foreign countries under the treaty and will serve the remainder of their sentence in accordance with the laws of the receiving country.

d. **Pretrial/Holdover and Detainee Procedures.** Procedures in this Program Statement do not apply to pretrial inmates or Immigration and Customs Enforcement (ICE) detainees; procedures do apply to holdover inmates who otherwise meet the eligibility criteria.

e. **Victim Witness Program (VWP).** When a packet is received in Central Office for a VWP case, Central Office staff complete notification to the victim, advising him/her that the inmate has applied for a treaty transfer. When a VWP inmate is approved for transfer to another country, notification must be made per the release procedures in the Program Statement on Victim and Witness Notification. However, in treaty cases, ordinarily, advance notification of the transfer is not provided to the victim and the notification is completed **on** the day of the treaty transfer.

f. **Walsh Act Civil Commitment of Sexually Dangerous Persons.** Staff must comply with established Bureau of Prisons (Bureau) Walsh Act procedures when an inmate requires review by the Bureau Certification Review Branch, Correctional Programs Division, Central Office. Inmates who require review are referred at the time the treaty packet is received in Central Office. Decisions made by the Certification Review Panel are forwarded to IPTU, OEO, DOJ for consideration.

## 2. BACKGROUND

In December 1977, the United States entered into its first treaty (with Mexico) for international offender transfer. Since that time, the U.S. has participated in international prisoner transfers with a number of other countries. The list of participating countries is available on the Correctional Programs Intranet page. The general public may access a list of participating countries located on the IPTU, website at: <http://www.usdoj.gov/criminal/oeo/links/intlprisoner/intlprisoner.html>.

Generally, a treaty provides for an individual who is convicted of a crime and sentenced to imprisonment or some form of conditional release (probation, parole, etc.), in a country other than his/her country of citizenship, to be transferred to the country of citizenship for sentence completion.

While the term “prisoner exchange” may be used, the actions under this Program Statement are transfers, not inmate-for-inmate exchanges.

An inmate’s transfer is **voluntary** and must be approved by both the sentencing and receiving country. An inmate who requests treaty consideration ordinarily applies through the Bureau to OEO, IPTU, DOJ. DOJ is responsible for determining whether an inmate is approved or denied for treaty transfer.

An inmate approved for transfer by both countries is required by Federal statute to appear before a U.S. Magistrate Judge or U.S. District Judge, for a consent verification hearing (CVH). The CVH cannot be waived and is used to document that an inmate’s decision is informed and voluntary. An inmate may decline to attend a CVH, but in doing so, he/she declines the treaty transfer. Retained or court-appointed counsel may represent the inmate at this hearing.

Jurisdiction over any proceeding to challenge, modify, or set aside the inmate’s conviction or sentence **remains** with the country imposing the sentence. Only the completion of the transferred inmate’s sentence is carried out per the laws and procedures of the receiving country.

Inmates transferred to the United States come under authority of the Bureau, the U.S. Parole Commission, and the Administrative Office of the U.S. Courts (for supervised releases).

A state prisoner, including a state prisoner confined at a Bureau institution (state boarder), may be returned to his/her country of citizenship if the state approves the transfer, both countries approve the transfer, and the prisoner consents at his/her consent verification hearing.

State prisoners in Bureau custody interested in this program are advised to direct their requests to the authorities in their state of sentencing. State authorities make referrals to the OEO, IPTU, DOJ. Unless the state prisoner is already in Bureau custody upon referral, the Bureau usually does not take custody of a state prisoner until after the consent verification hearing.

The Bureau's role is to coordinate the state prisoner's transportation arrangements and transfer of custody with the treaty nation.

### 3. DEFINITIONS

#### §527.41 Definitions.

For the purpose of this rule the following definitions apply.

**(a) *Treaty nation.* A country which has entered into a treaty with the United States on the Execution of Penal Sentences.**

A listing of nations currently holding treaty transfer status is published on the Correctional Programs Intranet page. Inmates may access the list of participating countries in the institution's law library. The general public may access the list of participating countries on the IPTU website at: <http://www.usdoj.gov/criminal/oeo/links/intlprisoner/intlprisoner.html>.

**(b) *State prisoner.* An inmate serving a sentence imposed in a court in one of the states of the United States, or in a territory or commonwealth of the United States.**

**(c) *Departure institution.* The Bureau of Prisons institution to which an eligible inmate is finally transferred for return to his or her country of citizenship.**

**(d) *Admission institution.* The Bureau of Prisons institution where a United States citizen-inmate is first received from a treaty nation.**

### 4. LIMITATIONS ON TRANSFER OF OFFENDERS TO FOREIGN COUNTRIES

#### §527.42 Limitations on transfer of offenders to foreign countries.

**(a) An inmate while in custody for civil contempt may not be considered for return to the inmate's country of citizenship for service of the sentence or commitment imposed in a United States court.**

This limitation applies to an inmate serving a criminal sentence, either concurrent with or suspended for the duration of the civil contempt commitment.

The inmate may be considered for transfer once the contempt commitment is purged, served, or otherwise terminated by judicial authority. For further information, see the Program Statement **Civil Contempt of Court Commitments**.

**(b) An inmate with a committed fine may not be considered for return to the inmate's country of citizenship for service of a sentence imposed in a United**

**States court without the permission of the court imposing the fine. When considered appropriate, the Warden may contact the sentencing court to request the court's permission to process the inmate's application for return to the inmate's country of citizenship.**

Committed fines were imposed on "Old Law" cases, which were offenses committed prior to November 1, 1987. When an inmate appears to be an appropriate candidate for transfer to a treaty nation, the Warden may request permission to proceed with the transfer process from the court that imposed the committed fine.

The transfer may not occur until the committed fine is paid or the court imposing the committed fine concurs with the Bureau's transfer request.

Correspondence addressed to a Federal court must include the inmate's register number and docket number(s) pertinent to the inquiry.

## **5. NOTIFICATION OF BUREAU OF PRISONS INMATES**

### **§527.43 Notification of Bureau of Prisons inmates.**

**(a) The Warden shall ensure that the institution's admission and orientation program includes information on international offender transfers.**

**(b) The case manager of an inmate who is a citizen of a treaty nation shall inform the inmate of the treaty and provide the inmate with an opportunity to inquire about transfer to the country of citizenship. The inmate is to be given an opportunity to indicate on an appropriate form whether he or she is interested in transfer to the country of citizenship.**

The treaty transfer process is initially addressed during the inmate's orientation.

The inmate indicates on a Transfer Inquiry (BP-A0297) that he/she was advised of the opportunity to inquire about transfer, and whether he/she is, or is not, interested in being transferred. The process is addressed and documented in the Central File prior to or upon completion of the inmate's Initial Classification and readdressed at each subsequent program review.

An eligible inmate may request or decline a treaty transfer at any time during his/her incarceration. 18 U.S.C., §4107 (b)(4), states that once the inmate's consent has been verified at a consent verification hearing, it is irrevocable.

## 6. TRANSFER OF BUREAU OF PRISONS INMATES TO OTHER COUNTRIES

### §527.44 Transfer of Bureau of Prisons inmates to other countries.

**(a) An inmate who is qualified for and desires to return to his or her country of citizenship for service of a sentence imposed in a United States Court shall indicate his or her interest by completing and signing the appropriate form and forwarding it to the Warden at the institution where the inmate is confined.**

Eligibility restrictions for an inmate to transfer to certain treaty nations are listed in Section 10.a. The Transfer Inquiry (BP-A0297) is used to initiate the transfer process.

**(b) Upon verifying that the inmate is qualified for transfer, the Warden shall forward all relevant information, including a complete classification package, to the Assistant Director, Correctional Programs Division.**

**(1) Initial Application.** The initial Application Packet must contain the following documents and is forwarded to the Assistant Administrator, Correctional Programs Branch, Central Office, within 60 calendar days of the inmate's initial request:

- Transfer Inquiry (BP-A0297).
- Authorization to Release Confidential Information (BP-A0301).
- Case Summary (BP-A0964).
- Pre/Post-sentence Investigation Report(s) (for current offense(s)).
- FBI Fingerprint Card with current photograph of inmate attached.
- Current sentence computation.
- Current Visiting and Phone List and relative information.
- Certified Judgment in a Criminal Case (JCC). (Include amended orders for current offense(s)).
- Proof of citizenship (copy of birth certificate or valid passport). **Note:** While individual countries may require a copy of a birth certificate before approving a transfer, the referral to Central Office is not delayed due to the absence of a birth certificate.
- Canadian Application (CSC/SCC 0308E and 0614E), if applicable. Canadian application forms are located on the Sallyport Forms Directory, and on the Correctional Programs Intranet page. The general public can access the Canadian website at: <http://www.csc-ccc.gc.ca/text/frmlrs/index-eng.shtml>.

Unit staff place a **copy of the packet** in **section 2** of the **Inmate Central File**.

During the initial application process, unit staff advise the inmate to contact the nearest consular office to inform them of his/her desire to be considered for treaty transfer. Foreign officials normally have documents for the inmate to complete and return to the local consulate so that the consular office can begin verification of citizenship and expedite the inmate's application process.

Foreign officials may request to visit the inmate at the institution. See 28 C.F.R. §540.45.

(2) **Re-application Process.** An inmate who has been denied treaty transfer to his/her country of citizenship by the United States may normally re-apply two years from the date of denial. Exceptions to this policy exist if temporary conditions preventing transfers have been satisfied (i.e., pending appeal is resolved, inmate was needed to testify, financial obligation is paid).

An inmate who has been denied treaty transfer to his/her country of citizenship **by the treaty nation** may **not** re-apply through the Bureau and must address the denial directly with the treaty nation.

The date of denial is defined as the date on the OEO, IPTU, DOJ denial letter.

A complete application packet is not required for re-application cases, as OEO maintains the original materials. Institution staff submit the following to the Assistant Administrator, Correctional Programs Branch:

- Memorandum indicating the date the inmate was previously denied and that he/she wishes to re-apply. The memorandum will include any **new** information that was not included in the initial case summary regarding disciplinary action, medical/mental health issues, sentence changes, Financial Responsibility Program (FRP) information, updated Emergency Contact Person (to include relationship and location), etc. Signature authority is delegated to the Unit Manager.
- New Transfer Inquiry (BP-A0297).
- Current Visiting and Phone List and relative information.
- Any new or amended sentencing documents.

In some cases, OEO may request the inmate complete their reapplication questionnaire and forward it to them.

**(c) The Assistant Director, Correctional Programs Division, shall review the submitted material and forward it to the Office of Enforcement Operations (OEO), Criminal Division, International Prisoner Transfer Unit, Department of Justice, for review.**

The application packet is forwarded to OEO within 10 working days of receipt in Central Office.

Applications for treaty transfer require substantial investigation by OEO. The process, which includes obtaining written verification of a number of items from various agencies, contact with and approval from the treaty nation, and scheduling a consent verification hearing, can be extensive and may take up to 12 months to complete. Institution staff may contact the Correctional Programs Branch for a status report; however, institution staff should not contact OEO, unless advised to do so by Central Office staff.



**(d) The Assistant Director, Correctional Programs Division, shall ensure that the inmate is advised of the decision of OEO.**

**(1) When the Department of Justice determines that transfer is not appropriate, the Assistant Director, Correctional Programs Division, shall ensure that the inmate is advised of this determination and informed that the inmate may request the reason(s) for such action from OEO.**

If the Department of Justice determines that the transfer is not appropriate, OEO notifies the prisoner and treaty nation via official channels and the Assistant Director, Correctional Programs Division.

Ordinarily, OEO provides the reasons for denial in a denial letter. Institution staff inform the inmate of OEO's policy on re-application (see Section 6.b.2.).

**(2) When the Department of Justice determines that transfer is appropriate, the Assistant Director, Correctional Programs Division, shall ensure that the inmate is advised of the determination and of the probability that the inmate will be given an interview with his or her nation's consular officials.**

If the Department of Justice determines that the transfer is appropriate, OEO notifies the prisoner and treaty nation via official channels and the Assistant Director, Correctional Programs Division.

Ordinarily, Consular officials interview the inmate prior to a determination by DOJ; however, when an inmate is being processed for transfer to the treaty nation, Consular officials may visit the inmate to prepare for the transfer and to complete required travel documents, etc.

**(e) Upon notification from OEO of the treaty nation's decision in regard to the inmate's transfer, the Assistant Director, Correctional Programs Division, shall arrange for the inmate to be informed of that decision.**

The Assistant Administrator, Correctional Programs Branch, informs the institution of a treaty nation's decision to transfer an inmate. For security reasons, the inmate is not provided the details of the transfer.

**(f) At an appropriate time subsequent to notification by the Department of Justice of an inmate's approval for transfer, the Assistant Director shall arrange for the inmate to be transferred to an appropriate departure institution.**

To facilitate transfer, the sending Warden ensures the inmate's personal property meets the requirements of the Program Statement **Prisoner Transportation Manual**.

**(g) Prior to the inmate's transfer from the departure institution, the inmate shall receive a verification hearing before a U.S. Magistrate Judge or U.S. District Court Judge to document the inmate's voluntary consent for transfer. Counsel is provided the inmate for purpose of this hearing. When requested, the Warden shall allow counsel to interview the inmate prior to the hearing.**

OEO arranges with the Administrative Office of the U.S. Courts (AOUSC) for appointment of counsel and scheduling the consent verification hearing. Counsel may arrange with the Warden to interview the inmate before the hearing.

OEO, in conjunction with the AOUSC, arranges for a U.S. Magistrate Judge or U.S. District Court Judge to conduct the consent verification hearings.

The Warden requires written confirmation once proceedings are completed and the judge has documented the inmate's voluntary consent.

**(h) Following the verification hearing, the Assistant Director, Correctional Programs Division shall arrange a schedule for delivery of the inmate to the authorities of the country of citizenship.**

**(1) The Assistant Director shall advise the Warden of those arrangements.**

**(2) The Warden shall arrange for the inmate to be transported to the foreign authorities. The Warden shall assure that required documentation (for example, proof of citizenship and appropriate travel documents) accompanies each inmate transported.**

i. Staff designated by the Warden ensure that the following documentation accompanies each inmate:

- Proof of citizenship. Foreign countries will not admit the inmate without it.
- Appropriate travel documents (current passport or documents prepared by the Embassy).
- A current statement of actual time served up to the date of transfer.
- The amount of Good Conduct Time earned up to the date of transfer.
- An up-to-date statement of any remission credits. (See the Program Statement **Sentence Computation Manual ("Old-Law"– Pre-CCCA 1984)** for additional information on remission credits).

## 7. TRANSFER OF STATE PRISONERS TO OTHER COUNTRIES

### §527.45 Transfer of State prisoners to other countries.

**The Bureau of Prisons may assume custody of a state prisoner who has been approved for transfer to a treaty nation for the purpose of facilitating the transfer to the treaty nation. Once approved, the state is not required to contract for the placement of the prisoner in federal custody, nor to reimburse the United States for the cost of confinement (as would ordinarily be required by 18 U.S.C. 5003).**

When a state prisoner applies for transfer, is found qualified, and the state determines that the transfer is in accordance with its laws, the state may refer the inmate's case to OEO to determine if the United States and the treaty nation agree to the transfer, as described in Sections 6.d. and e.

If the state prisoner is approved for transfer, OEO arranges for a consent verification hearing before a U.S. Magistrate Judge or U.S. District Court Judge in the state where the prisoner is confined.

Once the state prisoner consents to be transferred, the judge ordinarily orders the prisoner be placed in Federal custody so that travel arrangements can be established for transfer to the treaty nation.

The Correctional Programs Division ordinarily completes a Security Designation and Custody Classification form on the state prisoner.

The U.S. Marshals Service ordinarily assumes custody of the state prisoner (and any documentation) directly after the consent verification hearing, for transport to the designated departure institution. However, if assurance is not received from the treaty nation that the state prisoner will be transferred, the state prisoner will remain in state custody until a tentative transfer date is established.

State prisoners already in Bureau custody (state boarders) are transferred to a designated departure institution once travel arrangements have been established with the treaty nation.

When the inmate arrives at the departure institution, the Warden follows the procedures in Sections 6.h. and i.

Correctional Systems staff enter "Treaty Transfer" as the release method for a state prisoner in a Bureau institution en route to the treaty nation. The treaty nation is listed as the release address.

## 8. CASES ON APPEAL OR COLLATERAL ATTACK

OEO cannot approve a transfer if the inmate has a pending appeal or a collateral attack on his conviction. **The judgment must be final.** The inmate may apply for treaty transfer consideration when the appeal process or collateral attack has concluded.

**Note:** An appeal challenges the decision made in the same case. A collateral attack is a motion filed pursuant to 28 U.S.C., §2255, which challenges some aspect of a former judgment due to an injustice or unconstitutional treatment that occurred in the former case.

If OEO determines in their review process that an appeal or a collateral attack is pending in the inmate's case, they will issue a written notification indicating the inmate is currently ineligible or is denied. This information is forwarded to the institution.

Institution staff do not need to submit a new application packet when a packet was previously submitted. Staff need only submit the following to the Assistant Administrator, Correctional Programs Branch:

- A memorandum indicating the inmate's case is no longer on appeal or has a collateral attack pending, and he/she still wishes to apply for treaty transfer.
- Documentation from the court showing the appeal or collateral attack was dismissed, withdrawn, resolved, etc.

Upon receiving this information, OEO will reconsider the case and make a final determination.

## 9. DETAINERS/PENDING CHARGES

Detainers or pending charges **do not** preclude an inmate from applying for treaty transfer. However, the inmate should be advised to resolve any detainer and/or pending charge prior to applying for treaty consideration, as he/she may be considered unsuitable for transfer until the detainer is removed or pending charge is resolved.

This does not pertain to detainers lodged by Immigration and Customs Enforcement (ICE).

## 10. SENTRY APPLICATIONS

Case Management Activity (CMA) assignments have been created for treaty transfer cases to enable staff to more effectively monitor their cases:

- CMA assignments are applied in conjunction with SENTRY country codes.
- Country codes and assignments are available on the Correctional Programs Intranet page.
- Inmates eligible for treaty transfer consideration must have a CMA assignment (Interest, No Interest, or Ineligible) entered in SENTRY prior to or upon completion of the Initial Classification.

- Institution staff do not remove the CMA assignments entered by Central Office (see assignments below).

The CMA assignments described below use Canada (CA) as an example:

GROUP CODE	ASSIGNMENT	DESCRIPTION
TICA	ITTCA INEL	ITTCA INELIGIBLE
TTCA	ITTCA INT	ITTCA INT IN TRTY TRANS
TNCA	ITTCA NO I	ITTCA NO INT TRTY TRANS

**Entered by Institution Staff:**

**Entered by Central Office:**

TACA	ITTCA PEND	ITTCA US APPROVED, PENDING FC
TACA	ITTCA APPR	ITTCA US/FC APPROVED, CVH CMP
TDCA	ITTCA US D	ITTCA US DENIED TRTY TRANS
TDCA	ITTCA FC D	ITTCA FC DENIED TRTY TRANS

- a. **Ineligible.** The Case Manager enters **ITTTX INEL** if any of the following apply:
- The inmate has less than six months of the current sentence remaining to be served at the time of request for transfer. (France, Hong Kong, and Thailand require 12 months.)
  - The inmate has any pending proceedings, appeals, or collateral attacks. The judgment on the current conviction of sentence must be final.
  - **MEXICO:** The inmates is serving a sentence(s) exclusively for Immigration Law Violations (SENTRY IIS Offense Codes 170, 171, 172, 173), unless the immigration offense is totally absorbed by another current sentence and the **time served** to date is equal to or greater than the sentence imposed for the immigration offense; or the inmate is serving a life or indeterminate sentence, or is committed for a **purely** military offense (i.e., desertion).
  - **CANADA, FRANCE, MARSHALL ISLANDS, PALAU, PANAMA, PERU, THAILAND, AND TURKEY:** Committed for a **purely** military offense (i.e., desertion).
  - **BOLIVIA:** Convicted of an ordinary criminal offense in a court martial or a **purely** military offense (i.e., desertion).
  - **BOLIVIA, MARSHALL ISLANDS, PALAU, PANAMA, PERU AND TURKEY:** Sentenced to the death penalty.

**NOTE:** Inmates who have committed a military offense can apply for treaty transfer if the treaty nation is a signatory to the Council of Europe (COE) Convention. However, restrictions may apply if the bilateral treaty is applicable, as noted above.

b. **Interested in Treaty Transfer.** The Case Manager enters **ITTX INT** if the inmate is eligible and he/she is applying for a treaty transfer. The inmate must sign the Transfer Inquiry (BP-A0297) indicating an interest.

An inmate with **dual** citizenship is eligible to apply to any treaty nation of which he/she is a citizen. The inmate's citizenship code in SENTRY should reflect the country to which the inmate is applying.

The institution is responsible for completing application packets for interested inmates. The inmate should be advised to write to his/her embassy or consulate in the United States requesting transfer under the treaty to initiate the verification of citizenship process and to expedite the transfer application process.

c. **No Interest in Treaty Transfer.** The Case Manager enters **ITTX NO I** if the inmate is eligible but is not interested in treaty transfer. The inmate must sign the Transfer Inquiry (BP-A0297) indicating no interest.

Treaty consideration for eligible inmates is addressed at subsequent program reviews and documented on the program review form.

d. **Approved for Treaty Transfer.** Correctional Programs Branch, Central Office, enters **ITTX PEND** upon receiving written notification from OEO that the inmate has been approved for treaty transfer by the U.S., but a decision is still pending from the foreign country (FC).

Correctional Programs Branch, Central Office, enters **ITTX APPR** upon receiving written notification from OEO that the inmate has been approved for treaty transfer by both the U.S. and the foreign country and the inmate consented to transfer at his/her consent verification hearing.

e. **Denied Treaty Transfer.** Correctional Programs Branch, Central Office, enters **ITTX US D** upon receiving written notification from OEO that the inmate has been denied treaty transfer by the U.S.

Correctional Programs Branch, Central Office, enters **ITTX FC D** upon receiving written notification from OEO that the inmate has been denied treaty transfer by the foreign country.

## 11. RECEIVING UNITED STATES CITIZENS FROM OTHER COUNTRIES

### §527.46 Receiving United States citizens from other countries.

(a) Staff accepting custody of American inmates from a foreign authority shall ensure that the following documentation is available prior to accepting custody of the inmate:

(1) A certified copy of the sentence handed down by an appropriate, competent judicial authority of the transferring country and any modifications thereof;

(2) A statement (and a copy translated into English from the language of the country of origin if other than English), duly authenticated, detailing the offense for which the offender was convicted, the duration of the sentence, and the length of time already served by the inmate. Included should be statements of credits to which the offender is entitled, such as work done, good behavior, pre-trial confinement, etc.; and

(3) Citizenship papers necessary for the inmate to enter the United States.

OEO notifies the Correctional Programs Division, Central Office, which, in turn, notifies the admitting institution when an American citizen is to be returned to the U.S.

The Correctional Programs Division ensures that the inmate has received the required consent verification hearing before a U.S. Magistrate Judge or U.S. District Court Judge to document voluntary consent for transfer.

Prior to the transfer, the Correctional Programs Division receives information on each prisoner and obtains a criminal record and outstanding warrants, either through the National Crime Information Center (NCIC) or the FBI, to complete a Security Designation and Custody Classification form.

The Correctional Programs Division, with assistance from OEO, coordinates all arrangements for an inmate's transfer to the U.S.

The U.S. Embassy provides necessary citizenship papers or travel documents for the inmate. Staff escorting the inmate **must have those papers** available **upon entry** into the U.S.

**(b) The Assistant Director, Correctional Programs Division, shall direct, in writing, specific staff, preferably staff who speak the language of the treaty nation, to escort the offender from the transporting country to the admission institution. The directive shall cite 28 CFR 0.96b as the authority to escort the offender. When the admission institution is not able to accept the inmate (for**

**example, a female inmate escorted to a male institution), the Warden shall make appropriate housing requirements with a nearby jail.**

Staff sign the documents necessary to receive the inmate.

The inmate and his/her property are processed through ICE at the U.S. border or another appropriate entry site.

The admitting institution retains case management responsibilities for the inmates until they are transferred to a Bureau institution.

**(c) As soon as practicable after the inmate's arrival at the admission institution, staff shall initiate the following actions:**

**(1) Arrange for the inmate to receive a complete physical examination;**

**(2) Advise the local U.S. Probation Office of the inmate's arrival; and**

The official version of the offense is placed in the Inmate Central File (if a translated copy has not been provided, a bilingual staff member or reliable translation service usually arranged by OEO, prepares one).

Staff forward copies of all available information on the transferring inmate to the U.S. Probation Office for preparation of the Post-Sentence Report.

Staff request that a U.S. Probation Officer be assigned to prepare the Post-Sentence Report (PSR) and forward the PSR to the designated institution within 30 days.

During this process, the local U.S. Probation Office ordinarily interviews the inmate and completes U.S. Probation Form 1A, as well as the Authorization to Release Confidential Information (BP-A0301).

**(3) Notify the U.S. Parole Commission of the inmate's arrival and projected release date.**

Inmates returning from other countries are, by law, immediately eligible for parole if they committed their offense before November 1, 1987.

Inmates who committed their foreign offense on or after November 1, 1987, must receive a hearing before the U.S. Parole Commission (USPC) within 180 days of entry into the United States, or as soon as practicable, per 18 U.S.C. § 4106A and 28 CFR §2.68.

The USPC is notified by the Correctional Programs Division of the inmate's arrival date and designated institution.



If, upon computation of sentence, staff determine that an inmate is within six months of release, staff send a **prompt** notification to the USPC via mail, email or fax, depending on the time remaining, advising them of the impending release date. The USPC is permitted to determine a release date and a period and conditions of supervised release, without an in-person parole hearing.

Staff at the admitting institution also determine if each inmate should be retained there for the initial hearing before the USPC or transferred to a more appropriate institution. The Case Management Coordinator requests the DSCC to designate an appropriate institution.

**(d) If upon computation of sentence staff determine that an inmate is entitled to immediate release via mandatory release or expiration of sentence with credits applied, release procedures shall be implemented but only after receiving a medical clearance and the results of an FBI fingerprint check.**

Ordinarily, DSCC staff will complete the inmate's computation of sentence prior to arrival at the institution.

Medical clearance is obtained from the Health Services Administrator.

Arrangements are made with the local FBI office for prompt processing of an NCIC check. A full fingerprint check should be done, if possible.

The U.S. Probation Officer is notified by phone in advance of the inmate's release and provided with all information regarding the inmate. A post-sentence report need not be requested.

## 12. BIENNIAL REPORT REQUIRED

Follow-up information may be requested by treaty nations concerning U.S. citizens returned to the United States.

The Office of Information Systems (OIS), Central Office, provides OEO and the Assistant Administrator, Correctional Programs Branch, a report as of June 30 and December 31 of each year that identifies returned U.S. citizens remaining in Bureau custody or released within the reporting period. It groups inmates by nation and contains:

### a. Identification Data

- Name.
- Register Number.
- FBI Number.
- Facility.

**b. Sentence Data**

- Date Committed (to Bureau).
- How Committed.
- Offense Code.
- Foreign Sentence.
- Supervision Term.

**c. Release Status Data** (if applicable)

- Sentence Began.
- Release Date.
- Release Method.

**REFERENCES**

*Program Statements*

- P1490.06 Victim and Witness Notification Program (5/23/02)
- P5100.08 Inmate Security Designation and Custody Classification (9/12/06)
- P5140.38 Civil Contempt of Court Commitments (7/1/04)
- P5290.14 Admission and Orientation Program (4/3/03)
- P5800.15 Correctional Systems Manual (1/1/09)

*ACA Standards*

None.

*Records Retention Requirements*

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) system on Sallyport.