I. PURPOSE:
To establish a policy and procedures for reviewing applications by a person under custody of the New Hampshire Department of Corrections (DOC) for a transfer, pursuant to RSA 622-C:1, to the country of which the individual is a citizen or national and to make a recommendation to the Governor of the State of N.H. as to whether the individual is considered a suitable candidate for transfer.

II. APPLICABILITY:
To all persons under DOC custody and staff who may become involved in this process.

III. POLICY:
It is the policy of the DOC to process and review each individual’s request for transfer pursuant to RSA 622-C:1 and to make a recommendation to the Governor of the State of N.H. as to whether the person is a suitable candidate for transfer.

IV. PROCEDURES FOR TRANSFER TO A FOREIGN COUNTRY:
A. N.H. State law:
RSA 622-C:1 states, “Whenever a treaty is in force between the United States and a foreign country providing for the transfer or exchange of convicted offenders to the country of which they are citizens or nationals, the governor may, on behalf of the state and subject to the terms of the treaty, authorize the commissioner of corrections to consent to the transfer or exchange of offenders and to take any other action necessary to implement the participation of this state in the treaty.”

B. Notification to Individuals of International Prisoner Transfer Program:
Foreign nationals shall be notified about the potential for a return to their home country during the intake process.
C. Eligibility Criteria:
   1. An individual meeting the following general eligibility criteria may be eligible to
      transfer to his/her home country (the receiving country), provided that the receiving
      country is a party to a prisoner transfer treaty with the United States and provided:
      a. That the individual is a national of the receiving country; and
      b. That the acts or omissions upon which the sentence was imposed constitute a
         criminal offense according to the law of the receiving country or would
         constitute a criminal offense if committed on its territory; and
      c. The judgment and sentence must be final; and
      d. There can be no pending appeals or collateral attacks on the judgment or
         sentence; and
      e. The sentencing country, the receiving country, and the prisoner must all
         consent to the transfer; and a minimum period of time must remain to be
         served on the prisoner’s sentence at the time that the application is submitted
         to ensure that there is sufficient time to complete the transfer and that the
         transfer will achieve the goals of re-integration into the society of the
         receiving country.

D. Initiation of Transfer Application:
   An individual meeting the necessary eligibility criteria may initiate consideration of an international
   transfer by submitting an application form to their Corrections Counselor/Case Manager (CC/CM).

E. Department of Corrections Discretionary Review Process:
   1. An individual shall use the Individual Request Slip articulating that the individual is
      seeking consideration for international transfer and shall submit the Individual Request
      Slip to their CC/CM.
   2. Requests filed by an individual’s attorney or foreign government will be forwarded to
      the individual’s CC/CM for processing in accordance with this policy.
   3. Within thirty (30) days following the receipt of the request, the CC/CM shall meet with
      the individual to confirm eligibility.
   4. Individuals who fall under one or more of the following categories will receive a “NOT
      Recommended for transfer” outcome from the Department to be presented to the
      Governor for his/her consideration:
      a. Capital or First Degree Murder Sentences.
      b. The controlling sentence is a parole violation.
      c. The individual has a conviction of escape from a secure facility with the past
         five years.
      d. The individual is past their minimum parole eligibility date.
      e. The individual is currently classified as C4 or C5
      f. The individual has not completed the requirements of their pre-release plan.
      g. The individual has not been major disciplinary free according to Attachment
         1.
      h. The individual has pending charges in other states/jurisdictions where a
         detainer has been lodged. Individuals who currently have outstanding charges
         in other states, in which the state will not lodge a detainer, are not precluded
         from consideration by the DOC.
   5. Once eligibility is confirmed the CC/CM will prepare a synopsis and forward the request
      and synopsis to the Administrator of Individual Classification and Offender Records
      (AICOR).
   6. The AICOR will also confirm that the individual meets the eligibility requirements, print
      and review a current NCIC report and will prepare a synopsis of the individual’s
      confinement history noting recommended programs, goals or identified needs, and a
      description of the individual’s participation in such activities.
   7. The AICOR shall forward the prepared reports and request to the Commissioner within
      30 calendar days of the request. The report should include facts related to the
individual’s behavior, attitude, work, education, training, program and/or treatment progress or completion, and other indicators of positive behavior.

8. The Commissioner will review the transfer request and provide a recommendation for consideration by the Governor. The application shall be forwarded to the Governor’s office or designee for final review and determination.

9. A liaison from the Governor’s Office will provide an outcome to the Department in order for the Department to follow through on the necessary action of the Governor’s decision regarding the application.

F. Other Review Process:

1. In addition to a recommendation for approval by the Commissioner, an individual’s transfer application shall also be approved by each of the following: the Governor’s Office; the United States Department of Justice; and the receiving country. Denial by any one of these-reviewing authorities constitutes a denial of an individual’s transfer application; however, an individual may reapply one (1) year from the date of denial of request.

2. If the transfer request is approved by all of the reviewing authorities, the individual shall receive a hearing before a United States Magistrate at which time the Magistrate shall determine whether the individual consents to the transfer. The United States Marshals and the Bureau of Prisons will take custody of the individual and transport him or her to the Magistrate. If the individual consents, and provided that no appeal or collateral attack of the individual’s conviction(s) or sentence(s) is pending in New Hampshire, and the individual has waived all rights of appeal, the individual shall be transferred to the custody of the receiving country.

G. Transporting Individuals to Receiving Country:

Following approval of a transfer request, the AICOR or designee shall make the necessary arrangements with the United States Marshall Service to assume custody of the individual so that they can deliver the individual to the receiving country.

H. Emergencies:

Whenever in the opinion of the Commissioner or a designee, or the Warden/Director of a facility, an emergency exists which requires delay of the transfer, the Commissioner/Warden/Director may authorize such delay, provided, that any delay lasting more than forty-eight (48) hours must be approved by the Governor.

I. Continued Good Behavior:

Recommendations for consideration are based on expectations that the individual will remain in good standing. Negative behaviors exhibited after obtaining a positive recommendation by the Commissioner may result in the withdrawal of the recommendation by the Commissioner.

REFERENCES:

RSA 622-C

Kench/lb

Attachments
This synopsis is a report of the information presently contained in the subject’s Client Record. The Pre-sentence Report filed in the above docket is incorporated by reference. Criminal Record and mental health data (where appropriate) are attached to the original file in court records.

PRESENTLY HOUSED:

PRESENT CRIME:

PRIOR New Hampshire STATE PRISON INCARCERATIONS:

PAROLE VIOLATIONS:

PRESENT MINIMUM ELIGIBILITY DATE:

MAXIMUM RELEASE DATE:

COURT-ORDERED RECOMMENDATIONS:

CASE PLAN REQUIREMENTS:

CASE PLAN RECOMMENDATIONS:

STATUS OF REQUIREMENTS:

STATUS OF RECOMMENDATIONS:

OTHER PERTINENT INFORMATION:

CASE COUNSELOR COMMENTS:

DISCIPLINARY RECORD:

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