

## International Prisoner Transfer Program

The United States Government has entered into treaties with many foreign nations that allow the transfer of foreign national prisoners to their countries of nationality.

The main purpose of the International Prisoner Transfer Program is to help the prisoner re-enter society. A successful re-entry to society is more likely to occur in the prisoner's country of nationality, closer to family and within his or her own culture.

California Government Code Section 12012.1 gives the Governor or his designee, the authority to approve or disapprove foreign prisoner transfers for the State of California.

The factors listed below are considered when deciding whether a prisoner should be approved for transfer:

- Treaty restrictions
- Prisoner's family and other social ties to the sending and receiving countries.
- Humanitarian concerns.
- Prisoner acceptance of responsibility.
- Prisoner criminal ties to the sending and receiving countries.
- Prisoner criminal history.
- Seriousness of the offense.
- Law enforcement concerns.
- Likelihood of the prisoner returning to the United States.

In order for a transfer to occur, the prisoner, the State of California, the United States Government, and the foreign nation must agree to the transfer. All of the treaties have certain common provisions:

1. The prisoner must be convicted and sentenced.

2. The prisoner must have some minimum period of time to serve of his or her sentence, usually six months, two treaties require one year.
3. The judgment and conviction must be final. This means there must be no pending court proceeding by way of either a direct appeal or, under most treaties, a collateral attack against either the judgment or the sentence.
4. The crime for which the prisoner was convicted in the United States must be an offense under the laws of the receiving country had it been committed there.
5. The sentence cannot be a capital sentence.
6. The prisoner cannot be convicted solely of a military or political offense.

Some treaties have restrictions on indeterminate sentences. Some treaties have restrictions how long a prisoner has lived in the United States.

### The Transfer Process

You may inform your counselor that you wish to transfer to your country of nationality and request that your counselor inform the Board of Parole Hearings. Some countries require that you apply to them first. You should contact the consulate of your country of nationality since they can help you with the process. The BPH requests information from your central file. The BPH also asks your country of nationality how they will treat your sentence in their country. Information on your case is put together and used to approve or disapprove your transfer. The decision to approve a transfer is discretionary and there are cases in which a transfer is not appropriate. You are informed of this decision in a letter. If you are approved, a transfer package is sent to the United States Justice Department, International Prisoner Transfer Unit (IPTU) to review for approval or disapproval. If the IPTU approves the transfer, the package is sent to the foreign nation for transfer approval.

If the State of California, the United States Department of Justice, and the foreign nation all approve the transfer, you will be scheduled for an Immigration Removal Order and a Federal Consent Verification Hearing. Male

prisoners will be transferred to Richard J. Donovan (RJD) Correctional Facility for this process. Female prisoners will not be transferred from their institution for this process. At the Consent Verification Hearing, a Federal Magistrate will validate your consent to the transfer.

After the Consent Verification Hearing, you will be transferred to Federal Bureau of Prisons custody for transfer to the foreign nation.

The Federal Bureau of Prisons has restrictions on personal property. The following is allowed:

- Clothing (worn on person)
- Wedding band (no stones)
- Prescribed medical devices
- Prescribed medication
- Prescribed eyeglasses
- Legal material
- Earring for female (one pair, no stones)
- Identification cards
- Currency/negotiable instruments
- Religious medal or medallion (no stones) or essential daily prayer items.

The disposition of personal property for male prisoners will be accomplished before arriving at RJD. The disposition of personal property for female prisoners will be accomplished before the Consent Verification Hearing.

The entire process, from application to transfer, requires several levels of review and may take six months to a year to complete. Transfer to some foreign nations may take longer due to the lengthy approval process in those foreign nations.

You may be a suitable candidate for a transfer to your country of nationality. The first step is to tell your counselor that you wish to transfer and request that the Board of Parole Hearings be informed. You may also inform the Consulate of your country of nationality that you wish to transfer.