

GEORGIA DEPARTMENT OF CORRECTIONS		
Standard Operating Procedures		
Functional Area: Facilities Division	Reference Number: IIB17-0001	Revises Previous Effective Date: 11/01/03
Subject: International Transfers		
Authority: Donald / Adams	Effective Date: 3/01/04	Page 1 of 8

I. POLICY:

In accordance with Georgia Department of Corrections ("GDC") guidelines given in this procedure, ensure that all GDC inmates are given notice of Georgia's participation in the International Prisoner Transfer Program ("IPTP"), and an opportunity to apply for International Transfer to their country of citizenship/nationality, provided that such countries have executed treaties with the United States, and participate in the IPTP (See Attachment 1, Participating Countries list). The Appointing Authority is responsible for ensuring that the Prisoner Notification (Attachment 5) is posted in all housing units and common areas of the facility. Accompanying this notice should be a list of those countries that participate in the IPTP. Although the actual treaty provisions vary, as a matter of practice, a prisoner convicted solely of a military offense or a political offense will not be suitable for transfer.

II. APPLICABILITY:

All state facilities housing GDC inmates.

III. RELATED DIRECTIVES:

- A. 18 U.S.C.4100-4115
- B. O.C.G.A. 42-13-1 et. seq.
- C. GDC Rules: 125-2-4-.03
- D. GDC S.O.P.: IIB10-0002

IV. DEFINITIONS:

- A. Domiciliary: A person who has resided in the sentencing country at least five years with the intent to remain in that country.

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B. Major Violator: A person who has been convicted of one or more of the following violations of law: murder, rape, armed robbery, kidnapping, aggravated sodomy, aggravated sexual battery, or aggravated child molestation.

V. ATTACHMENTS:

Attachment 1- Participating Countries

Attachment 2- Prisoner Transfer Application Questionnaire

Attachment 3- Certified Case Summary for State Inmate

Attachment 4- International Prisoner Transfer Notification and Acknowledgement Form

Attachment 5- Prisoner Notification

Attachment 6- Program Denial Form

Attachment 7- Transfer Notification Form

VI. PROCEDURE:

A. In order that an inmate may be considered for transfer, certain preliminary steps should be initiated by the inmate and facility counseling staff. These steps are listed below.

1. The inmate should request from his counselor or law librarian a Participating Countries list (Attachment 1). If it is found that his country of origin is participating in the treaty, he will then complete a Prisoner Transfer Application Questionnaire (Attachment 2) and an International Prisoner Transfer Notification and Acknowledgment Form (Attachment 4). The completed forms must be returned to the counselor, who will assist in this process if necessary.

2. Upon receipt, the counselor will review the inmate's file to gather such information as length of sentence, time served, violent or non-violent criminal history, inmate behavior while incarcerated in Georgia, and length of time the inmate has resided in the United States. This data will be collected and recorded on the Certified Case Summary for State Inmate Form (Attachment 3). At the

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completion of this process, the counselor will prepare a fact-based recommendation as to whether the inmate meets the criteria for transfer. The counselor will forward the recommendation and the completed application packet to the Chief/ Senior Counselor (Highest ranking Counselor assigned to respective institution).

3. Once the process has been properly initiated and all the initial pertinent information has been gathered, the factors listed below will be considered by the Inmate Administration Manager to determine the suitability of the inmate for an international transfer.
 - a. The requesting inmate should not have been convicted of a capital crime.
 - b. The requesting inmate should have completed at least one year of his current sentence, and have at least one year remaining to be served at the time of the request for transfer.
 - c. The requesting inmate should not have been sentenced as a major violator.
 - d. The requesting inmate should have a determinate sentence.
 - e. The requesting inmate should be serving a first confinement in the Georgia Department of Corrections, regardless of the number of confinements in other jurisdictions.

Note: While the above items should serve as guidelines to promote uniform consideration of IPTP applications, the Inmate Administration Manager should consider all applications on a case by case basis and should consider any and all factors deemed relevant in making a determination.

B. Limitations on IPTP transfer of inmates

1. An inmate in custody for civil contempt may not be considered for return to the inmate's country of

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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.

2. The crime for which the inmate has been convicted must be recognized as a crime in the receiving country.
3. An inmate with a committed fine may not be considered for return to the inmate's country of citizenship/nationality 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/nationality.
4. An inmate who has been the beneficiary of a treaty transfer previously (International Transfer), may be unsuitable for transfer consideration.
5. Inmates who are the subject of criminal investigations should not be approved for transfer.
6. Verification of Foreign Born Inmates

The prisoner cannot be a domiciliary of the sending country. The inmate's counselor should review the pre-sentence investigation reports (contained in the inmate's file) to verify the original birthplace of the inmate who claims to be of foreign nationality. Moreover, the counselor will interview the inmate using an interpreter if necessary, and complete the Certificate of Eligibility U.S. Treaty Form 1004-15P or for the Spanish version, Form 1004-15PS.

- C. Family and other social ties to the sending and receiving countries should be seriously considered.

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1. Determine whether inmate has family in receiving country.
2. Determine whether inmate has other significant ties to receiving country.

D. Transfers to third countries

Occasionally, a transfer is sought by an inmate whose most significant ties are neither to the receiving country nor the sending country, but are to a third country with which the United States does not have a transfer treaty relationship. Such cases need to be carefully evaluated. Transfers will usually be permitted if the receiving country will accept the inmate, the inmate is not a major violator, and incarceration in the receiving country seems to be in the inmate's best interest.

E. Humanitarian concerns

Humanitarian concerns, such as the terminal illness of an immediate family member, may be considered as factors that would support a decision to transfer.

F. Public Sensibility

If the return of an inmate to a foreign country could outrage the public in the sending state because of the heinous nature of the inmate's crime or circumstances related to the crime, the potential for such outrage should be considered.

G. Pre-transfer process (Institution's Responsibilities)

Once suitability and nationality have been confirmed, the Chief/Senior Counselor begins the pre-transfer process by completing the tasks outlined below.

1. Requesting the most recent report of medical examination and case summary from the institution Medical Unit(Infirmary).
2. Requesting an offender printout with photographs (front and side view) from the Georgia Department of Corrections intranet/ inmate query.

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3. Ensuring the inmate is fingerprinted using an original fingerprint card and that the card is included in the transfer package that will accompany the inmate upon transfer.
4. Requesting the current balance of the inmate's commissary account, and completing the appropriate paperwork to have a check issued for that amount, which will accompany the inmate when transferred.
5. Requesting a copy of the most current approved visitation list for the inmate.
6. Obtaining the names and addresses of family members in the receiving country from the inmate.
7. Obtaining copies of the following:
 - a. The Pre-Sentence Investigative Report (contained in the inmate's file). If this report is not available, a social summary report including a description of the offense that led to the inmate's conviction shall be prepared by the inmate's counselor;
 - b. Criminal History Summary;
 - c. All current and consecutive commitment documents;
 - d. All Detainers; and
 - e. An Eligibility Certificate pursuant to treaty.
8. Assembling all information into a packet and submitting the packet to the Warden or his/ her designee for review and recommendation of approval or denial.

H. Transfer Packet to Inmate Administration Manager

1. Once a recommendation has been prepared by the Warden or his/ her designee, for approval or denial, the recommendation and completed packet will be submitted to the Inmate Administration Manager for review at 2 Martin Luther King Jr., Dr., SE/ Suite 652 East, Atlanta, Georgia 30334-4900.

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2. Upon receipt, the Inmate Administration Manager will review the packet to ensure compliance with this policy as well as other guidelines or directives governing the ("IPTP"). The Department's Victims Services Unit will be notified of the transfer request by the Inmate Administration Manager to ensure that an impact statement is obtained for review, and there is compliance with victim notification requirements.
3. Upon completion, the Inmate Administration Manager will submit the packet to the Facilities Division Director for approval or denial. After review, the Facilities Division Director will forward the application packet with his/ her recommendation for approval or denial to the Commissioner of the Georgia Department of Corrections. The originating institution's staff will be made aware of the Commissioner's approval or denial.
4. If the state does not approve the transfer, the application is never submitted to the United States Department of Justice for review. The process will be terminated at this point. The state as well as the Federal government have the discretion to approve or deny any prisoner transfer request.
 - c. Any IPTP applicant who is not initially approved for transfer by the Department may be allowed to re-apply after a period of 12 months from the date the application is submitted.
5. In the event that the application is forwarded to the United States Department of Justice, the Department of Correction's legislative liaison will be notified by the Inmate Administration Manager in order that any concerns may be addressed.
6. The Department's Public Information Section will also be notified by the Inmate Administration Manager as an additional means of addressing any questions that may arise concerning the application or transfer process.

I. Physical transfer process of approved inmates

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Once the transfer of an Inmate to his/ her country of origin has been approved by the appropriate authorities, the physical transfer process can begin. The Inmate Administration Manager, who will also act as liaison for the Department of Corrections, will communicate with the United States Department of Justice and other appropriate agencies to initiate and ensure the completion of this process.

1. The IAM shall furnish the name(s), date, time, and place of verification hearings for inmates approved by the United States Department of Justice and the government of the receiving country to the appropriate Warden or Deputy Warden.
2. Upon verifying that the inmate will be transferred, the Inmate Administration Manager will coordinate the transfer between the appropriate institution and Federal officials.

Note: The Inmate Administration Manager will ensure all information related to the transfer program is current, and includes any updates or changes. The IAM will remain abreast of any changes in the program at the Federal level and communicate those changes to state personnel involved in the program.

VII. Retention Schedule:

- A. Attachment 2 - Prisoner Transfer Application Questionnaire to be maintained in an inactive file by the Inmate Administration Manager or designee for three years. A copy will be placed in the Inmate Administrative File.
- B. Attachment 3 - Certified Case Summary for State Inmate to be maintained in an inactive file by the Inmate Administration Manager or designee for three years. A copy will be placed in the Inmate Administrative File.
- C. Attachment 4- International Prisoner Transfer Notification and Acknowledgement Form to be maintained in an inactive file by the Inmate Administration Manager or designee for three years. A copy will be placed in the Inmate Administrative File.