

# Guide to Judiciary Policy

## Vol 7: Defender Services

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## Topic Links for *Guide* Volume 7 (Defender Services)

(Note: Unless otherwise indicated, all citations refer to Part A (Guidelines for Administering the CJA and Related Statutes) of this volume of the *Guide to Judiciary Policy*. This collection of “topic links” draws heavily on commonly submitted *Guide* search terms with a connection to this volume and is by no means a comprehensive volume index.)

Ancillary matters: [§ 210.20.30](#)

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- guidance, court of appeals [CJA 27A](#)
- guidance, district court: [CJA 26A](#)
- statement/atty, district court: [CJA 26](#)

Budgeting CJA worksheets (detailed, summary)

- attorney: [CJA 28A \(detail\)](#), [CJA 28B \(sum.\)](#)
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- other: [CJA 28G \(detail\)](#), [CJA 28H \(sum.\)](#)

[CJA Voucher Reference Tool](#)

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Community defender organizations: [§ 420.20](#)

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- non-reimbursable expenses: [§ 230.66](#)

- payments by defendant: [§ 230.40](#)
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  - rates: [§ 630.10.10](#) (capital); [§ 230.16](#) (non)
  - record keeping: [§ 230.76](#)
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  - supporting memorandum/justification of compensation: [§ 230.30](#)
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- Copying, multi-defendant case: [§ 320.30.30](#)
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- Disclosure of information: [Ch 5](#)
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  - notice to counsel: [CJA 25](#)
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- Expenses, reimbursement:
- appointed counsel: [§ 230.63](#)
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- Federal public defender (FPD): [§ 420.10](#)
- Financial affidavit: [CJA 23](#)
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Forms:

- [CJA forms and instructions page](#)

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Hourly rates/panel attorneys:

- [§ 630.10.10](#) (capital); [§ 230.16](#) (non)

In camera review of expert application: [§ 310.30](#)

Interim payments to counsel procedures:

- [Appx 2D](#) (capital case); [Appx 2C](#) (non)

International Prisoner Transfer: [Vol 7B](#)

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Mission of defender services program: [§ 110.10](#)

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Model CJA panel management plan: [Appx 2B](#)

Paralegal: [§ 320.70.10](#)

Personal services: [§ 230.66.20](#)

Policies, procedures: [CJA Voucher Reference Tool](#)

Prisoner transfer, international: [Vol 7B](#)

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Standby counsel: [§ 220.55](#)

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Statutory authority of defender services program: [§ 110.30](#)

Termination of appointment: [§ 220.60](#)

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Vouchers:

- appointed counsel: [CJA 20](#)
- expert and other services: [CJA 21](#)
- transcript: [CJA 24](#)
- death penalty – appointed counsel: [CJA 30](#)
- death penalty – expert/other srvc.: [CJA 31](#)

Waiver of counsel: [§ 220.50](#)

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# Guide to Judiciary Policy

Vol. 7: Defender Services

Pt. B: International Prisoner Transfer Proceedings

## Ch. 1: Overview

[§ 110 Purpose](#)

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### § 110 Purpose

Part B of Volume 7 sets forth regulations promulgated by the Director of the Administrative Office of the U.S. Courts (AO) under [18 U.S.C. § 4109\(a\)\(2\)](#) for the appointment and compensation of counsel in international prisoner transfer proceedings. Part B also provides information and guidance on the appointment and compensation of guardians ad litem in international prisoner transfer proceedings.

### § 120 International Prisoner Transfer Program

- (a) The International Prisoner Transfer Program began in 1977, when the United States negotiated the first in a series of treaties that permit the transfer of prisoners from the countries in which they have been convicted and incarcerated to their home countries. **See:** [18 U.S.C. §§ 4100-4115](#). More than 70 countries and nationalities are now parties to either bilateral or multilateral prisoner transfer treaties with the United States.
- (b) Prisoner transfers under the various treaties are available to United States citizens incarcerated abroad as well as to foreign nationals incarcerated within the United States.
- (c) Although most inmates who are transferred out of the United States under these treaties are federal prisoners, all 50 states, Puerto Rico, and the Northern Mariana Islands have legislation authorizing them to participate in the International Prisoner Transfer Program.

- (d) Prisoner transfer treaties are negotiated principally by the United States Department of State. However, the program itself is administered by the United States Department of Justice (DOJ), Criminal Division, International Prisoner Transfer Unit.
- (e) For more information on the program and participating countries, **see:** [DOJ Office of Enforcement Operations website](#).

## § 130 Consent Verification Hearings

- (a) United States citizens incarcerated abroad and foreign nationals incarcerated within the United States must obtain approval for a transfer from both the DOJ and the government of the foreign country in which the prisoner is currently incarcerated or to which the prisoner wishes to transfer.
- (b) Once the prisoner has obtained the necessary approvals, a consent verification hearing is scheduled. This hearing is mandated by [18 U.S.C. § 4108\(a\)](#). The purpose of the hearing is to verify that the individual consents to a transfer to his or her home country to complete a sentence of incarceration voluntarily, and with full knowledge of the consequences of the transfer.
- (c) The consent verification hearing is held in the country in which the sentence was imposed and is conducted by a U.S. magistrate judge or by a citizen specifically designated by a judge of the United States as defined by [28 U.S.C. § 451](#). **See:** [18 U.S.C. § 4108\(a\)](#).
- (d) If at the time of the transfer, the offender is under 18 years of age or deemed by the U.S. magistrate judge to be incompetent, consent to the transfer must be given by a parent, guardian, guardian ad litem, or by an appropriate court of the sentencing country. **See:** [18 U.S.C. § 4100\(b\)](#).
- (e) Additional guidance on the procedures for consent verification hearings in international prisoner transfer cases may be obtained from the AO's Judicial Services Office, 202-502-1800.

## § 140 Statutes and Authority

- Transfer to or from foreign countries ([18 U.S.C. §§ 4100-4115](#))
- Right to counsel, appointment of counsel ([18 U.S.C. § 4109](#))
- Transfers from the United States to a foreign country ([18 U.S.C. § 4107](#))
- Transfers to the United States from a foreign country ([18 U.S.C. § 4108](#))
- Jurisdiction of proceedings relating to transferred offenders ([18 U.S.C. § 3244](#))

- Prisoner transfer treaties apply to U.S. military personnel ([10 U.S.C. § 955](#))
- International Prisoner Transfer Program ([7 Foreign Affairs Manual 480](#))

## § 150 Further Guidance

Inquiries concerning the appointment of counsel in international prisoner transfer proceedings should be directed to:

Chief, Defender Services Office  
ATTN: Prisoner Transfer Treaty Matters  
Administrative Office of the U.S. Courts  
One Columbus Circle, NE  
Washington, DC 20544  
202-502-3030

# Guide to Judiciary Policy

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Pt. B: International Prisoner Transfer Proceedings

## Ch. 2: Appointment of Counsel and Guardians Ad Litem

[§ 210 Appointment of Counsel](#)

[§ 220 Appointment of Guardians Ad Litem](#)

[§ 230 Determining Financial Eligibility](#)

[§ 240 Procedures for Appointments](#)

[§ 240.10 Transfers from the United States](#)

[§ 240.20 Transfers to the United States](#)

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### § 210 Appointment of Counsel

- (a) United States citizens incarcerated abroad and foreign nationals incarcerated within the United States who seek an international prisoner transfer have the right to the advice of counsel. Additionally, an offender who is financially unable to obtain an attorney has the right to the appointment of counsel in proceedings to verify consent to transfer. **See:** [18 U.S.C. § 4109\(a\)](#). Appointed counsel must advise and assist offenders prior to and during the proceedings.
- (b) Offenders who seek a transfer have the right to the advice of counsel in proceedings before the United States Parole Commission, and in an appeal from a determination by this Commission. **See:** [18 U.S.C. §§ 4106A](#) and [4109\(c\)](#). Financially eligible offenders are entitled to the appointment of counsel for such proceedings, under [18 U.S.C. § 3006A](#).

### § 220 Appointment of Guardians Ad Litem

The appointment and compensation of guardians ad litem in prisoner transfer cases are provided for in [18 U.S.C. § 4100\(b\)](#) and [§ 4109\(b\)](#).

- (a) Guardians ad litem may be appointed to act on behalf of financially eligible minor or incompetent offenders in proceedings to verify their consent to transfer to or from the United States. **See:** [18 U.S.C. § 4100\(b\)](#).

- (b) Appointment of a guardian ad litem is independent of the appointment of counsel under [18 U.S.C. § 4109](#).

## § 230 Determining Financial Eligibility

- (a) An offender is “financially eligible” for the appointment of counsel or a guardian ad litem within the meaning of [18 U.S.C. § 4109](#) if his or her net financial resources and income are insufficient to enable the offender to obtain qualified counsel, or to provide for the compensation and travel expenses of a guardian ad litem.
  - (1) In determining whether such insufficiency exists, consideration must be given to the cost of providing the offender and his or her dependents with the necessities of life.
  - (2) The determination of eligibility must be made without regard to the financial ability of the offender’s family unless the family indicates willingness and financial ability to retain counsel or to provide a guardian ad litem promptly.
  - (3) Any doubts as to an offender’s eligibility must be resolved in his or her favor.
- (b) The determination of whether an offender is eligible for appointment of counsel or a guardian ad litem is a function to be performed by the U.S. magistrate judge. Offenders will normally provide information regarding their financial status on [Form CJA 23 \(Financial Affidavit\)](#). Completed forms should be provided to the designated court. Although the court may obtain additional information, whenever practicable, fact-finding should be done prior to the offender’s appearance at the consent verification hearing.
- (c) For a more detailed explanation of determining financial eligibility under the Criminal Justice Act (CJA), **see:** [Guide, Vol. 7A, § 210.40](#).

## § 240 Procedures for Appointments

### § 240.10 Transfers from the United States

- (a) Appointment of counsel and guardians ad litem in connection with transfer proceedings **from** the United States **to** a foreign country under [18 U.S.C. § 4107](#) are made in accordance with the CJA, [18 U.S.C. § 3006A](#), and the *Guide to Judiciary Policy*. **See:** [18 U.S.C. § 4109\(a\)\(1\)](#).

- (b) [Form CJA 20](#) should be used for the appointment and compensation of counsel and guardians ad litem in International Prisoner Transfer Proceedings **from** the United States **to** a foreign country. Such appointments are to be considered an appointment in a misdemeanor case for purposes of compensation under the CJA.

### **§ 240.20 Transfers to the United States**

The Director of the Administrative Office of the U.S. Courts (AO) has delegated authority to the Chief for the AO's Defender Services Office (DSO) to designate counsel and guardians ad litem for appointment in international prisoner transfer proceedings **from** a foreign country **to** the United States. **See:** [18 U.S.C. § 4108](#) and [§ 4109\(a\)\(2\)](#).

For questions about the appointment of counsel in international prisoner transfer proceedings **from** a foreign country **to** the United States, contact DSO at 202-502-3030.

# Guide to Judiciary Policy

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Pt. B: International Prisoner Transfer Proceedings

## Ch. 3: Compensation and Reimbursement of Expenses

[§ 310 Federal Public and Community Defenders](#)

[§ 320 Private Panel Attorneys and Guardians Ad Litem](#)

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### § 310 Federal Public and Community Defenders

- (a) Federal public and community defenders appointed to provide representation in international prisoner transfer proceedings under [18 U.S.C. § 4109\(a\)\(2\) and \(b\)](#) must obtain travel authorizations from the Defender Services Office (DSO) of the Administrative Office of the U.S. Courts (AO), 202-502-3030.
- (b) Travel vouchers, with supporting documentation, are to be submitted to the local clerk of court for reimbursement of expenses.
- (c) A copy of the paid travel voucher must be forwarded to AO-DSO.
- (d) The AO will initiate action to obtain reimbursement of expenses from the U.S. Department of State. **See:** [18 U.S.C. § 4109\(a\)\(2\)](#).

### § 320 Private Panel Attorneys and Guardians Ad Litem

- (a) Private attorneys and guardians ad litem appointed to provide representation in international prisoner transfer proceedings under [18 U.S.C. § 4107](#) are compensated in accordance with the Criminal Justice Act (CJA), [18 U.S.C. § 3006A](#), and the *Guide to Judiciary Policy*. **See:** [18 U.S.C. § 4109\(a\)\(1\)](#).
- (b) Appointed counsel and guardians ad litem must use the appropriate CJA forms to receive compensation and reimbursement of expenses. The CJA forms, together with instructions for their use, are posted on the [public judiciary website](#).
- (c) An appointment in an international prisoner transfer proceeding is considered an appointment in a misdemeanor case for purposes of compensation under the CJA. **See:** [18 U.S.C. § 4109\(a\)\(1\)](#).