

Jim: Welcome to the latest podcast from the Department of Justice Office of the Inspector General. My name is Jim Mitzelfeld, and I am a senior counsel in our office.

I'm here today with DOJ Inspector General Michael Horowitz, and Deputy Assistant Inspector General James Tyrell from our Evaluation and Inspections Division, to discuss our office's new report on the International Treaty Transfer Program.

Jim: Before we talk about our findings, it might help listeners if we first explained what the International Treaty Transfer Program is and how it works. For that, let me turn to Jim Tyrell who helped lead this review. Jim, can you walk us through how the program works?

Tyrell: Sure. Under the international treaty transfer program, certain foreign national inmates can ask to serve the remainder of their sentence in their home country, rather than in BOP [Federal Bureau of Prisons] custody. BOP representatives explain the program to the foreign inmates, and then determine if the U.S. has a treaty agreement with the inmate's home country. If yes, BOP staffers then prepare application packets for those found eligible for transfer. A special unit in the Criminal Division then reviews the packet and approves or denies the transfer request.

Jim: Of course, even if the Department approves the inmate's transfer request, there's still one more hurdle they have to clear.

Tyrell: That's correct. If the Justice Department approves the transfer request, it is forwarded to the inmate's home nation and that country has to agree to accept the transfer. We found that in many cases, despite everything the Department did, the proposed transfer was not approved by the other country, negating all of the Department's work. And of course, that's a factor that is largely outside of DOJ's control.

Jim: Now that we have a handle on how the program works, let me ask our Inspector General, Michael Horowitz, why he sees this program as an important one for the Department?

Michael: It really comes down to a question of numbers. Transferring more foreign national prisoners to serve the remainder of their sentence in their home country would not only help reduce overcrowding in the federal prison system, but also lower costs. After all, there are nearly 43,000 foreign inmates from eligible treaty nations currently in federal custody, and that represents one-fifth of the entire federal prison population. Most of these inmates are in contract prisons, which make up a significant chunk of the Justice Department's prison budget. So the bottom line is if the Department could transfer more prisoners to serve their sentences in their home countries, it could save Americans millions of tax dollars.

Jim: When our office first looked into this important issue back in 2011, we found the Department's treaty transfer program was ineffective in several significant respects. Four years later, Michael, how would you rate DOJ's efforts?

Michael: Well, today's report suggests it's a mixed bag: Many more inmates are applying, but fewer are actually being transferred. First, the good news. We found that both the Criminal Division and the Bureau of Prisons did a much better job of getting the word out and letting foreign inmates know about this option. As a result, the number of foreign inmates from treaty transfer nations that requested transfers increased 72 percent since we last analyzed the program in 2011. That's an increase from about 14,000 to more than 24,000 inmates between fiscal years 2010 and 2013.

Jim: Jim, did you analyze why the number of inmates seeking transfers grew so rapidly?

Tyrell: Yes, we did. We found that the BOP took a number of important steps that likely contributed to this result. One was improving communications with foreign national inmates by translating all documents related to the treaty transfer program into all languages associated with the various treaty nations. Another was requiring staffers to discuss the treaty transfer program the first time they sat down with a foreign inmate and at every required meeting thereafter.

Jim: Michael, what were some of the other improvements the Department made?

Michael: Well, not only did more inmates apply for transfers, but the number of inmates that the Department approved for transfer also grew. For example, the BOP deemed 22 percent more inmates eligible for the program – a jump from 1,170 inmates in 2010 to more than 1,400 inmates in 2013. Similarly, the number of inmates cleared by the Department for transfer also increased on average 22 percent, growing from an average of 368 per year between 2005 and 2010, to an average of 450 per year the last three years. However, these numbers are still relatively very small given the continuing growth in the number of foreign inmates in the federal prison system.

Jim: So although the Department is approving more inmates for the program, there is still a pretty small percentage of those applying who are ultimately transferred?

Michael: That's right. And what's worse, the actual number of prisoners transferred to their home countries declined from when we first looked at the program four years ago. To illustrate, between 2005 and 2010, an average of 238 inmates were ultimately sent to prisons back home. But in this report we found that the number fell to an average of 227 inmates per year between fiscal years 2011 and 2013.

Jim: So while many more inmates are applying, and the Department has approved some more transfers, the net result was negative. Jim, can you help us explain why that occurred?

Tyrell: I'll try. Our review found that many factors contributed to this problem, including some outside of the Department's direct control. One of the most significant was the actions of foreign countries. For example, we found that in addition to the number of inmates that were ultimately transferred, the Department approved another 959 inmates, but spent \$26 million between fiscal years 2011 and 2013 housing those prisoners while their home country was deciding whether to accept the prisoner, had denied the transfer, or it had been withdrawn by DOJ because of delays by the home country.

Also, you have to remember the treaty transfer program is voluntary. Not all countries have a transfer agreement with the United States. And, even of those that do, some have adopted restrictive criteria on which inmates they will accept for transfer. So, for example, our treaty with Mexico prohibits the transfer of Mexican nationals with immigration offenses. So in FY 2013, over 18,000 Mexican nationals were ineligible for transfer – even if they wanted to transfer, they could not even be considered.

Jim: Despite these issues outside of the Department's control, Michael, our report suggests a number of important steps that we believe both the BOP and the Criminal Division can do to improve this process.

Michael: That's right. After reviewing the entire program and looking at the statistics, we remain concerned that the Department is not fully using the transfer authority that Congress gave it to return eligible foreign national inmates to their home countries to serve their remaining sentences. Again, there are 43,000 inmates from treaty transfer nations in federal custody. Yet four years after our initial review, only a few hundred of those inmates are being approved for transfer by the Department each year. In today's report, we again make a number of recommendations for how we think the Department can improve and expand this program.

Jim: Jim, can you walk us through your recommendations?

Tyrell: Absolutely. We believe the Department can take a number of discrete steps to improve the effectiveness of the treaty transfer program.

- One of these is by reviewing data to determine why more eligible inmates are not approved for transfer. Are the Department's guidelines too restrictive? Would appropriate revisions to the guidelines result in more approvals?
- Another is the Department needs to evaluate whether the unit reviewing inmate transfer requests has enough resources to ensure the timely processing of

applications, as well as determine what, if anything, the Department can do to address the reasons that eligible inmates don't want to transfer.

- Finally, senior Department leadership should convene and support a high-level working group with our treaty transfer partners to assess factors that limit the number of inmates ultimately transferred from BOP custody.

Jim: So that's a summary of the report that was released today. For listeners who'd like more detail, the full report is now available on the OIG's website – at [oig.justice.gov](http://oig.justice.gov) – under the "Reports" section.

Michael and Jim, thank you for taking time to sit down today to talk about the OIG's release of this report on the International Treaty Transfer Program.

Michael: Thank you both. And I also want to thank our listeners for taking an interest in this important subject and for supporting our efforts to make the Justice Department a more efficient and effective federal agency. Thank you.