

## Bureau of Prisons, Justice

## § 527.31

Program) the inmate's classification as a CIM case. Inmates identified as Witness Security cases may choose to address their concerns directly to the Inmate Monitoring Section, Central Office, rather than use the Administrative Remedy Program.

### PART 527—TRANSFERS

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AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 3565, 3569, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4100–4115, 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 4201–4218, 5003, 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

#### Subparts A–C [Reserved]

#### Subpart D—Transfer of Inmates to State Agents for Production on State Writs

SOURCE: 46 FR 34549, July 1, 1981, unless otherwise noted.

##### § 527.30 Purpose and scope.

The Bureau of Prisons will consider a request made on behalf of a state or local court that an inmate be transferred to the physical custody of state or local agents pursuant to state writ of habeas corpus *ad prosequendum* or *ad*

*testificandum*. The Warden at the institution in which the inmate is confined is authorized to approve this transfer in accordance with the provisions of this rule.

##### § 527.31 Procedures.

(a) These procedures apply to state and federal inmates serving sentences in federal institutions, and shall be followed prior to an inmate's transfer to state or local agents other than through the Interstate Agreement on Detainers.

(b) The Warden shall authorize transfer only when satisfied that the inmate's appearance is necessary, that state and local arrangements are satisfactory, that the safety or other interests of the inmate (such as an imminent parole hearing) are not seriously jeopardized, and that federal interests, which include those of the public, will not be interfered with, or harmed. Authorization may not be given where substantial concern exists over any of these considerations.

(c) The request for transfer of custody to state agents shall be made by the prosecutor or other authority who acts on behalf of the court and shall be directed to the Warden of the institution in which the inmate is confined. The request shall be made by letter. The request shall indicate the need for appearance of the inmate, name of the court, nature of the action, date of the requested appearance, name and phone number of the state agency or other organization with responsibility for transporting the inmate, the name and location where the inmate will be confined during legal proceedings, and anticipated date of return. For civil cases, the request shall also indicate the reason that production on writ is necessary and some other alternative is not available. The applying authority shall provide either at the time of application or with the agent assuming custody, a statement signed by an authorized official that state or local officials with custody will provide for the safekeeping, custody, and care of the inmate, will assume full responsibility for that custody, and will return the inmate to Bureau of Prisons' custody promptly on conclusion of the inmate's

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appearance in the state or local proceedings for which the writ is issued.

(d) A certified copy of the writ (one with the Seal of the Court) must be received at the institution prior to release of the inmate. Institution staff shall verify the authenticity of the writ.

(e) Institution staff shall maintain contact with the state or local law enforcement agency with responsibility for transfer of the inmate to determine the exact date and time for transfer of custody. If the inmate is awaiting federal trial or has federal civil proceedings pending, staff must clear the transfer through the U.S. Attorney.

(f) Institution staff shall determine from the state or local agency the names of the agents assuming custody. Staff must carefully examine the credentials of the agents assuming custody. In any doubtful case, verification should be sought.

(g) Transfers in civil cases pursuant to a writ of habeas corpus ad testificandum must be cleared through both the Regional Counsel and the Warden. Transfer ordinarily shall be recommended only if the case is substantial, where testimony cannot be obtained through alternative means such as depositions or interrogatories, and where security arrangements permit. Postponement of the production until after the inmate's release from federal custody will always be considered, particularly if release is within twelve months.

(h) Release of inmates classified as Central Inmate Monitoring Cases requires review with and/or coordination by appropriate authorities in accordance with the provisions of 28 CFR part 524, subpart F.

[46 FR 34549, July 1, 1981, as amended at 50 FR 40105, Oct. 1, 1985; 62 FR 13826, Mar. 24, 1997]

## Subpart E—Transfer of Offenders to Foreign Countries

SOURCE: 80 FR 38621, July 7, 2015, unless otherwise noted.

### § 527.40 Purpose and scope.

This subpart describes the Bureau of Prisons (Bureau) procedures regarding

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its role in the transfer of offenders to foreign countries and the transfer of American offenders back to the United States pursuant to 18 U.S.C. 4100, *et seq.*, and applicable transfer treaties and conventions.

### § 527.41 Definitions.

For the purpose of this subpart, the following definitions apply.

(a) *Treaty nation*. A country with which the United States has a transfer treaty relationship either through a bilateral treaty or a multilateral transfer convention.

(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 the country of which the inmate is a citizen or national.

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

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

The transfer treaties and conventions, as well as 18 U.S.C. 4100–4115, impose specific requirements that an inmate must satisfy in order to be returned to his or her country of citizenship or nationality.

### § 527.43 Notification of inmates.

Foreign national inmates will be notified about the International Prisoner Transfer Program and the procedures to follow to apply for transfer as follows:

(a) Through information provided in the institution's admission and orientation program; and

(b) Through individual notice given to an inmate who is a citizen or national of a treaty nation. The notice must:

(1) Reiterate the availability of the transfer program;

(2) Provide the inmate with an opportunity to inquire about transfer to the country of which the inmate is a citizen or national; and

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(3) Inform the inmates of the procedures set forth in this part.

### § 527.44 Request for transfer to country of which inmate is a citizen or national.

An inmate who is eligible for and desires to transfer to the country of which the inmate is a citizen or national for service of a sentence imposed in a United States Court must indicate the inmate's interest by completing and signing the appropriate form and giving it to Bureau staff for further processing.

### § 527.45 Bureau determination on request for transfer.

The following is the process by which determinations are made on an inmate's request to be transferred to the country of which the inmate is a citizen or national to serve a sentence imposed in a United States Court.

(a) *Warden's determination.* Upon verifying that the inmate is eligible for transfer, the Warden forwards all relevant information, including a complete application package, to the Assistant Director, Correctional Programs Division, Central Office.

(b) *Central Office and Department of Justice determination.*

(1) The Assistant Director, Correctional Programs Division reviews the submitted material and forwards the application package to the Department of Justice for review.

(2) The Department of Justice notifies the inmate of the determinations made.

### § 527.46 Transfer procedures.

(a) *Treaty nation determination.* If the Department of Justice approves the transfer request, the treaty nation will be asked if it consents to the transfer of its citizen or national. The inmate will be informed of the determination made by the treaty nation.

(b) *Transfer to departure institution.* The Bureau and the Department of Justice will arrange for the inmate to

be transferred to an appropriate departure institution.

(c) *Consent verification hearing.* If the treaty nation consents to the transfer, the United States will arrange a consent verification hearing for the prisoner as required by 18 U.S.C. 4107, 4108. This hearing is held before a U.S. Magistrate Judge or other judicial officer as specified in sections 4107 and 4108. The Bureau must ensure that the prisoner is available and present at the consent verification hearing.

(d) *Transfer to departure institution and foreign retrieval of inmate.* If the foreign national prisoner gives consent to transfer at the consent verification hearing, the Department of Justice will notify the treaty transfer nation.

### § 527.47 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 the state prisoner has consented to the transfer at the consent verification hearing, the Bureau assumes custody of the prisoner. 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).

### § 527.48 Transfer of American national prisoners from foreign countries.

The Bureau of Prisons is responsible for:

(a) Sending escorts to foreign countries to retrieve American national prisoners who have been approved for transfer to the United States and who have had their consent verified at the consent verification hearing specified in 18 U.S.C. 4108; and

(b) Making logistical arrangements for the transfer and coordinating with the United States Parole Commission for proceedings to determine how the sentence will be administered.