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Air Passenger Processing

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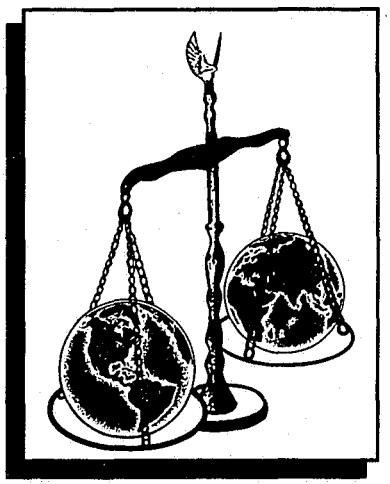

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Cover: *Processing the millions of travelers who use this Nation's airports requires accurate information and interagency cooperation. See article p. 1. Cover photo and all photos used with this article are courtesy of Regina Kosicki.*

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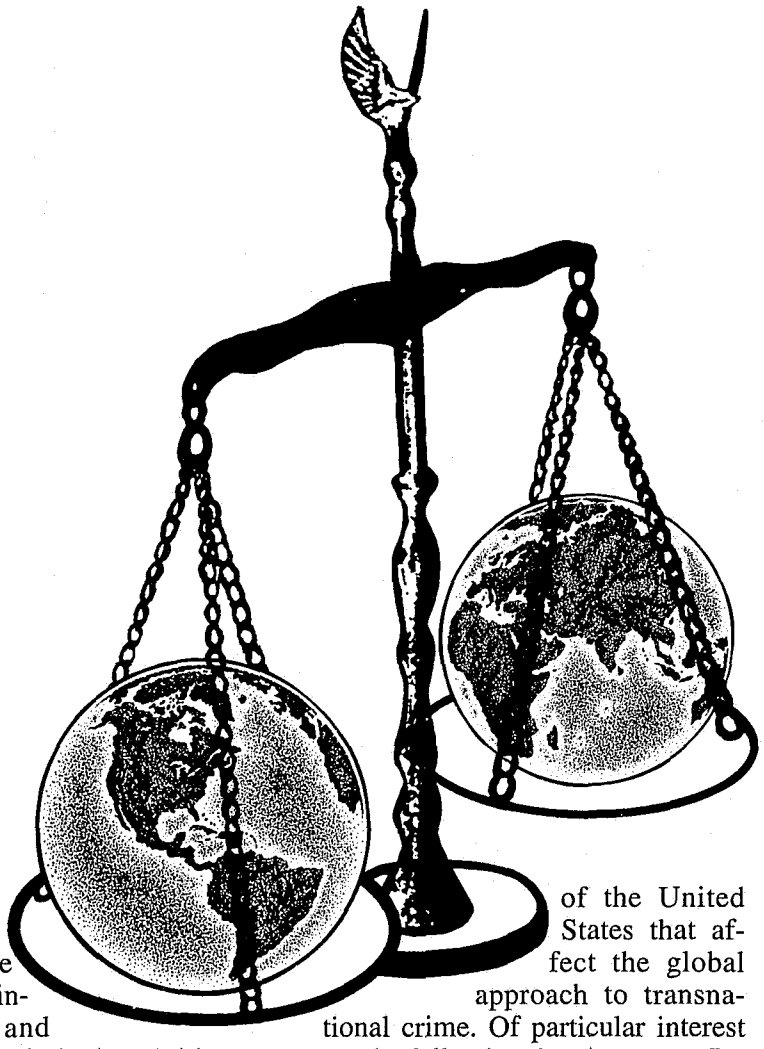
Transnational Crimes
A Global Approach

By
AUSTIN A. ANDERSEN



An estimated $50 billion-a-year cocaine industry flourishes in the United States because drug cartels control a transnational criminal mosaic. This mosaic consists of coca plant cultivation sites in Peru and Bolivia; processing laboratories for the coca leaves in Colombia, Brazil, and Argentina; importation networks that ship the drug into the United States; and money laundering channels that direct cashflow into "legitimate" investments all over the world.[1] Global conglomerates dealing in illicit activities survive and flourish because unilateral enforcement efforts by a single country generally disable only small segments of such operations.

Unlike criminal investigations coordinated within the jurisdiction of a particular country, the international law enforcement community faces two formidable obstacles when developing prosecutable cases against criminal enterprises with tentacles that extend throughout the world. First, evidence admissible in one country may be suppressed in another with more restrictive procedural standards. Second, the doctrine of sovereignty, or self-government within national boundaries, limits the ability of law enforcement officers in one country to investigate and prosecute criminal activities that extend into another.

Because of the enormous damage caused by international crime cartels, however, legal systems throughout the world are changing to facilitate the international efforts of police agencies. This article provides an overview of recent changes in the caselaw, statutes, and treaties of the United States that affect the global approach to transnational crime. Of particular interest are the following developments: Increased attention by the U.S. judicial system to the application of constitutional standards to evidence from foreign sources, the passage of statutes that provide U.S. courts with jurisdiction to try crimes that occur beyond U.S. boundaries, and treaties that clarify the ability of some police agencies to assist their

foreign counterparts in investigations, searches, and seizures.

APPLYING THE BILL OF RIGHTS TO FOREIGN INVESTIGATIONS

Searches and Seizures

The fourth amendment of the U.S. Constitution requires law enforcement officers in the United States to conduct searches and seizures in a "reasonable"[2] manner. The U.S. Supreme Court has held that as a general rule, a reasonable search is one conducted with a search warrant requiring a judicially approved showing of probable cause and limitations on the scope of the search.[3] In addition, the Court recognized a number of exceptions to the warrant requirement as reasonable, namely, emergency searches, searches based on consent, the motor vehicle exception, and search incident to arrest.[4]

As a deterrent to unreasonable searches by police officers, the Court adopted the exclusionary rule, which requires the suppression of evidence derived from investigations that violate the Constitution.[5] Because police in foreign countries are generally unaware of the procedural standards of the American judicial system, the danger exists that under certain circumstances, evidence collected by foreign police will be suppressed in this country.

In many instances, however, the exclusionary rule does not apply to searches and seizures conducted in foreign countries. Because the Bill of Rights has been interpreted as applying only to the actions of the U.S. Government and its employees,[6] evidence independently acquired by foreign police for their own purposes is admissible in U.S. courts, despite the fact that such evidence, if seized in the same manner by American police, would be excluded as violative of the fourth amendment.[7]

This rule applies even when the evidence is seized from American citizens.[8] An exception to this rule, though infrequently applied, occurs when the behavior of the investigating officers is so inhumane or outrageous that a court, exercising its supervisory responsibilities, suppresses evidence obtained pursuant to the offending action.[9]

Another exception to the general rule of admissibility of evidence located by foreign police occurs when there is substantial participation in the search by U.S. law enforcement agents, thereby converting the investigation into a joint venture implicating the fourth amendment and the exclusionary rule.[10] Recently, however, the Supreme Court limited this exception by determining that the fourth amendment does not apply to the search and seizure by U.S. authorities of property owned by a nonresident alien and located in a foreign country.

In *United States* v. *Verdugo-Urquidez*,[11] Verdugo-Urquidez, a Mexican national suspected of the torture-murder of an undercover DEA agent, became a fugitive after being charged by the DEA with numerous drug violations in the United States. Based on the outstanding American warrant, Verdugo-Urquidez was arrested in Mexico by the Mexican Federal Judicial Police (MFJP) and remanded to U.S. marshals at the California border. The next day, the Director of the MFJP, at the request of DEA agents, authorized a warrantless search of Verdugo's two residences in Mexico. During the searches, conducted by both MFJP officers and DEA agents, one of the DEA agents found and seized documents allegedly reflecting the volume of marijuana smuggled into the United States by Verdugo's organization.

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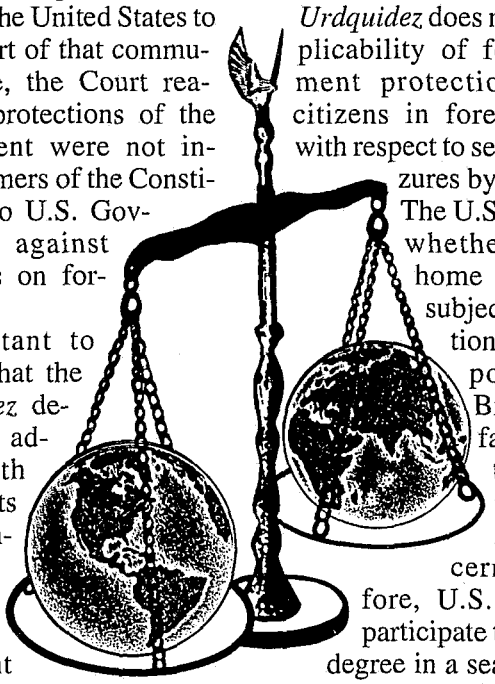
Because the searches, which were unrelated to any contemplated Mexican prosecution, were initiated and participated in by DEA agents (who also took custody of the evidence), the lower courts found that the participation of the DEA agents was substantial enough to make the searches joint ventures subject to the strictures of the fourth amendment. Holding that a warrant was required to ensure reasonableness in the search of the Mexican premises of Verdugo-Urdquidez, the lower courts suppressed the evidence.

The Supreme Court reversed, and in a plurality opinion, con-

cluded that the use of the words "the people" in the fourth amendment was intended as a term of art referring to a class of persons who are part of a national community or who have otherwise developed sufficient connection with the United States to be considered part of that community.[12] Therefore, the Court reasoned that the protections of the fourth amendment were not intended by the framers of the Constitution to apply to U.S. Government action against foreign nationals on foreign soil.[13]



It is important to note, however, that the *Verdugo-Urquidez* decision does not address the fourth amendment rights of foreign nationals or aliens subject to search and seizure by law enforcement officials *within* the United States. In general, after an alien lawfully enters and resides in the United States, "he becomes invested with the rights guaranteed by the Constitution to all people within . . . the borders [of the United States]."[14]

The fourth amendment application to *illegal* aliens is less clear. While illegal aliens are protected by the Equal Protection Clause of the U.S. Constitution,[15] neither the fourth amendment nor the exclusionary rule apply in a civil deportation hearing.[16] However, without deciding the issue, the Supreme Court has implied that once an illegal alien voluntarily enters the United States and "accepts some societal obligations,"[17] fourth amendment protections extend to criminal prosecutions.

At the same time, *Verdugo-Urdquidez* does not alter the applicability of fourth amendment protections for U.S. citizens in foreign countries with respect to searches and seizures by U.S. officials. The U.S. Government, whether it acts at home or abroad, is subject to the limitations placed on its power by the Bill of Rights as far as its relationship with its own citizens is concerned.[18] Therefore, U.S. agents, who participate to a substantial degree in a search or seizure of a U.S. citizen with foreign police in a foreign country, must comply with the U.S. Constitution or risk exclusion of any evidence obtained thereby in American courts.

Interrogation

The Supreme Court has not clearly addressed the issue of whether U.S. officials interrogating foreign nationals outside the United States must comply with the U.S. Constitution's fifth amendment protection against self-incrimination. This protection requires that all confessions must be voluntary and that custodial interrogations must be preceded by constitutional warnings in accordance with *Miranda* v. *Arizona*.[19]

Several years ago, the Supreme Court rejected the claim that aliens are entitled to fifth amendment protections outside the United States.[20] The Court in *Verdugo-Urquidez*, however, observes that the "privilege against self-incrimination guaranteed by the Fifth Amendment is a fundamental trial right of criminal defendants"[21] as opposed to a fourth amendment violation that is " 'fully accomplished' at the time of the unreasonable intrusion."[22]

A lower Federal court has taken this reasoning a step further:

> "[I]t is not until the statement is received in evidence that the violation of the Fifth Amendment becomes complete. For this reason we believe that if the statement is not voluntarily given—whether given to a United States or foreign officer—the defendant has been compelled to be a witness against himself when the statement is admitted."[23]

Foreign officials certainly cannot be required to adopt the criminal procedure of the United States during the questioning of suspects. However, in the absence of succinct judicial guidance concerning the extraterritorial application of the Bill of Rights during interrogations conducted by U.S. officials abroad, it would seem prudent to consider the protection against self-incrimination as a necessary constitutional principle whenever confessions intended for prosecutions in the United States are sought.

U.S. STATUTES THAT PROVIDE EXTRATERRITORIAL JURISDICTION

The traditional limitations[24] on a sovereign state to assign criminal liability to conduct committed outside its territorial jurisdiction has undergone dramatic changes in the United States. In his dissenting opinion to *Verdugo*, Justice Brennan cautioned that "[f]oreign nationals must now take care not to violate our drug laws, our antitrust laws, our securities laws, and a host of other federal criminal statutes. . . ." [25]

Congress enhanced the extraterritorial subject matter jurisdiction of U.S. courts through the passage of a wide variety of statutes.[26] The following are among those that appear most useful to the international law enforcement community:

- Subchapter II, entitled "Import and Export," of the Controlled Substances Act (Title 21, U.S. Code) regulates the methods by which controlled substances enter and leave the United States. Of particular interest is §959, which is intended to permit extraterritorial application of laws proscribing the distribution or manufacture of controlled substances *outside* the United States intended for importation to the United States. Section 959(b) reaches any person aboard an American aircraft anywhere in the world who possesses a controlled substance with intent to distribute. According to the statute, "any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia."

> ***"In many instances...the exclusionary rule does not apply to searches and seizures conducted in foreign countries."***

- Title 18 of the U.S. Code provides American courts with jurisdiction to try cases involving several types of violent acts occurring outside the United States. This provision covers crimes falling within the special maritime and territorial jurisdiction of the United States, including any place "outside the jurisdiction of any nation with respect to an offense by or against a national of the United States." (§7[7]); crimes aboard aircraft (§32); murder or attempted murder of certain Federal employees (§1114); kidnaping of certain Federal employees or "internationally protected" persons (§1201); hostage taking outside the United States when either the hostage or the hostage taker is a U.S. national (§1203); terrorist acts against U.S. nationals (§2331).
- Federal conspiracy statutes may often allow prosecution of foreign nationals who have engaged in a conspiracy outside the United States.[27]

One of the best methods of combating large-scale international crime, however, is through the seizure and forfeiture of assets associated with illegal activity. Among the most effective statutes providing for the forfeiture of assets in the United States are those associated with drug violations[28] and money laundering.[29]

Although the U.S. Government cannot lawfully seize assets located within the territorial borders of other countries, foreign criminals often attempt to hide illegally gained profits from the authorities of their countries by transferring funds to the United States. To attack this problem, Congress enacted 18 U.S.C. §981(a)(1)(B), which permits the forfeiture of assets located inside the United States that are derived from drug trafficking abroad.

This section does not require a violation of U.S. law and permits the civil forfeiture of any property, real or personal, within the jurisdiction of the United States. The property forfeited must be derived from or traceable to any proceeds obtained directly or indirectly from an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance for which the offense is punishable by death or imprisonment exceeding 1 year.

In an effort to encourage international cooperation, Congress enacted several Federal statutes that permit the sharing of the proceeds of U.S. forfeiture actions with countries that facilitate the seizure of those assets under U.S. law.[30] The sharing process requires recognition by the Federal prosecutor and investigative agency that the foreign country's involvement was of material assistance. The Asset Forfeiture Office and the Office of International Affairs, U.S. Department of Justice, coordinate international forfeiture-sharing agreements, which require approval by the U.S. Attorney General and the Department of State.

INTERNATIONAL COOPERATION

The doctrine of sovereignty generally prevents police officers of one country from conducting investigations in another. In fact, unauthorized overseas investigations can result in denial of access to the evidence, diplomatic protest, or even the arrest of the visiting agent. Fortunately, a number of formal and informal methods have been developed for criminal investigators to obtain assistance from their colleagues in other countries.

Informal Assistance

Many Federal agencies have representatives—FBI legal attaches (Legats) and DEA country attaches, for instance—stationed in American embassies abroad for the purpose of maintaining liaison with foreign police. While such personnel have no investigative jurisdiction in their host countries, they often facilitate international cooperation by requesting certain types of assistance from foreign authorities, as well as accommodating requests for investigation in the United States by Federal agencies.[31]

Examples of frequently requested assistance coordinated through Legats[32] are name checks in investigative files, name and fingerprint searches in the files of the FBI's Identification Division, interviews with witnesses, and determination of the location of suspects or assets. Informal requests for assistance have the advantage of being more expeditious and flexible than formal channels, but they have important limitatations.

For instance, matters occurring before the grand jury, because of the secret nature of Federal grand jury proceedings,[33] and interceptions of wire, oral, and electronic communications under the provisions of the Electronic Communications Privacy Act[34] cannot be furnished to foreign police without a court order. As a general rule, testimony or evidence that must be compelled by subpoena or court order cannot usually be obtained through interagency liaison.

> ***"Congress enhanced the extraterritorial subject matter jurisdiction of U.S. courts through the passage of a wide variety of statutes."***

Formal Channels of Assistance

Assistance to foreign countries that requires compulsory measures or intervention by the judiciary will necessitate the use of formal channels of legal assistance—letters rogatory, requests under treaties, and requests for compliance under specific executive agreements. Examples of assistance requiring formal requests are the transmittal of certain types of business documents, such as bank or telephone records; executing a search or arrest warrant; freezing assets; and compelling testimony.

Letters rogatory[35] are written requests to the judiciary of another country for the performance of official acts. Such requests not only involve the cooperation of judges or magistrates but also require approval by the Office of International Affairs at the U.S. Department of Justice and the Department of State, as well as their foreign counterparts. Because a letter rogatory involves diplomatic channels, the procedure often results in a slower response than desired by police agencies conducting criminal investigations.

Fortunately, a number of countries have entered into treaties or executive agreements with the United States for the purpose of defining and expediting the obligation to provide reciprocating assistance. Perhaps the most promising of these agreements are mutual legal assistance treaties (MLATs),[36] which permit prosecutors to expedite international cooperation by eliminating

many of the time-consuming diplomatic requirements of letters rogatory.

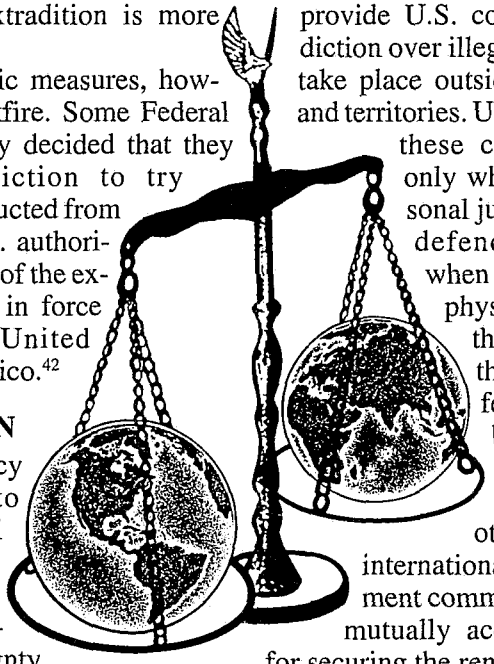
Another important step toward reconciling the diversity of legal systems of the international community was the United Nations Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, or the "Vienna Convention," in which 40 signatory countries agreed to adopt an international stance with respect to drug trafficking, money laundering, and forfeiture. In addition, several executive agreements covering ground rules for multinational drug forfeitures and asset sharing have been established to promote effective law enforcement by the United States in conjunction with specific countries.[37]

Extraditions

The removal of a person from one country to another for trial or punishment is governed by treaty and usually requires formal processing through diplomatic channels. For a number of reasons, many international fugitives avoid extradition. The United States, for instance, lacks extradition treaties with about one-third of the nations of the world.[38] Procedures for extradition are complex, vary from country to country, and are subject to a number of defenses.[39] Additionally, in the event that the fugitive is at large during the time-consuming negotiations for extradition, it will become necessary to request a provisional arrest warrant in order to secure the suspect until rendition is accomplished.[40]

Occasionally, efforts are made to circumvent obstacles to extradition by unilateral actions, such as ruses to lure the fugitive to the prosecuting country or arranging for the deportation of the suspect either to the United States or to a country from which extradition is more feasible.

More drastic measures, however, may backfire. Some Federal courts[41] recently decided that they lacked jurisdiction to try individuals abducted from Mexico by U.S. authorities in violation of the extradition treaty in force between the United States and Mexico.[42]



CONCLUSION

The urgency to respond to transnational crime has created pressure to balance the doctrine of sovereignty with the need for the international law enforcement community to interact and cooperate. However, it is important to plan the international approach to global criminal activity very carefully.

One of the first considerations should be the admissibility of evidence in the forum of prosecution. The fourth amendment is not implicated during searches and seizures by foreign officers acting independently with respect to U.S. citizens or foreign nationals. However, when U.S. authorities are invited to participate in searches and seizures abroad, the fourth amendment will apply to U.S. citizens (and possibly others who have a significant relationship to the United States), but not to foreign nationals. In addition, it is likely that courts will refuse to admit statements that were involuntarily made, whether by a U.S. citizen or foreign national.

A wide range of statutes now provide U.S. courts with jurisdiction over illegal activities that take place outside U.S. borders and territories. U.S. courts can try these cases, however, only when there is personal jurisdiction of the defendant, that is, when the defendant is physically present in the courtroom. In the event the defendant must be brought to trial in the United States from another country, the international law enforcement community must seek mutually acceptable means for securing the rendition of the defendant to the forum of prosecution.

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Footnotes

[1] Oakley Ray and Charles Ksir, *Drugs, Society, & Human Behavior* (St. Louis, Missouri: College Publishing, 1990), p. 83.

[2] U.S. Const. amend. IV reads: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

[3] *Katz* v. *United States*, 389 U.S. 347 (1967).

[4] *Id.* at pp. 557-8; *see also California* v. *Acevedo*, 111 S.Ct. 1982 (1991), J. Scalia, concurring, for a comprehensive list of exceptions to the warrant requirement currently recognized by the Supreme Court.

[5] *Weeks* v. *United States*, 232 U.S. 383 (1914)(establishes the exclusionary rule in Federal courts); *Mapp* v. *Ohio*, 367 U.S. 643 (1961)(extends the rule to State courts).

[6] *Burdeau* v. *McDowell*, 256 U.S. 465 (1921). *See* Andersen, "The Admissibility of Evidence Located in Searches by Private Persons," *FBI Law Enforcement Bulletin*, April 1989, pp. 25-29 and May 1989, pp. 26-31; and Andersen, "Foreign Searches and the Fourth Amendment," *FBI Law Enforcement Bulletin*, February 1990, pp. 23-29.

[7] *See, e.g., United States* v. *Mount*, 757 F.2d 1315, 1317 (D.C. Cir. 1985); *United States* v. *Rose*, 570 F.2d 1358, 1361-2 (9th Cir. 1978).

[8] *See, e.g., Birdsell* v. *United States*, 346 F.2d 775, 782 (5th Cir. 1965) *cert. denied*, 382 U.S. 963 (1965).

[9] *See, e.g., United States* v. *Toscanino*, 500 F.2d 267 (2d Cir. 1974)(kidnaping combined with long periods of torture violated due process); *Cf. Rochin* v. *California*, 342 U.S. 165 (1952)(forcing an emetic solution into the defendant's mouth to recover two morphine tablets that had been swallowed shocked the conscience of the court and resulted in suppression).

[10] *See, e.g., United States* v. *Rosenthal*, 793 F.2d 1214, 1230-31 (11th Cir. 1984), *cert. denied*, 107 S.Ct. 1377 (1987); *United States* v. *Paternina-Vergara*, 749 F.2d 993, 998 (2d Cir. 1984), *cert. denied*, 469 U.S. 1217 (1985); *United States* v. *Marzano*, 537 F.2d 257, 269-71 (7th Cir. 1976), *cert. denied*, 429 U.S. 1038 (1977).

[11] 110 S.Ct. 1056 (1990).

[12] *Id.*, pp. 1060-1061.

[13] *Id.*

[14] *Bridges* v. *Wixon*, 326 U.S. 135, 161 (1945).

[15] *Plyler* v. *Doe*, 457 U.S. 202 (1982).

[16] *Immigration and Naturalization Service* v. *Lopez-Mendoza*, 104 S.Ct. 3479 (1984).

[17] *Verdugo-Urquidez*, *supra* note 11, at p. 1065.

[18] *Reid* v. *Covert*, 354 U.S. 1, 5-6 (1957)("When the government reaches out to punish a citizen who is abroad, the shield which the Bill of Rights and other parts of the Constitution provide to protect his life and liberty should not be stripped away just because he happens to be in another land.")

[19] 384 U.S. 436 (1966).

[20] *Johnson* v. *Eisentrager*, 339 U.S. 763 (1950). *See also*, the so-called *Insular Cases*, which are *Downes* v. *Bidwell*, 182 U.S. 244 (1901); *Hawaii* v. *Mankick*, 190 U.S. 197 (1903); *Dorr* v. *United States*, 195 U.S. 138 (1904); *Balzac* v. *Porto Rico*, 258 U.S. 298 (1922).

[21] *Verdugo-Urquidez*, *supra* note 11, at p. 1060, quoting from *Kastigar* v. *United States*, 406 U.S. 441 (1972).

[22] *Verdugo-Urquidez, id.*, quoting from *United States* v. *Calandra*, 414 U.S. 338 (1974).

[23] *Brulay* v. *United States*, 383 F.2d 345 (9th Cir.), *cert. denied*, 389 U.S. 986 (1967). *See also, United States* v. *Yunis*, 859 F.2d 953 (D.C.Cir. 1988).

[24] The recognized sources under international law for criminal statutes that affect the world community have traditionally been the following five principles of jurisdiction: 1) Location of the offense; 2) nationality of the victim; 3) nationality of the offender; 4) protection of governmental functions; and 5) universally repugnant crimes, such as piracy. For discussion, *see* Empson, "The Application of Criminal Law to Acts Committed Outside the Jurisdiction," 6 American Criminal Law Quarterly 32 (1967); and Petersen, "The Extraterritorial Effect of Federal Criminal Statutes: Offenses Directed at Members of Congress," 6 Hastings International and Comparative Law Review 773 (1983).

[25] *Verdugo, supra* note 11, at pp. 1068-69.

[26] One reason for doing so may be reflected in *United States* v. *Bowman*, 67 L.Ed. 2d 145, 151 (1922), in which the Court finds authority to criminalize certain extraterritorial acts "because of the right of the government to defend itself against obstruction or fraud, wherever perpetrated."

[27] *Verdugo-Urquidez, supra* note 11, p. 1069, n.4, quoting from *Ford* v. *United States*, 273 U.S. 595.

[28] *See* 21 U.S.C. §§ 853 and 881.

[29] *See* 18 U.S.C. §981 (a)(1)(A).

[30] *See, e.g.*, 18 U.S.C. §981 (i) (1); 19 U.S.C. §1616a(c) (2); and 21 U.S.C. §881 (e) (1) (E).

[31] Upon request by the host country, U.S. officials, in matters of mutual interest, may engage in joint investigations, in which case efforts should be taken to ensure that evidence obtained will be admissible in the courts of both countries.

[32] Although informal, such cooperation should not be initiated by individual investigators; instead, coordination should be effected through appropriate agency channels or with the assistance of the Office of International Affairs, U.S. Department of Justice.

[33] For a discussion of grand jury secrecy and obstacles to sharing subpoenaed material with other agencies, *see* Andersen, "The Federal Grand Jury: Exceptions to the Rule of Secrecy," *FBI Law Enforcement Bulletin*, August 1990, pp. 26-31, and September 1990, pp. 27-32.

[34] 18 U.S.C. §§2510-2521.

[35] The statutory basis for authorizing the production of evidence for use in a foreign forum is 28 U.S.C. §1781 (transmittal of letter rogatory or request) and 28 U.S.C. §1782 (assistance to foreign and international tribunals and to litigants before such tribunals).

[36] The United States has mutual legal assistance treaties with Anguilla, the Bahamas, the British Virgin Islands, Canada, the Cayman Islands, Italy, Mexico, Montserrat, the Netherlands, Switzerland, Turkey, and the Turks and Caicos Islands.

[37] For instance, the United States has an asset sharing agreement with Colombia, a drug forfeiture agreement with Hong Kong, and a drug trafficking agreement with the United Kingdom.

[38] Kesler, "Some Myths of United States Extradition Law," 76 Geo. L.J. 1441, 1489 (1988).

[39] Among the common obstacles to extradition and prosecution are the following: (1) The fugitive's country refuses to comply with extradition requests for its own nationals; (2) political offenses generally bar extradition; (3) the crime and punishment must match in the requesting and sending countries (dual criminality); and (4) once extradited, the fugitive may be tried only for those specific charges on which the extradition was based (doctrine of specialty).

[40] In addition to outstanding foreign process for a fugitive, provisional arrest warrants must be obtained for arrests in the United States. These warrants are issued by American judges pursuant to 18 U.S.C. §3184.

[41] *United States* v. *Caro-Quintero*, 745 F.Supp. 599 (C.D. Cal. 1990); *United States* v. *Alvarez-Machain*, 946 F.2d 1466 (9th Cir. 1991); *United States* v. *Verdugo-Urquidez*, 939 F.2d 1341 (9th Cir. 1991).

[42] Courts have viewed the effect of unilateral rendition on jurisdiction over the person from different perspectives. *Compare, Ker* v. *Illinois*, 119 U.S. 436 (1886) and *Frisbe* v. *Collins*, 342 U.S. 519 (1952) with *United States* v. *Toscanino*, 500 F.2d 267 (2d Cir. 1974), *United States* v. *Caro-Quintero*, 745 F.Supp. 599 (C.D. Cal. 1990), and *United States* v. *Verdugo-Urquidez*, 939 F.2d 1341 (9th Cir. 1991).

Law enforcement officers of other than Federal jurisdiction who are interested in this article should consult their legal advisor. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.