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POLICE SCIENCE

THE PURSUIT OF INTERNATIONAL CRIMINALS THROUGH INTERPOL

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The lawyer who likes his legal problems to be challenging will have a field day in handling international criminal cases. He will find legal precedents are often non-existent; that the legal requirements and procedures involved are usually so complex and subject to so many limitations that an aspiring counselor would be better advised to forget Blackstone and study Houdini.

In international criminal problems in particular, a little common sense can be more important than two semesters of international law.

To start with, let us look at the problem posed by jurisdiction—or lack of jurisdiction. In international law, a country has no obligation to surrender a fugitive from justice to another country, unless it has contracted to do so. This is generally by an extradition treaty. The United States has extradition treaties with approximately 77 out of the 127 countries we recognize as being independent states. I say “approximately” because the status of our treaties in some countries is very unclear. This arises out of recent changes in the form of government that have taken place in some countries, particularly former European colonial possessions in Africa.

Moreover, even where a treaty of extradition exists, many crimes are not subject to extradition. It is traditional, for example, that so-called “fiscal offenses” are excluded from extradition. The same is true for offenses of a political, military, or religious nature.

As a matter of fact, very few crimes against our Federal laws are extraditable. For nearly all our Federal offenses are based on statutory laws

involving interstate commerce, which has no counterpart in other countries. Since the extraditable offenses as a rule must involve double criminality—that is, be recognized as a crime by both parties to the treaty—our Federal crimes rarely qualify. A few however, do, such as narcotics trafficking, counterfeiting, and forgery. Tax offenses are not subject to extradition nor with one or two exceptions are crimes of smuggling or those involving security and exchange violations. Mail frauds are another example of an offense which is not a crime in many countries.

Generally speaking the specific crimes which are covered by nearly all of our treaties of extradition and are recognized as extraditable offenses by other countries are: murder; rape; bigamy; (although not in the case of Chile, Bolivia, Denmark or Panama) arson; certain crimes committed at sea, including robbery, sinking or destroying vessels at sea, mutiny and assaults with intent to do bodily harm; robbery; burglary, forgery; counterfeiting of money; embezzlement; larceny, fraud; perjury, and kidnapping.

Unless a crime is listed specifically in our treaty, for all practical purposes it is not an extraditable offense. If you think this is getting to look as if the cards are stacked against a government lawyer who would like to extradite a fugitive, you are right. A sovereign state does not take lightly the act of surrendering a person to another country. It has only been within relatively recent times that extradition has become accepted as a necessary form of international cooperation in the control of crime.

As you know, the impetus was started in the 18th Century by France which initiated treaties of extradition with its immediate neighbors and established a well regulated set of rules governing extradition proceedings. By 1868 France had 53 treaties of extradition, while the United States had only 13. England on the other hand, with her tradition of asylum, had only three treaties of extradition.

With the rapid development of international transportation and communication and the concurrent increase in widespread immigration, the spread of extradition treaties greatly accelerated. Although our historical policy of political and religious asylum slowed the process in the United States until well into the 1900's, the need to deal with common law criminals led the United States to join the world trend towards additional treaties of extradition.

Compared with other countries, however, the legal safeguards protecting persons residing in the United States are unusually strong and restrictive. Most countries for example, will arrest and hold a person on the basis of a foreign warrant of arrest or even just at the request of a law enforcement official. This is not true in the United States, however. We require a warrant of arrest to be obtained in this country before any arrest can be made.

Another legal booby trap against the extradition of a wanted fugitive is triggered if he turns out to be a national of the country. Usually, countries will not surrender their own nationals to another state. Insofar as our own policy on this is concerned, it varies with the individual treaty. Some prohibit extradition of United States nationals, some require it while other treaties leave it optional.

The legal assistance provisions of our treaties were obviously drawn by lawyers who would never qualify as invitees to an International Cooperation Year Conference. Even when the crime is subject to a treaty and there is no problem of nationality, the legal processes involved in securing the extradition of a fugitive are extremely cumbersome and time consuming. Only 30 of our treaties provide for United States assistance in the extradition of a fugitive. In most cases the country with whom we have a treaty must hire its own lawyer to handle the extradition processes and must tilt with the legal windmills on its own. In addition our government faces problems and built-in obstacles which are equally frustrating.

Before you start to feel sorry for the inter-

national lawyer, consider the plight of the police officer who has to locate the fugitive and find the criminal evidence required before the foreign court will authorize the extradition. No matter how outrageous the crime might be, no country will permit a foreign police officer to follow a criminal in hot pursuit across its border to make an arrest within its territory. Yet what is our detective to do in order to track down a fugitive or gather evidence and information he needs that can only be found in a foreign country?

Despite what you may see on television, in the international law enforcement fraternity we never say "Uncle." Instead we call in Interpol—or the International Criminal Police Organization, as it is formally titled. For just as the need for international cooperation led to treaties of extradition, so the problem faced by law enforcement officers inevitably led to the organization of an international police mechanism to promote assistance between police in different countries and provide for the mutual exchange of information and intelligence about common crimes and criminals.

With the help of Interpol, we can pick up the trail of the fugitive and locate him so that his arrest and extradition can be secured. In addition, the resources and facilities of the police in each Interpol member country can be drawn upon to gather information and evidence which may be needed.

Essentially, Interpol is a cooperative international association which enables the police of member countries to exchange information and obtain assistance on criminal matters directly, without the loss of time involved in going through diplomatic channels. Its Secretariat at Paris serves as a focal point and control center for an international police communications network stretching around the world. It operates a central criminal intelligence and information exchange for Interpol countries, and its central files contain records on more than 150,000 known international criminals.

Membership in Interpol must be by application from the appropriate head of government of a country. Each country upon joining Interpol designates a National Central Bureau to serve as its representative in all Interpol matters affecting the country. No individual police department or law enforcement agency can obtain membership. Participation by the law enforcement agencies of a country must be through its designated Interpol representative, and any requests for information or assistance to the Interpol Secretariat in Paris or to

Interpol representatives in foreign countries must clear through the Interpol bureau of the country concerned.

Today, 95 countries are members of Interpol and the Organization includes almost every major country in the world, with the exception of the Soviet Union, Mainland China, and their satellites.

The International Criminal Police Organization was founded in 1923 when delegates representing 20 countries and territories met in Vienna and established the "International Criminal Police Commission." The outbreak of World War II disrupted its activities, but in 1946 the international police agency was reconstituted. The headquarters was moved to Paris, where it remains today. In 1956 the title was changed from the International Criminal Police Commission to its present name.

The United States first joined Interpol in 1938 by an Act of Congress and was originally represented by the Federal Bureau of Investigation. In 1950, the F.B.I. withdrew from Interpol and formal U. S. membership ended. However, informal relations were maintained by the Treasury Department's Bureau of Narcotics, Bureau of Customs, and the U. S. Secret Service.

In view of our major international enforcement responsibilities in the field of narcotics trafficking, counterfeiting, and smuggling, the Treasury Department then offered to assume responsibility for U. S. membership, whereupon, Congress amended the Enabling Act in 1938 to permit the Attorney General to designate the Treasury Department as U. S. Representative for Interpol. The U. S. has participated as a full member ever since.

It must be stressed that Interpol's effectiveness depends entirely on the voluntary nature and cooperative services of its members. Interpol has no investigative force or police authority of its own.

There is no obligation on the part of any country to comply with any request for information or assistance. If for any reason the recipient Interpol bureau decides that a request is improper or not permitted under its own laws—or that it is otherwise unwilling to obtain the information requested—the matter ends. Each country is the sole arbiter as to whether or not a request for assistance, either from the Secretariat in Paris or from a member country directly, is processed; and any investigation made is performed by its own police or responsible investigative branch.

Unlike most countries, which have national,

centralized police bureaus whose jurisdiction extend down to the local communities, the United States has thousands of law enforcement agencies with autonomous jurisdiction over local criminal matters. Therefore, when a request from a foreign country comes into Treasury's Interpol office, it is referred for action to whatever agency has jurisdiction. It may be a Treasury investigative agency, the New York City Police Department, or the Alameda County, California, Sheriff's office or some other law enforcement agency. Our Interpol Bureau serves largely as a clearing-house and depends on the agency to whom we transmit the Interpol communication to make whatever investigation may be necessary.

Under the Interpol Constitution, all matters of political, military, religious, or racial nature are strictly prohibited. Any request for information or assistance which relates to one of these proscribed categories cannot be transmitted through the Interpol mechanism, or in anyway involve the Organization.

For instance, not long ago an aircraft carrying a large shipment of military firearms and equipment was apprehended in a Mediterranean country. As the arms traffickers involved in this case were apparently motivated by political considerations, the crime involved was considered outside Interpol's proper scope, and the parties concerned were notified accordingly. Later on, it was learned that a person representing himself to be a foreign representative of Interpol interrogated one of the principals involved in a European country. This was brought to the immediate attention of the chief Interpol official concerned. His investigation showed that the Interpol agent was unknown either to him or to the country whom he was purported to represent, and steps were taken to assure against any further misrepresentation or the use of Interpol's name in the matter.

It is largely because Interpol has been so careful to avoid being drawn into such proscribed areas that it has enjoyed a unique acceptance and prestige by its diverse international membership. Its surprising success in maintaining its professional and impartial criminal role has made it possible for delegates from India and Pakistan, Israel and Egypt, Indonesia and Malaysia to meet and work together amicably in a common cause—the suppression of international crime.

In addition to its function as an international criminal information exchange and communications center, Interpol organizes international

conferences on criminal problems and publishes numerous reports and studies. Once a year the Organization convenes a General Assembly of all its members to discuss matters of mutual interest and decide on new programs and activities designed to strengthen their common efforts against international crimes. The following items taken from recent Interpol agendas depict the nature and range of subjects taken up at the annual General Assemblies: The Illicit Traffic in Narcotic Drugs; International Traffic in Gold and Diamonds; International Forms of Traffic in Women; The Study of Crime Prevention Bureaus; Air Police Problems; The Restitution of Property to the Victim of an Offense; Thefts Committed During Air Transport; The Use of Data-Processing Methods in Criminal Records; Counterfeiting of Currency and Gold Coins; International Cooperation on the Study of Fingerprinting Methods; The Identification of Firearms; and the Development and Use of Criminal Intelligence.

At the International conference held earlier this year in Rio de Janeiro, the United States delegation drew the attention of the other Interpol countries to the increasing number of international frauds which have been coming to light. These fraudulent activities, which pose extremely difficult problems in detection as well as suppression, include such things as foreign-based "boiler rooms" which sell worthless or near worthless securities to Americans at grossly excessive prices; the sale of fraudulent certificates of deposit by banks located in other countries, which in reality are only paper institutions without assets; the issuance of performance bonds or other forms of re-insurance by foreign insurance companies, which turn out to be worthless when a claim is presented.

Heretofore, such swindles were limited by the ability of the operator to make personal contacts with his victims. With the ease of rapid international travel and communication, however, these international fraudulent schemes are reaching hundreds and even thousands of victims in this

country. In some cases the principal was never physically present in the victims' country and these international swindles are raising many serious legal problems, such as: Was the crime committed in the country where the principal is a resident or where the victim resides? Which country conducts the investigation and where is the culprit to be charged and tried?

This is an area where Interpol can provide invaluable assistance through its cooperative facilities and perhaps initiate studies leading to needed legal instruments for coping with this kind of legal no-man's land.

In dealing with major criminal problems that extend beyond our own borders, the United States has additional and special resources of its own apart from Interpol. Our responsibility for protecting our citizens against illicit trafficking and smuggling in of narcotic drugs, the importance of safeguarding our money against foreign counterfeiting and other serious threats abroad has led to the establishment of liaison offices in key countries. The Treasury Department, for example, has representatives from its criminal investigative agencies assigned overseas to work with police authorities in France, Italy, Turkey, Lebanon, Germany, England, Mexico, Japan, Hong Kong, and Thailand. Similarly, the FBI maintains liaison offices in designated countries to facilitate its own investigative responsibilities.

The work of our American agents overseas, in cooperation with the police of the countries in which they are stationed, has enabled us to get information which has led to the breaking up of many important criminal enterprises and to the conviction and jailing of some of our country's most dangerous criminals.

Undoubtedly none of us will see the day when *all* men can say that they have no enemies. Until then, as long as men prey on their fellow men, the law enforcement officer—local and international—will be needed to protect society against its enemy, the criminal.