



INTERNAL MANAGEMENT POLICY & PROCEDURE

Department of Corrections

Applicability: Adult Operation Only JUVENILE Operations Only DEPARTMENT-WIDE

IMPP #: 11-105A

PAGE #: 1 of 4

DECISION MAKING: Notifications and Transfers of International Residents

Original Date Issued: 08-16-22 Replaces IMPP Issued: N/A CURRENT EFFECTIVE DATE: 08-16-22

Approved By:  Secretary Next Scheduled Review: 04/2025

POLICY

All residents admitted to the reception center shall be asked to identify their country of citizenship. Residents indicating citizenship other than the United States shall be informed of the possibility of transfer under the International Treaty Agreement and informed that such transfers are a privilege rather than a right. Each foreign national shall be provided information to facilitate the resident's access to the diplomatic representative of his/her country of citizenship and advised of his/her right to have the consular officials of that country notified.

Regardless of the resident's wishes, in some cases, the designated reception center staff member shall be required to notify the nearest consular officials of the detention of a foreign national (see Attachment A).

In the event of the death of a foreign national while in the custody of the Department of Corrections, the consular officials of the resident's country of citizenship shall be notified, per IMPP 01-114D.

DEFINITIONS

Consular official: A citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country.

Foreign national: An individual who is a citizen of another nation or who has established dual citizenship.

Treaty nations: Nations (see Attachment A) which have entered into formal agreement with the United States regarding the transfer of sentenced persons.

PROCEDURES

I. Determination of Citizenship and Notification of Rights for Foreign Nationals

- A. Inquiry into and the determination of each resident's citizenship shall be required during the admissions process at the reception center, per provisions of IMPP 11-102.
- B. All residents who indicate citizenship other than the United States shall be read and/or provided, in a language they understand, a copy of a Statement to Arrested or Detained Foreign Nationals, as provided by the United States Department of State. The statements are provided for both Non-Mandatory and Mandatory Notifications.
 1. Non-Mandatory Notification Statement
 - a. The non-mandatory notification statement includes the following information and inquiry:

- (1) As a detained foreign national the resident is entitled to have the country of citizenship's consular representatives in the United States notified of the resident's place of incarceration;
- (2) Advise the resident that a consular official from the country of citizenship may assist in obtaining legal counsel for the resident, may contact the resident's family and may visit the resident during the period of incarceration, etc.;
- (3) Advise the resident that he/she may request the notification of the resident's citizenship country's consular immediately or at any time during the resident's period of incarceration; and,
- (4) Inquire as to the resident's preference regarding notification of the country's consular officials at the resident's request following completion of the Statement to Arrested or Detained Foreign Nationals form (Attachment B).

2. **Mandatory Notification Statement**

a. The mandatory notification statement includes the following information:

- (1) As a detained foreign national, the Department is required to notify the country of citizenship's consular representatives in the United States of the resident's place of incarceration;
- (2) Advise the resident that a consular official from the country of citizenship may call or visit the resident following the notification;
- (3) Advise the resident that he/she is not obligated to accept the consular representative's assistance although the representative may be helpful in obtaining legal counsel, contacting the resident's family, visiting the resident, etc.; and,
- (4) Advise the resident that the Department can notify the country's consular officials as soon as possible.

C. Residents shall be informed of the procedures for transfer to their country of citizenship and requested to indicate their interest or lack of interest in requesting such a transfer on the Transfer Inquiry form (Attachment C).

1. Resident may request transfer under the International Treaty Agreement at any time during their incarceration, following their transfer from the reception center.

D. The reception center staff shall complete the Resident Information Provided to Treaty Nation (Attachment D), including all relevant attachments, on all residents whose country of citizenship is included as one of the mandatory notification countries and for those residents who indicate an interest in transfer to their country of citizenship.

1. The information form shall be provided, via fax or certified mail, to the nearest consular officials of the country indicated as the country of citizenship.
2. A copy of the form and all written communications regarding the notification of consular officials shall be retained in the resident's facility record.

II. Eligibility Criteria for Transfer of Foreign Nationals

A. Foreign nationals may request transfer to their country of origin provided that their country of citizenship has executed a treaty with the United States.

- B. The following eligibility criteria, established by the U. S. Treaty, apply to all applicants and are common to all treaty nations:
1. The resident must be a citizen of the receiving country;
 2. The resident can provide evidence of community support in the treaty nation;
 3. The resident must not have any outstanding legal financial obligation(s);
 4. The resident must consent to the transfer;
 5. The resident must not be incarcerated/in the custody of the Department for a military or immigration offense;
 6. The resident must have at least six (6) months of the current sentence remaining to be served at the time of the request for transfer; and,
 7. The resident has no pending appeal proceedings or collateral attack upon the current conviction, including post-conviction relief.
 - a. Detainers from Immigrations and Naturalization Services shall not serve to render a resident ineligible for transfer.

III. Procedures to Process Requests for Transfer

- A. When a resident has formally indicated interest in a transfer to the country of citizenship, per Attachment A, the assigned counselor will utilize the Checklist for Transfer Packet to Treaty Nation (Attachment E) in preparing the classification referral. Under normal circumstances, this shall be completed after the resident has completed the RDU evaluation process and been assigned to a facility for housing. The review shall address:
1. The resident's birthplace or right to citizenship in the treaty nation, to be documented by a birth certificate or other legal means.
 2. The resident's community support in the treaty nation, providing names and addresses when available.
 3. The status of the resident's legal financial obligations must be verified to ensure that there are no outstanding obligations.
 4. The resident's indication of interest and consent to the transfer to the treaty nation.
 5. The resident's legal status, including verification of the nature of the crime, pending appeals, and time remaining on the current sentence.
- B. Upon conclusion of the classification review, the complete packet of application and information forms shall be forwarded to the Deputy Secretary of Facility Management or designee. The packet shall include:
1. Notice Regarding International Transfer (Attachment F);
 2. Transfer Inquiry form (Attachment C); and,
 3. Resident Information Provided to Treaty Nation (Attachment E).
- C. The Deputy Secretary of Facility Management or Designee shall, within 10 working days, review the packet and submit a recommendation for disposition to the Secretary of Corrections.
- D. If the case is deemed to be appropriate for transfer by the Secretary, a written recommendation shall be submitted to the Governor for approval pursuant to KSA 22-3723.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff, residents, and offenders, and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees, residents, or offenders, or an independent duty owed by the Department of Corrections to employees, residents, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS

None.

REFERENCES

KSA 22-3723
IMPP 01-114D, 11-102

HISTORY

08-16-22 Original

ATTACHMENTS

Attachment	Title	Page Total
A	Mandatory Notification Countries and Jurisdictions	1 page
B	Statement to Arrested or Detained Foreign Nationals	1 page
C	Transfer Inquiry	1 page
D	Resident Information Provided to Treaty Nation	1 page
E	Checklist for Transfer Packet to Treaty Nation	1 page
F	Notice Regarding International Prisoner Transfer	1 page

KANSAS DEPARTMENT OF CORRECTIONS
INTERNATIONAL TRANSFER OF RESIDENTS
MANDATORY NOTIFICATION COUNTRIES AND JURISDICTIONS

THE NEAREST CONSULAR OFFICIALS ***MUST BE NOTIFIED*** OF THE ARREST OR DETENTION OF A FOREIGN NATIONAL FROM THE FOLLOWING COUNTRIES OR JURISDICTIONS, ***REGARDLESS OF THE RESIDENTS WISHES.***

Antigua and Barbuda
Armenia
Azerbaijan
Bahamas, The
Barbados
Belarus
Belize
Brunei
Bulgaria
China¹
Costa Rica
Cyprus
Czech Republic
Dominica
Fiji
Gambia, The
Georgia
Grenada
Guyana
Hong Kong²
Hungary
Jamaica
Japan
Kazakhstan
Kiribati
Kyrgyzstan

Malaysia
Malta
Mauritius
Moldova
Mongolia
Montenegro
Nigeria
Philippines
Poland (non-permanent residents only)
Romania
Russia
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Serbia
Seychelles
Slovakia
Sierra Leone
Singapore
Tajikistan
Tanzania
Tonga
Trinidad and Tobago
Turkmenistan
Tuvalu
Ukraine
United Kingdom³
U.S.S.R.⁴
Uzbekistan
Zambia
Zimbabwe

¹Notification is not mandatory in the case of persons who carry Republic of China passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office (TECRO), the unofficial entity representing Taiwans interests in the United States, can be notified at their request.

²Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or SAR Under paragraph 3(f)(2) of the March 25, 1997, U.S.-China Agreement on the Maintenance of the U.S. Consulate General in the Hong Kong Special Administrative Region, U.S. officials are required to notify Chinese officials of the arrest or detention of the bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports i.e., immediately, and in any event within four days of the arrest or detention.

³British dependencies also covered by this agreement are Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Their residents carry British passports.

⁴Although the U.S.S.R. no longer exists, some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular officers for all nationals of such states, including those traveling on old U.S.S.R. passports. The successor states are listed separately above.

KANSAS DEPARTMENT OF CORRECTIONS

Statements to Arrested or Detained Foreign Nationals

Statement 1 – “Basic Rule”

For Non-Mandatory Foreign Nationals

As a non-U.S. citizen who is being arrested or detained, you are entitled to have us notify your country’s consular officers here in the United States of your situation. You are also entitled to communicate with your consular officers. A consular officer may be able to help you obtain legal representation and may contact your family and visit you in detention, among other things. If you want us to notify your consular officers, you can request this notification now, or at any time in the future. Do you want us to notify your country’s consular officials? *Please circle “yes” or “no.”*

Yes

No

Resident’s Signature _____ Date _____

KDOC Staff’s Signature _____ Date _____

KANSAS DEPARTMENT OF CORRECTIONS
TRANSFER INQUIRY FORM

1. RESIDENT NAME	2. Age
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3. KDOC Number	4. Country of Citizenship
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5. Institution	6. Offense
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7. County of Conviction	9. Earliest Release Date
8. Sentence	

<input type="checkbox"/>	INTEREST INDICATED
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I hereby indicate an interest in being transferred to continue serving the sentence imposed by the Kansas State judicial authorities to the country of my citizenship, indicated above. I understand that this is just an inquiry to obtain data before the actual request for transfer and is not binding upon either the Kansas Department of Corrections or myself.

<input type="checkbox"/>	INTEREST NOT INDICATED
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I hereby indicate that I am not now interested in being transferred to continue serving the sentence imposed by the Kansas State judicial authorities to the country of my citizenship, indicated above. I understand that my decision is not binding and that I may express an interest at a later date if I so decide.

RESIDENT'S SIGNATURE	DATE	RESIDENT NUMBER	
WITNESS SIGNATURE	DATE	WITNESS SIGNATURE	DATE

KANSAS DEPARTMENT OF CORRECTIONS
RESIDENT INFORMATION PROVIDED TO TREATY NATION

Facility: _____

1. RESIDENT NAME	2. Date of Birth
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3. KDOC Number	4. Offense
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5. Sentence	6. Length of Time Served (including Jail Credits)
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7. Completed by:	9. Date:
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10. Notarized by:	11. Date:
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ATTACHMENTS:
Certified copy of Journal Entry
Initial Classification Review/Classification Referral

KANSAS DEPARTMENT OF CORRECTIONS

CHECKLIST FOR TRANSFER PACKET TO TREATY NATION

THE FOLLOWING INFORMATION IS **REQUIRED** TO BE INCLUDED IN THE PACKET FOR CONSIDERATION OF TRANSFER OF PRISONERS TO A FOREIGN COUNTRY UNDER THE TREATY AGREEMENT ON THE TRANSFER OF SENTENCED PERSONS.

NAME	NUMBER
MAIDEN NAME/ALIAS	NATION
FACILITY	DATE

- ___ 1. A request by the prisoner to be considered for transfer.
- ___ 2. The full name (including the maiden name of a married woman and known aliases) and the date and place of birth of the prisoner.
- ___ 3. The height, ethnic appearance, a photograph, and the fingerprints of the prisoner.
- ___ 4. The prisoners address in the Treaty Nation and/or the address of close relatives.
- ___ 5. The number of the prisoners passport and any evidence that the prisoner is a citizen or otherwise has the right of abode in the Treaty Nation.
- ___ 6. A certified copy of the judgement of the court which sentenced the prisoner and of the law/statute on which the sentencing was based.
- ___ 7. A statement of the facts on which the sentence was based (including, if possible, information on the method used in committing the offense).
- ___ 8. Verification of payment of court costs and victim restitution, as ordered.
- ___ 9. The nature, duration, and date of commencement of the sentence, the sentencing court, and, the name of the police area concerned.
- ___ 10. Confirmation that the normal time limit for appeal has expired and that no appeal or other proceedings are pending.
- ___ 11. A statement indicating how much of the sentence will have been served at a specific date (the approximate date when it seems likely that transfer might be possible), including information about pre-trial detention, remission, or any other factor relevant to enforcement of the sentence. It would be helpful to have full details of the relevant calculations.
- ___ 12. Copies of any medical or social reports on the prisoner, particularly any psychiatric assessment, information about treatment in the sentencing state, and any recommendation for further treatment in the Treaty Nation in the event of the prisoner's transfer.
- ___ 13. An assessment of the disciplinary and escape risk which the prisoner may pose.
- ___ 14. Details of any other convictions in the sentencing state.

COMMENTS:

KANSAS DEPARTMENT OF CORRECTIONS

NOTICE REGARDING INTERNATIONAL PRISONER TRANSFER

DATE: _____

TO: DEPUTY SECRETARY OF FACILITY MANAGEMENT

FROM: _____

WARDEN

FACILITY

THIS RESIDENT HAS INDICATED AN INTEREST IN BEING TRANSFERRED TO HIS/HER COUNTRY OF CITIZENSHIP TO COMPLETE A SENTENCE IMPOSED IN THE STATE OF KANSAS. THE RESIDENT IS QUALIFIED FOR TRANSFER. THE FOLLOWING INFORMATION IS PROVIDED TO FACILITATE THE REVIEW PROCESS.

RESIDENT'S NAME: _____ KDOC NO.: _____

COUNTRY OF CITIZENSHIP: _____

OFFENSE(S)/CASE NUMBER(S):

SENTENCE(S)/DATE OF SENTENCING:

SENTENCING COURT(S)/JURISDICTION(S):

RELEASE INFORMATION:

EARLIEST RELEASE DATE:

DATE OF LAST PAROLE BOARD ACTION (if applicable):

MANDATORY RELEASE :

PROOF OF FOREIGN NATIONAL CITIZENSHIP AVAILABLE:

YES (Specify and attach
Proof of Citizenship)

NO

OTHER PERTINENT INFORMATION:

Signature of Preparer:	Date:	Reviewers Signature	Date:
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