



FUGITIVE INVESTIGATIONS

Criminal Investigations

8.13 INTERNATIONAL FUGITIVE INVESTIGATIONS

Extraterritorial Investigations

- A. **Proponent:** Investigative Operations Division, 202-307-9110, Fax 202-307-9337.
- B. **Purpose:** This policy directive sets forth United States Marshals Service (USMS) policy concerning investigations and other law enforcement activities conducted outside of the territorial jurisdiction of the United States under ordinary circumstances. Sensitive extraterritorial operations are outside of the scope of this policy directive and are governed by applicable laws, international agreements, rules, memoranda of understanding, and Department of Justice regulations.
- C. **Authority:** The Director's authority to direct and supervise all activities of the USMS is set forth in 28 USC 561(g) and 28 CFR 0.111. The authority of the USMS to "execute all lawful writs, process, and orders issued under the authority of the United States" is set forth in 28 USC 566(c). The authority of the USMS to "investigate such fugitive matters, both within and outside of the United States, as directed by the Attorney General" is set forth in 28 USC 566(e)(1)(B). Additional authority is derived from 28 CFR 0.111(q) and the *Policy on Fugitive Apprehension in Federal Bureau of Investigation and Drug Enforcement Administration Cases*, dated August 11, 1988.
- D. **Policy**
1. **Delegation of Authority**
 - a. **Assistant Director for Investigations:** The authority to direct and supervise the activities of the USMS with regard to international, extraterritorial, and foreign fugitive investigations, as well as the oversight of the USMS foreign field offices is delegated to the Assistant Director for Investigations (ADI). Deviations from this policy directive require the prior approval of the ADI (the ADI, in some cases, may require the approval of the Deputy Director, the Director, the Deputy Attorney General, or the Attorney General).
 - b. **Country/Regional Attaché:** The Country Attaché or Regional Attaché serves as the principal USMS representative assigned to a foreign post, and is responsible for the supervision and direction of the activities of a USMS foreign field office or other USMS activities in a foreign country.
 - c. **United States Marshals:** United States Marshals and USMS criminal investigators (GS-1811) are authorized to conduct fugitive and criminal investigations outside of the territorial jurisdiction of the United States subject to the conditions outlined in this policy directive.
 2. **Extraterritorial Fugitive Investigations**
 - a. **Respect for Sovereignty:** USMS personnel operating in a foreign country shall carry out their duties with the utmost respect for the sovereignty of, and in compliance with the laws of, the host country at all times.

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- b. IOD Oversight: All international, foreign fugitive, and extraterritorial investigations shall be coordinated through the Investigative Operations Division (IOD), International Investigations Branch (IIB). This coordination may be accomplished through the IIB Chief Inspector, Senior Inspectors, Country Attachés, Regional Attachés, and district criminal investigators serving as liaisons to a foreign country in a collateral duty capacity. Districts shall not conduct, or cause to be conducted, investigations outside of the United States without the prior approval of the Chief, IIB, or his or her designee. Nothing in this policy directive is intended to inhibit routine information sharing and liaison functions between the USMS and foreign law enforcement agencies.
- c. Coordination with U.S. Chief of Mission and Host Country: Extraterritorial investigations shall be coordinated in advance with the U.S. Chief of Mission, host country government, and the USMS Country or Regional Attaché. Additionally, for countries in which the USMS has no permanent or regional presence, investigations should be coordinated with the Department of State Regional Security Office, Drug Enforcement Administration, Bureau of Immigration and Customs Enforcement, or other U.S. law enforcement agency with representation in the host country.
- d. Approved Activities: No investigative or enforcement action shall be taken by USMS personnel unless authorized by the U.S. Chief of Mission, the Assistant Director for Investigations, and responsible host government officials. **To the extent permitted by the ADI, U.S. Chief of Mission, and responsible host country officials**, USMS personnel may conduct investigations concerning federal, state, local, and foreign fugitives, and, in doing so, may:
- (1) train, observe, advise, and assist foreign law enforcement agents and government officials
 - (2) exchange information with foreign law enforcement or government officials
 - (3) be present as advisors and observers during host country law enforcement operations including the execution of search warrants, arrest warrants, and other law enforcement operations
 - (4) request and receive documents and other information
 - (5) conduct interviews or be present during the conduct of interviews by host country officials, other than in instances as set forth in III, B-7 of this policy
 - (6) conduct surveillance
 - (7) develop and maintain sources of information, including confidential sources
 - (8) provide information and assistance to the Department of Justice Office of International Affairs, the U.S. Chief of Mission, and Consul General, with regard to extradition, deportation, expulsion, and similar matters
 - (9) advise the Chief of Mission and other U.S. government personnel on law enforcement matters
 - (10) provide information and assistance to other federal, state, local, or foreign law enforcement agencies upon request
 - (11) engage in other law enforcement related activities as authorized by the ADI, Chief of Mission, and the host country government
- e. The scope of authorized activities varies from country to country. For countries in which the USMS has foreign field office(s), the Country Attaché shall meet with the Chief of Mission and responsible foreign law enforcement counterparts as necessary to negotiate or review USMS operating procedures. The ADI may issue country-specific program directives as necessary.

3. **Undercover Operations:** must be conducted in accordance with USMS directive *Undercover Operations*.
4. **Prohibition on Arrests in Foreign Countries**
 - a. **Legal Background:** Pursuant to 22 USC 2291(c)(1) (the "Mansfield Amendment"), "No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law." However, 22 USC 2291(c)(2) provides that this "does not prohibit an officer or employee of the United States, **with the approval of the United States Chief of Mission**, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest." Additionally, 22 USC 2291(c)(3) provides that 22 USC 2291(c)(1) "does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public."
 - b. **Policy:** Although the Mansfield Amendment prohibits USMS personnel from effecting arrests in foreign countries only in connection with host country narcotics control efforts, it is the policy of the USMS that USMS personnel shall not directly effect an arrest of *any* individual in a foreign country. However, criminal investigators may be present during arrests made by foreign officers with the approval of the U.S. Chief of Mission. Furthermore, USMS personnel may take direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.
 - c. **Custodial Interviews:** Pursuant to 22 USC 2291(c)(5), "No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person." Accordingly, it is the policy of the USMS that USMS personnel shall not interview, or be present during interviews, of any United States citizen or resident alien who is in the custody of any foreign government in a foreign country in connection with host country narcotics control efforts without the written consent of that individual. When conducting interviews of subjects in the custody of a foreign government, USMS personnel shall take reasonable measures to ensure that subject is aware that he or she is not in the custody of the United States. USMS personnel should advise persons in custody of a foreign government of their rights (using the modified *Miranda* warnings) prior to the initiation of a substantive interview if it is likely that prosecutors will seek the admission of statements made by the prisoner as evidence in a court in the United States.
 - d. **Lures:** International fugitive lures can implicate sensitive foreign sovereignty issues and, absent careful advance coordination and planning, may adversely impact U.S. law enforcement interests. Accordingly, all lure operations, including those which do not involve direct contact with U.S. law enforcement personnel or confidential sources, must be reviewed and approved by the IOD and Department of Justice Office of International Affairs prior to implementation.
 - e. **Information Regarding Other Crimes:** Information or evidence obtained by the USMS and relating to crimes outside of USMS jurisdiction shall be turned over to the appropriate federal, state, or local law enforcement agency.
 - f. **Human Rights Issues:** If USMS personnel accompanying foreign government agents observe them engaging in torture or other human rights abuses, USMS personnel shall request the foreign government agents to stop the activity, depart the scene, and report the incident to the ADI and U.S. Chief of Mission.
5. **Relationship to U.S. Chief of Mission**

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- a. Chief of Mission Legal Authority: Pursuant to 22 USC 3927(a), "Under the direction of the President, the Chief of Mission to a foreign country . . . shall have full responsibility for the direction, coordination, and supervision of all Government executive branch employees in that country (except for employees under the command of a United States area military commander); and . . . shall keep fully and currently informed with respect to all activities and operations of the Government within that country, and shall insure that all Government executive branch employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the Chief of Mission." Additionally, 22 USC 3927(b) provides that "Any executive branch agency having employees in a foreign country shall keep the Chief of Mission to that country fully and currently informed with respect to all activities and operations of its employees in that country, and shall insure that all of its employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the Chief of Mission." Additionally, 22 USC 4802(c) provides that the Secretary of State shall ". . . have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad pursuant to United States Government authorization (except for facilities, installations, or personnel under the command of a United States area military commander)" However, 22 USC 4805 (b) provides that "Nothing contained in this chapter shall be construed to limit or impair the authority or responsibility of any other Federal, State, or local agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333."
- b. Policy Concerning Chief of Mission Coordination: USMS personnel engaging in official business in a foreign country shall keep the U.S. Chief of Mission fully and currently informed of all programs, activities, and operations carried out by the USMS in that country. This duty shall be carried out principally by the USMS country attaché or senior USMS operational representative assigned to the program, activity, or operation in that country. Furthermore, USMS personnel operating in a foreign country shall ensure that they comply fully with all applicable directives of the Chief of Mission.
- c. Scope of Chief of Mission Oversight: The Chief of Mission's main concern with respect to law enforcement shall be with the overall effect of law enforcement activities and operations on U.S. interest in the country (or international organization) of accreditation, rather than with operational details or the identity of specific sources or methods. If a Chief of Mission believes he or she has a need for more detailed or specific information to assess the impact on U.S. interests in the country (or international organization), he or she may request it. If the country attaché or senior USMS representative on site believes that exceptional circumstances preclude providing this additional information, or that he or she is precluded by law from doing so, the country attaché or senior USMS representative on site should immediately report the matter to the Chief of the International Investigations Branch.
- d. Conflicts of Interest: Notwithstanding any other provision of this policy directive, if the country attaché or senior USMS representative on site believes that exceptional circumstances exist with respect to the personal relationship of a particular Chief of Mission to a particular investigation that preclude advising that Chief of Mission about a specific activity or operation within the country (or international organization) of accreditation, before undertaking the activity or operation he or she shall promptly consult with the Chief of the International Investigations Branch, who shall, in turn, consult with appropriate officials within the Department of Justice and Department of State.
- e. Authority to Suspend Operations: If, in exceptional circumstances, a Chief of Mission believes that a U.S. law enforcement activity conducted within the country (or international organization) of accreditation would significantly damage U.S. interests abroad, he or she may suspend the activity pending prompt resolution of the matter by the Department of State and the Department of Justice.
- f. Limitation on Chief of Mission Authority: The role of the Chief of Mission does not

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include ordering the taking of investigative or prosecutorial steps by USMS personnel.

g. **Delegation of Authority to Deputy Chief of Mission (DCM):** The Chief of Mission may delegate his or her responsibilities concerning the oversight of USMS activities no further than the Deputy Chief of Mission. In the event that a further delegation is attempted, the country attaché or senior USMS representative on site should notify the Chief of the International Investigations Branch immediately.

6. **Diplomatic Privileges and Immunities:** As a general rule, USMS personnel traveling abroad on official business are not automatically afforded the privileges and immunities extended by the host country to U.S. diplomatic personnel. Personnel assigned to foreign countries for extended periods of time shall seek diplomatic status within that country through the U.S. mission. USMS personnel assigned to foreign field offices must ensure that they are identified by the U.S. Embassy to the host country foreign ministry (through a diplomatic note or addition to the diplomatic list) as diplomatic personnel and request that they be afforded the privileges and immunities afforded to equivalent mission personnel. Once the request is made, the foreign ministry may approve or deny the request. Generally, the host country will issue a diplomatic identification card to mission personnel. A diplomatic or official passport, in itself, confers no immunities. The level of privileges and immunities varies from country to country, based upon bilateral and multilateral agreements, treaties, and conventions to which the involved countries are signatories. USMS personnel traveling abroad on a temporary duty basis are seldom afforded the full diplomatic protections. It is the policy of the USMS to seek the greatest degree of diplomatic privileges and immunities (generally that of a diplomatic agent) for its personnel stationed outside of the United States¹.

7. **International Narcotics Control Certification:** Statements regarding the USMS position concerning the certification, decertification, or recertification of a foreign country pursuant to 22 USC 2291j shall be reviewed and approved by the ADI prior to transmission outside of the USMS.

E. Procedures

1. **Initiating Extraterritorial Investigations or Lure Operations:** USMS personnel shall contact the IOD International Investigations Branch for guidance and direction prior to initiating an extraterritorial investigation or lure operation. Generally, requests for extraterritorial investigations or lure operations will be submitted to IOD in writing. However, under exigent circumstances, requests may be transmitted to IOD orally. Oral requests will be documented as soon as practicable.

2. **Diplomatic and Official Passports:** All requests for diplomatic or official passports shall be approved by the ADI, the Chief of Criminal Investigations, or the Chief of the International Investigations Branch prior to submission to the U.S. Department of State.

3. **Country Clearance and International Travel Authorization:** USMS personnel must obtain host country clearance from the appropriate U.S. Chief of Mission prior to entering a foreign country on official business. Host country clearance requests shall be handled by IOD. All international travel must be approved, in advance, by the Chief of the International Investigations Branch, the Chief of Criminal Investigations, or the ADI.

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5. **Training:** Personnel assigned to extended tours of duty outside of the United States shall be trained in area studies, and may be required to attain proficiency in a foreign language.

6. **Government Vehicles:** U.S. Government-owned, -rented, or -leased vehicles may be used for official business to include the transportation of foreign government officials, sources of information, and others, and may be used for all USMS operations outside of the United States including surveillance. Government vehicles may be used to transport foreign government

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prisoners (1) if requested by the foreign government, and (2) if foreign law enforcement officers are present and maintain physical custody of the prisoner at all times. Pursuant to 31 USC 1344(a)(2)(B), at the discretion of the country attaché, USMS personnel assigned to foreign field offices may use government vehicles for home to work use. Furthermore, pursuant to 41 CFR 301-10.201, employees on temporary duty assignments outside of the United States are hereby authorized (when public transportation is unavailable or impractical in the opinion of the employee) to use government vehicles (excluding aircraft) for transportation between places of official business, between places of official business and temporary lodging facilities, and for transportation between the aforementioned places and restaurants, drug stores, barber shops, places of worship, cleaning establishments, and similar places necessary for the sustenance, comfort, or health of the employee to foster the continued efficient performance of government business.

7. **Chief of Mission Policies:** USMS country attachés shall forward copies of all policies and procedures issued by a U.S. Chief of Mission and affecting USMS operations in a foreign country to the Chief of the International Investigations Branch for review.
8. **Border Districts:** The Assistant Director for Investigations, with the consent of district management, may designate personnel as necessary to serve as assistant country attachés, regional attachés, or as liaisons to a foreign country in a collateral duty capacity in districts which share a border with, or are in close or convenient proximity to, a foreign country.

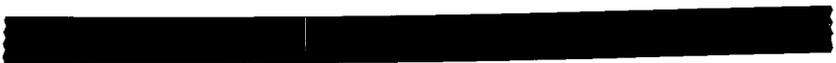
F. Definitions

1. **Assistant Country Attaché:** A USMS criminal investigator assigned to assist the country attaché in the performance of his or her duties.
2. **Chief of Mission:** The principal officer-in-charge of a U.S. diplomatic mission or U.S. office abroad which the Secretary of State has designated as diplomatic in nature. The U.S. Ambassador to a foreign country is the Chief of Mission in that country.
3. **Country Attaché:** A USMS criminal investigator designated by the Assistant Director for Investigations as the principal USMS representative assigned to a foreign post and responsible for the supervision and direction of the activities of a USMS foreign field office or USMS activities in a foreign country.
4. **Criminal Investigator:** Any USMS employee assigned to the GS-1811 occupational series.
5. **Diplomatic Agent:** Ambassadors and other diplomatic officers who generally have the function of dealing directly with host country officials.
6. **Extraterritorial Fugitive Investigation:** A fugitive investigation conducted by USMS personnel outside of the territorial jurisdiction of the United States.
7. **Foreign Field Office:** A USMS office located outside of the territorial jurisdiction of the United States.
8. **Foreign Fugitive:** A fugitive sought in the United States by a foreign government.
9. **International Fugitive Investigation:** A fugitive investigation, or part of an investigation, concerning the location and/or apprehension of a fugitive outside of the territorial jurisdiction of the United States.
10. **Lure:** A ruse or subterfuge used to entice a person to leave a foreign jurisdiction voluntarily so that he or she may be arrested in the United States, in international waters or airspace, or in a third country from which the person may be extradited, deported, or expelled to the United States.
11. **Regional Attaché:** A criminal investigator, designated by the Assistant Director for Investigations, to serve as the principal USMS representative to a foreign country or group of countries in which the USMS does not have a foreign field office.

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12. **United States Person:** A United States Citizen or resident alien.

67



Appendix A

Miranda Rights (International)

1. **Before I ask you any questions, it is my duty to advise you of your rights:**
 - a. You have the right to remain silent.
 - b. Anything you say can and will be used against you in a criminal proceeding.
 - c. Under United States law, you have the right to talk to a lawyer to get advice before we ask you any questions, and you can have a lawyer with you during questioning.
 - d. Were we in the United States, if you could not afford a lawyer, one would be appointed for you, if you wished, before any questioning. Because you are not in our custody and we are not in the United States, we cannot ensure that you will be permitted access to a lawyer, or have one appointed for you, before or during any questioning. However, if you want a lawyer, we will ask the foreign authorities to permit access to a lawyer or to appoint one for you. If the foreign authorities agree, then you can talk to that lawyer to get advice before we ask you any questions, and you can have that lawyer with you during questioning. If you want a lawyer, but the foreign authorities do not permit access at this time to a lawyer or will not now appoint one for you, then you still have the right not to speak to us at any time without a lawyer present.
 - e. Do you understand your rights?
 - f. Are you willing to talk to us without a lawyer present?

International Extradition and Rendition

- A. **Proponent:** Investigative Operations Division, 202-307-9110, Fax 202-307-9337
- B. **Purpose:** This policy directive sets forth United States Marshals Service (USMS) policy concerning the extradition and/or rendition of fugitives to or from the United States.
- C. **Authority:** The Director's authority to direct and supervise all activities of the USMS is set forth in 28 USC 561(g) and 28 CFR 0.111. The authority of the USMS to "execute all lawful writs, process, and orders issued under the authority of the United States" is set forth in 28 USC 566(c). The authority of the USMS to execute "Federal custodial and extradition warrants as directed" is set forth in 28 CFR 0.111(a). See also 28 USC 566(e)(1)(B), 18 USC 3184-3196, 18 USC 1502, and Public Law 95-86, 91 Stat. 425, August 2, 1977 (transferred appropriations for "bringing to the United States from foreign countries persons charged with crime" from State Department to Justice Department).
- D. **Policy**
 1. **Delegation of Authority:** The authority to direct and supervise the activities of the USMS with regard to extraditions and renditions is delegated to the Assistant Director for Investigations.
 2. **Extraditions from the United States to a Foreign Country**
 - a. **Timing of Extradition**
 - (1) Extradition Proceedings: a person found extraditable by a U.S. judge is committed to the custody of the Attorney General pending the issuance of a surrender warrant by the Secretary of State. Upon issuance of the surrender warrant, custody of the person may be transferred to the appropriate foreign government. Once the surrender warrant has been issued there is frequently a need for expeditious action. Actual transfer of custody should take place as quickly as possible.

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- (2) Waiver of Extradition Proceedings: in the event that a person waives extradition, custody of the person may be transferred to the requesting foreign government pursuant to an order of the court directing the USMS surrender the person to the foreign officials. A surrender warrant by the Secretary of State may not be required. There is no specific statutory time limitation applicable to waivers of extradition, but it is the practice of the USMS to affect the surrender as quickly as possible.
- (3) If a person is in custody on U.S. charges, generally the State Department will wait until near completion of sentence or resolution of charges to evaluate the appropriateness of the surrender in light of the circumstances existing at that time. If a person has been certified extraditable or has waived extradition, but must first serve a federal or state sentence, the district in which the person subject to extradition/rendition is being detained will file a detainer with the appropriate authorities.

b. Transfer of Custody to Foreign Government

- (1) The transfer of physical custody of a person, within the United States, to a foreign government, will be [REDACTED]

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If there is no direct flight outside of the territory of the United States from the district where the person is located [REDACTED]

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- (3) If the transfer of custody [REDACTED]

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- (4) [REDACTED]

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- (5) For transfers not involving aircraft, as to Canada or Mexico, the transfer [REDACTED]

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- (6) In some instances, the USMS may extradite a person wanted in a foreign country from the United States on behalf of the requesting country.

- (7) If, following the transfer of custody, exigent circumstances arise which substantially delay the departure of or require the unexpected return to the United States by the foreign law enforcement officers with the prisoner (e.g., mechanical difficulties, weather delays, etc.), USMS personnel may retake temporary custody of the prisoner (to include lodging the prisoner in a detention facility), if necessary, until circumstances permit the departure process to continue.

Note: It is important to note that although the USMS may assume physical custody of the prisoner, the prisoner may be in the legal custody of the foreign government. Accordingly, the Chief, International Investigations Branch (IIB), shall be advised whenever this situation arises. The Chief, IIB, shall consult with

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the concerned AUSA and/or DOJ Office of International Affairs.

c. Stay of Extradition

- (1) Stay Orders: In the event that a stay of extradition is ordered by a federal court of the United States, and the prisoner is within the custody of the USMS, the USMS shall comply with the order and not surrender the fugitive until the stay is lifted.
- (2) Stay Applications: Once an application for a stay of extradition has been filed with the Clerk of a federal court, the USMS shall not surrender the person pending resolution of the matter by the court unless otherwise directed by the Chief, International Investigations Branch (IIB). The Chief, IIB, or the USMS program manager for extraditions, shall not direct otherwise without the approval of the concerned AUSA and/or DOJ Office of International Affairs.
- (3) Exceptions: The above provisions requiring that the surrender not take place are inapplicable if custody of the prisoner has already been transferred to foreign law enforcement agents. In such circumstances, the USMS shall not retake custody of the prisoner without the approval of the Chief, IIB, or the USMS program manager for extraditions.

Note: A surrender is completed when custody of the prisoner has been transferred to a foreign government, even if that act occurs within the territory of United States. Once the surrender is completed, an order staying extradition may be moot and, without an additional order authorizing the USMS to take the person back into custody, un-executable. Similarly, if the USMS has completed the surrender before the government receives notice of the filing of a stay application, the USMS may no longer be in a position to suspend the extradition. Even without regard to questions concerning the legal authority of the USMS to retake custody of the prisoner, interference with the foreign government following surrender potentially could create an international incident. For this reason, the Chief, IIB, shall consult with the concerned AUSA and/or the DOJ Office of International Affairs to assess the situation and determine the appropriate action to take.

3. Extraditions and Renditions from a Foreign Country to the United States

- a. Transportation of Extradited Prisoner Directly to District or State of Offense: Whenever a prisoner is extradited to the United States, that prisoner shall be transported directly to the judicial district or state in which he is charged without stopping to make a court appearance at the port of entry because the Federal Rules of Criminal Procedure do not apply to the extradition of fugitives (see 18 USC 3193 and F.R.Cr.P. Rule 54(b)(5)). If the prisoner is charged in multiple states and/or judicial districts, a determination shall be made on a case by case basis (after consultation with the Department of Justice (DOJ) Office of International Affairs (OIA)) as to which jurisdiction the prisoner shall be delivered.
- b. Disposition of Otherwise Rendered Persons: Fugitives or prisoners escorted by USMS personnel and entering the United States by means other than extradition or waiver of extradition (such as deportation, expulsion, extraordinary rendition, or voluntary surrender), shall be handled in the following manner:
 - (1) If a federal warrant for arrest exists for outstanding federal criminal charges, the warrant shall be executed and the prisoner shall be produced for an initial appearance before the nearest available magistrate (in accordance with the Federal Rules of Criminal Procedure) upon arrival at the port of entry to the United States.
 - (a) If the fugitive or prisoner is wanted solely for a federal escape or parole violation, and no criminal charges are pending, the subject may be

transported after arrest to any suitable place to await designation or service of sentence.

- (b) If the fugitive or prisoner is wanted solely for state charges, the subject must surrender or be surrendered to state authorities upon arrival at the port of entry (or at a secure location in the same state as the port of entry). If the fugitive entered the United States in a state other than that in which he is sought, the state-to-state rendition process will apply and the USMS will provide advice and counseling to state authorities as necessary.
- (c) Other circumstances will be handled on a case by case basis.

The provisions of this directive are intended as a guideline. USMS management may deviate from these guidelines if advised to do so by the Chief, IIB, or his or her superior.

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5. **Accommodations:** Coach accommodations are required. The use of business or first class is prohibited unless authorized by the Chief, IIB.

6. **Travel Authorization and Country Clearance:** All travel associated with extraditions or renditions from a foreign country must be authorized by the Manager, International Extraditions Program. Additionally, personnel must have country clearance from the U.S. Chief of Mission for the destination country prior to departing the United States.

7. **Authority of Extradition Agents (including state and local officers)**

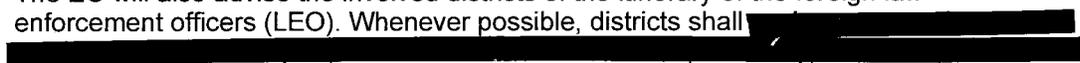
- a. **Powers:** The United States Marshals Service may, pursuant to 28 USC 566(c), "command all necessary assistance to execute its duties," to include the designation of state or local law enforcement officers to assist in completing an extradition. Formal special deputation, or designation as an extradition agent pursuant to 18 USC 3193 and Executive Order No. 11517, is not necessary to enable state or local law enforcement officers to serve as extradition agents. State or local law enforcement officers operating under the direction or control of the USMS in support of an extradition may exercise the same powers as a Deputy U.S. Marshal.
- b. **Resistance to extradition agent:** Pursuant to 18 USC 1502, "Whoever knowingly and willfully obstructs, resists, or opposes an extradition agent of the United States in the execution of his duties" is subject to arrest and prosecution. Upon conviction, a defendant may be fined and/or sentenced to not more than one year imprisonment.

E. **Procedures**

1. **Extraditions to Foreign Countries from the United States**

a. **General Provisions:** After the district receives the order of a U.S. judge certifying a person's extraditability or accepting the person's waiver of extradition, districts **must** contact the IOD/IIB Extradition Coordinator (EC). If a surrender warrant is required, the EC will make arrangements necessary for the surrender of the person once IIB receives the surrender warrant from the State Department, which ordinarily will be at least 40 days after the U.S. judge certifies extraditability. If the person waived extradition (so that no surrender warrant will be issued), the EC will make the necessary arrangements after it receives the order of the U.S. court permitting the person's transfer to foreign custody. The EC will also advise the involved districts of the itinerary of the foreign law enforcement officers (LEO). Whenever possible, districts shall

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In addition, districts will provide the EC and foreign LEOs with



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a 24 hour point of contact who will be available to assist as necessary.

- b. **Threat Assessment:** The concerned districts shall conduct a threat assessment, in consultation with IOD, and determine the appropriate security measures to implement throughout the extradition process.
- c. **Medical Assessment:** The concerned districts shall advise the EC or the USMS program manager for extraditions immediately if there are known medical conditions that may affect the extradition of a prisoner.
- d. If a significant incident occurs while DUSMs are in a foreign country, or if an extradition will be delayed or halted, the Deputy-in-Charge of the extradition should immediately notify IOD through the Communication Center. The incident must be reported on a USM-11 within 5 days of completion of the trip.
- e. Stay Orders: Stays of extradition, and applications for stays of extradition, shall be reported to the Chief, IIB or the EC immediately. The EC will immediately notify the Chief, IIB.

2. **Extraditions to the United States from Foreign Countries**

- a. General Provisions: Generally, extraditions to the United States from foreign countries will be completed by personnel from the district in which the charge originates. The IIB may, however, request a district other than the district in which the charge originates complete the extradition if operationally necessary. District management will be asked to assign personnel to the extradition and to coordinate activities with involved state or local agencies, if applicable. Due to the complex nature of extraditions, it is recommended that GS-1811 personnel are assigned to extraditions. At least one of the personnel assigned to an extradition must be a GS-1811-12 or higher. Only GS-1811, GS-0082, or designated federal, state, or local law enforcement officers may conduct extraditions.

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Administrative Requirements: When conducting an extradition, USMS personnel [REDACTED] except when otherwise directed by IIB. State or local officers may use tourist passports. USMS personnel assigned to the extradition will forward the following information to the EC as soon as possible:

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- (1) Name as it appears on credentials or passport
Date of birth
[REDACTED]
- (2) Complete itinerary, including any intermediate stops
- (3) Travel cost estimate including airfare, per diem and other expenses. The United States Embassy or Consular personnel generally make hotel reservations for USMS personnel and, accordingly, credit card numbers **may** be required.

b2/7E

Visas and/or inoculations may be required and it is the responsibility of the USMS personnel assigned to determine the requirements. USMS personnel should check State Department travel advisories and requirements at State Department travel advisories prior to their departure and ensure that they have obtained the necessary travel documentation (i.e., passports and visas). Districts may obtain [REDACTED] through the International Investigations Branch, if necessary. Additionally, the fugitive or prisoner may require a letter of transportation, identification document, or parole letter in order to gain admission to the United States and the EC will assist districts in meeting these requirements. Districts are responsible for scheduling their own flights (through a contract travel agency), and notifying the EC of the flight arrangements. The EC will arrange for country clearance for extradition agents, and will provide the extradition agents with a point of contact at the United States Embassy or Consulate in the involved country. IIB will also arrange for [REDACTED] in other USMS districts, and any

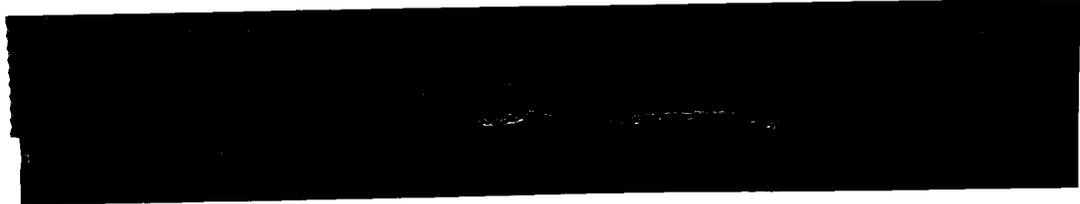
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stopover points along the extradition route (both U.S. and foreign locations). Travel arrangements may not be changed without the approval of the EC.

- c. Threat Assessment: Prior to commencing an extradition, the involved district(s) shall conduct a threat assessment and report the results to the EC. The threat assessment will be used to determine the appropriate security measures to be implemented, including the number of personnel assigned to the extradition.
- d. Medical Assessment: The EC will immediately notify the assigned USMS personnel of any known medical conditions that may affect the extradition of a prisoner. If the assigned USMS personnel are aware of any known medical conditions of the prisoner, they will immediately notify the EC.
- e. Military Assistance: All requests for military assistance, including the use of military aircraft, shall be coordinated through IIB (18 USC 3192).

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b2/7E



- g. Embassy Contact: Upon arrival in the foreign country, USMS personnel shall inform the U.S. Embassy of their arrival. USMS personnel should ensure that the necessary travel documents for the prisoner (parole letter, letter of transportation, etc.) are available.
- h. Transportation of Evidence: Most extradition treaties authorize the seizure and surrender of articles, instruments, objects of value, or other evidence relating to the offense for which extradition is sought. It is the responsibility of the prosecuting official and/or lead investigative agency to make arrangements for the transmission of evidence to the United States. USMS personnel are not required to assume custody of and/or transport evidence. USMS personnel assigned to an extradition may transport evidence during the extradition to the extent that it does not interfere with the safe handling of the prisoner. Evidence shall not be checked as baggage. If evidence is accepted, USMS personnel must ensure that evidence is inventoried prior to acceptance and that the chain of custody is maintained throughout the process (see directive, *Evidence*). USMS personnel shall not accept and/or transport controlled substances, weapons, or cash in excess of (US\$1,000) without the written authorization of the Chief of the International Investigations Branch. The importation of controlled substances also requires the approval of the Administrator of the Drug Enforcement Administration.
- i. **Warrant Information Network (WIN) Entries:** When the fugitive to be extradited is wanted on federal charges and no entry is contained in WIN, the district is responsible for entering the fugitive and warrant information into the Justice Detainee Information System (JDIS), Warrant Information Network (WIN) and notifying the EC when this action is complete. All fugitives wanted on federal charges must be entered into WIN prior to the closure of the extradition file.

Revised 05-06-2008

- j. **Notification of Access to Consular Services:** In accordance with Department of State guidelines, the United States is obligated under international treaties and customary international law to notify foreign authorities when foreign nationals are arrested or otherwise detained in the United States. When a foreign national is returned to the United States through extradition or deportation, the processing district shall ensure that the necessary notification is made. Such notification should be documented in the prisoner file for future reference if needed.

- (1) Immediately inform the foreign national of his or her right to have his or her Government notified concerning the arrest/detention.

b2

7/24/2008

- (2) If the foreign national asks that such notification be made, do so without delay by informing the nearest consulate or embassy.
- (3) In the case of certain countries, such notification must be made without delay regardless of whether the arrestee/detainee so wishes. For the list of mandatory countries, check the following link:
http://travel.state.gov/law/consular/consular_737.html#mandatory or for more information on the responsibilities of federal, state, and local law enforcement regarding foreign nationals and the rights of consular officials to assist them, refer to http://travel.state.gov/law/consular/consular_636.html.
- (4) Foreign consular officials have the right to visit their arrested/detained nationals unless the arrestee/detainee objects to such visits.
- (5) Personnel should check with the USMS Office of General Counsel as well as with the Department of State.

b2/7E
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4. **Report of Investigation:** Within five business days of the completion of the extradition or rendition, the extradition team leader shall ensure that the extradition is documented on a USM-11, *Report of Investigation* in JDIS/WIN. A copy of the USM-11 shall be provided to the EC.
5. **Costs Reimbursed:** All costs associated with the extradition or rendition of fugitives to or from the United States shall be borne by the involved districts and reimbursed by IOD. Within five business days of the completion of an extradition, the involved district(s) must submit a reimbursement request to IOD. Costs associated with the extradition of state fugitives to the United States are paid by the districts and reimbursed by IOD. The states then reimburse the USMS.

F. Definitions

1. **Chief of Mission:** the principal officer in charge of a U.S. diplomatic mission or U.S. office abroad which the Secretary of State has designated as diplomatic in nature. The U.S. Ambassador to a foreign country is the Chief of Mission in that country.
2. **Extradition:** the surrender to another government ("requesting state") of a person accused or convicted of an offense or offenses in violation of its laws. With two narrow exceptions, extradition from the United States requires the existence in force of an extradition treaty.
3. **Order of Extraditability:** an order, issued by a U.S. District Court pursuant to 18 USC 3184, directing the government to take or retain custody of a person wanted in extradition and to hold the person until the Secretary of State issues a surrender warrant and custody of the person is transferred to the foreign government.
4. **Rendition:** the transfer, by means other than extradition, of an individual from the territorial jurisdiction of one country to another in which he or she is accused or convicted of an offense. Renditions may be accomplished through deportation, expulsion, voluntary surrender, or other means.
5. **Surrender:** the transfer of custody of an individual following the completion of the formal process of extradition and issuance of a surrender warrant.
6. **Warrant of Surrender:** a warrant, issued by the Secretary of State pursuant to 18 USC 3186, ordering the delivery of an individual to the custody of a foreign government.

Effective Date:

By Order of:



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05-06-2008

IS/

Brian R. Beckwith
Deputy Director
U.S. Marshals Service



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7/24/2008