

7 FAM1600 THE CONSULAR ROLE IN INTERNATIONAL EXTRADITION

7 FAM 1610 INTRODUCTION

(CT:CON-100; 02-07-2005)
(Office of Origin: CA/OCS/PRI)

7 FAM 1611 SUMMARY

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This chapter provides detailed instructions on actions and procedures required by posts abroad regarding extradition cases. Extradition is the process by which a person located in one country is surrendered to another country for trial or punishment.

7 FAM 1612 DEFINITIONS

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The following international extradition terms and definitions used in this chapter are essential to the understanding of, and the carrying out of, requests for extradition.

Certification Of Extraditability. After a judicial hearing conducted by a U.S. district judge or magistrate judge (hereafter, "extradition judge"), the document signed by the extradition judge certifying to the Secretary of State that the fugitive may be extradited to the requesting state, and committing the fugitive to custody pending the final decision by the Secretary of State or Deputy Secretary whether to authorize extradition.

Dual (Or Double) Criminality. A threshold requirement in extradition, that the conduct for which extradition is sought must be a crime under the laws of both the requesting and the requested countries.

Escort Agents. Officers designated to take custody of a fugitive and return the fugitive from the requested state to the requesting state that sought extradition. Escort agents accompanying fugitives back to the United States

are most likely to be U.S. Marshals.

Extraditable Offense. A serious crime, generally punishable by more than one year's imprisonment, for which extradition may be granted; treaties may list extraditable crimes or provide broadly that crimes that meet the dual criminality requirement are extraditable.

Extradition. The formal process whereby a fugitive from justice is surrendered by one state to another for trial or punishment, generally pursuant to a treaty. The process applies to persons who are accused of having committed an offense, to persons convicted but not yet sentenced, and to persons who were sentenced and thereafter fled or escaped prior to completion of the sentence. Extradition is not ordered for persons who are simply under investigation or suspected of a crime.

Extradition Request. The formal request for the extradition of a fugitive. It is made by diplomatic note, accompanied by supporting documents, and translated into the language of the requested state.

Extradition Treaty. The formal agreement between two countries obligating the parties to extradite fugitives and setting forth the conditions under which extradition may be carried out.

Final Review. The process of review in the Office of the Legal Adviser of the record of an extradition hearing and the certification of extraditability, preliminary to presentation of the case to the Secretary or Deputy Secretary of State for decision on whether to extradite the fugitive.

Fugitive. A person accused or convicted of a crime in one jurisdiction and located in another jurisdiction. Though called a fugitive, it is not necessary that the person deliberately fled the first jurisdiction in order to avoid arrest and prosecution.

Habeas Corpus Petition. Under U.S. procedures, the method by which a fugitive may obtain further judicial review in the District Court of the extradition judge's finding of extraditability. The court's decision on the habeas petition can be appealed to a federal circuit court of appeals.

Judicial Hearing. In the requested state, a court proceeding, which lacks the formalities of a trial, to determine whether a fugitive is extraditable to the requesting state. In the United States, a federal district judge or magistrate judge serves as the extradition judge and conducts the judicial hearing.

Provisional Arrest. The interim apprehension and detention of a fugitive in cases of urgency, to prevent the fugitive's flight while the formal extradition request and supporting documents are being prepared. Treaties generally require that the formal extradition request be submitted within a treaty deadline, which is commonly between 40 and 60 days after the provisional arrest. Failure to submit the request within the deadline may result in the

release of the fugitive, and in rare instances may also bar the fugitive's re-arrest after the requested state receives the formal extradition request.

Requested State. The state to which an extradition request is made, and the state to determine if the fugitive is extraditable.

Requesting State. The state that makes an extradition request for the return of the fugitive.

Rule Of Specialty. A principle, reflected in virtually all extradition treaties, under which the requesting state may, after the fugitive has been surrendered to it, prosecute or punish the fugitive only for the crime or crimes for which extradition was granted. "Specialty" is sometimes also spelled as "speciality".

Simplified Extradition. In some countries, essentially an uncontested extradition whereby the fugitive agrees to be extradited. Unlike waivers of extradition, in a simplified extradition the requested state may require the requesting state to submit the full extradition package and may issue a surrender warrant that specifies the crimes for which extradition is ordered, thus providing the protections of the rule of specialty.

Stay Of Extradition. A judicial order temporarily barring the surrender of a fugitive, usually to allow the opportunity to seek further judicial review.

Surrender Warrant. A document (which is sometimes also called a transfer order) signed by an authorized official in the requested state authorizing the person or agency having custody of a fugitive to surrender the fugitive to escort agents of the requesting state. In the United States, the Secretary of State or the Deputy Secretary of State are authorized to sign a surrender warrant.

Time Of Commitment. The time within which the fugitive certified extraditable must be surrendered to the requesting state. In the United States, 18 U.S.C. 3188, as interpreted by judicial decisions, ordinarily requires that the person be transferred within two calendar months of the certification of extraditability or the last judicial action.

Treaty Deadline. The last day of the period stipulated in a treaty, usually 40 to 60 days, for the submission of a formal request to the requested state for the extradition of a fugitive following provisional arrest. Some countries require that the request and documents be submitted to the Ministry of Foreign Affairs by the treaty deadline; others require that they be submitted to the judicial authority. When the United States is the requested state, absent any specific treaty provision to the contrary, U.S. courts generally deem the submission to be within the treaty deadline if the request and documents are presented either to the Department of State, in Washington, D.C., or to the U.S. Embassy in the requesting state.

Waiver Of Extradition. Action by a fugitive who voluntarily waives his or

her right to a certification of extraditability and to the protections of the rule of specialty. U.S. extradition judges will accept knowing and voluntary waivers. Some countries do not allow fugitives to waive extradition and specialty protections, but provide simplified extradition instead.

Waiver Of The Rule Of Specialty. After the fugitive has been surrendered to the requesting state, the process by which the requested state formally grants permission to prosecute or punish the fugitive for crimes other than those for which he or she was extradited. In the United States, the Secretary of State waives specialty, after consultation with the Department of Justice. In many other countries requests for waivers are submitted to the court.

7 FAM 1613 AUTHORITIES

7 FAM 1613.1 Authorities Under U.S. Law

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- a. U.S. law on international extradition is set forth in Chapter 209 ("Extradition") of Title 18 ("Crimes and Criminal Procedure") of the United States Code, Sections 3181 through 3196 (cited hereinafter in this chapter as 18 U.S.C. 3181, et seq.).
 - 18 U.S.C. 3181 Scope and limitation of chapter;
 - 18 U.S.C. 3182 Fugitives from State or Territory to State, District, or Territory;
 - 18 U.S.C. 3183 Fugitives from State, Territory, or Possession into extraterritorial jurisdiction of United States;
 - 18 U.S.C. 3184 Fugitives from foreign country to United States;
 - 18 U.S.C. 3184 Fugitives from country under control of United States into the United States;
 - 18 U.S.C. 3186 Secretary of State to surrender fugitive;
 - 18 U.S.C. 3187 Provisional arrest and detention within extraterritorial jurisdiction;
 - 18 U.S.C. 3188 Time of commitment pending extradition;
 - 18 U.S.C. 3189 Place and character of hearing;
 - 18 U.S.C. 3190 Evidence on hearing;
 - 18 U.S.C. 3191 Witnesses for indigent fugitives;
 - 18 U.S.C. 3192 Protection of accused;
 - 18 U.S.C. 3193 Receiving agent's authority over offenders;

- 18 U.S.C. 3194 Transportation of fugitive by receiving agent;
 - 18 U.S.C. 3195 Payment of fees and costs; and
 - 18 U.S.C. 3196 Extradition of United States citizens.
- b. Under current U.S. law (18 U.S.C. 3184), extradition may be granted only pursuant to an extradition treaty, subject to two exceptions. 18 U.S.C. 3181 Note authorizes the United States to surrender fugitives sought by the two ad hoc international tribunals for the Former Yugoslavia and Rwanda. 18 U.S.C. 3181(b) permits . . . in the exercise of comity, the surrender of persons, other than citizens, nationals, or permanent residents of the United States, who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that:
- (1) Evidence has been presented by the foreign government that indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and
 - (2) The offenses charged are not of a political nature.
- c. The United States currently has extradition treaties in force with over 100 countries. In some cases, there may be multiple treaties in force with a single country, including supplementary treaties or protocols that amend the basic treaty by adding extraditable crimes or changing the process or the grounds for refusing extradition. Treaties may also continue in force with successor nations; for example, our extradition treaty with Czechoslovakia now applies to the two successor states, Slovakia and the Czech Republic, and a 1931 extradition treaty with the United Kingdom continues to be applicable to independent nations that were British territories at the time the treaty entered into force. All extradition treaties are included in the most recent edition of *Treaties in Force* available on the U.S. Department of State Internet site. A list of extradition treaties may also be accessed at 18 U.S.C. 3181 Notes, though the information found at this site should be verified by then checking *Treaties in Force*. See also the CA/OCS Intranet *Treaties* feature.
- d. Although nominally in force, some U.S. extradition treaties currently may not be implemented, because of policy or practical reasons, see, e.g., the 1904 and 1926 treaties with Cuba.

7 FAM 1613.2 Authorities Under Foreign Law

(CT:CON-100; 02-07-2005)

- a. Like the United States, many countries request or grant extradition only

on the basis of a treaty. Other countries do not require the existence of an extradition treaty, but may extradite a fugitive to another country as a matter of comity, in accordance with their domestic extradition laws.

- b. Countries may also deport or expel fugitives without regard to, or in the absence of, extradition treaties if such deportation or expulsion is permitted under their law and is deemed to be in the national interest (see 7 FAM 1642).

7 FAM 1613.3 List Treaties, Dual Criminality Treaties, and Multilateral Conventions

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- a. The principle of "dual criminality" underlies all extraditions. It reflects the internationally accepted understanding that a requested state will only extradite a person for prosecution or punishment if the alleged or proven conduct, had it occurred in the territory of the requested state, would also be deemed criminal. In addition, the crime must be regarded as serious in both the requesting and requested countries. The seriousness of a crime is measured by the potential punishment. As a rule, treaties will require that the extraditable crime be punishable under the laws of both countries by at least one year of imprisonment.
- b. "List" extradition treaties stipulate the precise offenses for which extradition will be granted. The offenses are listed either in the body of the treaty or in an appendix or annexed schedule.
- c. The modern trend in extradition treaties is the use of dual criminality as the basis of extradition rather than a list of specific offenses. Dual criminality treaties authorize extradition so long as the conduct is regarded as criminal in both countries. They do not generally specify extraditable crimes. The requirement of dual criminality allows the treaty to be applicable to acts that may not have been recognized by both parties as crimes until some time after the treaty entered into force. All recent U.S. extradition treaties are dual criminality treaties.
- d. There is also an increasing reliance on multilateral conventions that obligate the parties to criminalize certain kinds of conduct – e.g., the **1970 Convention for the Suppression of Unlawful Seizure of Aircraft (Hijacking)**, and the **1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances** -- and to prosecute or extradite persons charged with or convicted of such conduct. Older list extradition treaties typically do not apply to such contemporary crimes as narcotic drug trafficking, aircraft hijacking, parental child abduction, money laundering, and terrorism. If two states that are party to a bilateral list extradition treaty are also party to a multilateral convention, the multilateral convention will

supplement the list treaty to make extraditable the offense that is the subject of the convention. Some states also will extradite to another state that is party to a multilateral convention even if there is no existing bilateral extradition treaty. As a matter of practice, the United States does not extradite, based solely on a multilateral convention, to a state with which we have no bilateral treaty.

7 FAM 1613.4 Treaty Grounds for Denying Extradition

(CT:CON-100; 02-07-2005)

- a. Extradition treaties provide specific grounds for denying extradition. Common treaty provisions allow denial if the crime is too stale under the laws of the requested or requesting state, or both; if the fugitive was convicted or acquitted of the same conduct in the requested state; if the crime is a military offense; or if the crime is a political offense. Recent treaties, however, provide that the political offense ground will not be applied to certain violent crimes, and multilateral conventions addressing serious crimes like genocide and terrorism disallow the application of a political offense exception to those crimes.
- b. Some dual criminality treaties also allow denial of extradition if the crime is a fiscal (tax) offense.
- c. Some treaties allow denial of extradition if the fugitive is a national of the requested state. In those instances, the requested state's domestic law gives it jurisdiction to prosecute the fugitive for the foreign crime.
- d. A few extradition treaties also provide that extradition may be denied for humanitarian reasons. These will include concerns that the request for extradition is politically motivated.
- e. If the crime is one that can be punished by imposition of the death penalty, most treaties provide that the requested state can deny extradition unless the requesting state gives an assurance that the death penalty will not be imposed or carried out. (See 7 FAM 1646). Even if the extradition treaty has no provision regarding the death penalty, some states will refuse to extradite on humanitarian grounds if the fugitive faces the possibility of a capital sentence. Finally, though almost all extradition treaties are silent on this ground, some states may demand assurances that the fugitive will not be sentenced to life in prison, or even that the sentence imposed will not exceed a specified term of years.

7 FAM 1614 U.S. GOVERNMENT RESPONSIBILITIES

7 FAM 1614.1 Roles of Departments of State and Justice

(CT:CON-100; 02-07-2005)

- a. The Department of State and the Department of Justice are responsible for international extradition. The Office of the Legal Adviser, specifically its Office of Law Enforcement and Intelligence (L/LEI) carry out the State Department's extradition responsibilities. Within the Justice Department, the Office of International Affairs (DOJ/CRIM/OIA), hereinafter OIA, carries out extradition responsibilities.
- b. L/LEI is one of 22 geographic and functional units of the Office of the Legal Adviser in the Department of State. Its attorneys and paralegal specialists carry out the extradition responsibilities and, in the course of their functions, may authorize telegraphic and other communications to the field. See 1 FAM 246.8.
- c. OIA, in the Criminal Division of the Department of Justice provides advice and assistance to state and federal prosecutors in extradition matters. OIA also coordinates and reviews all requests to and from foreign governments for the extradition of fugitives, working in close coordination with L/LEI.
- d. Consular officers, both abroad and in the Department, are active participants in judicial and notarial services and in the rapidly growing functions relating to international child abduction, abuse, and adoption, which overlap with extradition functions (see Chapters 800, 900, and 1700). They carry out consular prison visitation and other protective services for incarcerated or detained fugitives who are U.S. citizens. They also are often requested to assist with preparation or transmission of extradition documents and liaison between OIA and L/LEI and host government officials (see especially subchapters 1620 and 1630).
- e. On June 1, 1992, the Bureau of Consular Affairs, Directorate of Overseas Citizens Services (CA/OCS) assumed responsibility for liaison with Foreign Service posts on arrangements for travel of fugitives to the United States (7 FAM 1625.2). CA/OCS provides liaison with U.S. Foreign Service posts concerning arrangements by the U.S. Marshals Service for the transfer of fugitives to the United States. CA/OCS also provides information about U.S. citizen fugitives arrested and detained abroad.
- f. The Office of Citizenship Appeals and Legal Assistance (CA/PPT/PAS) instructs posts on the documentation of U.S. citizen fugitives for reentry into the United States. CA/PPT/PAS also cooperates with OIA and L/LEI in appropriate cases by revoking or limiting the passports of U.S. citizen fugitives (7 FAM 1642), to facilitate their deportation or expulsion by foreign countries to the United States.

- g. Consular officers also issue appropriate travel documents for the return of fugitives (7 FAM 1625.4), notify the authorities in third countries of pending transit of a fugitive and escorts, and request assistance of airport police during layovers and transfer of the fugitive from one aircraft to another (7 FAM 1625.3). They make hotel reservations for U.S. Marshal escorts (7 FAM 1625.2); monitor subsequent proceedings when an extradited fugitive had previously been convicted in absentia (7 FAM 1645), and respond to public inquiries, as appropriate, about extradition in general and individual cases. (See 7 FAM 1648.).
- h. The Bureau of Diplomatic Security (DS/DSS/OP) has authorized its Regional Security Officers, based at various U.S. Foreign Service posts, to provide information to local authorities about fugitives from U.S. justice and assist, as requested by the posts, in the extradition or deportation of fugitives.
- i. The Department's geographic and functional bureaus also advise L/LEI on politically sensitive extradition cases and those with public relations aspects or Congressional interest.

7 FAM 1614.2 Other U.S. Government Participation

(CT:CON-100; 02-07-2005)

- a. INTERPOL (The International Police Organization), of which the United States is a member, plays a major role in locating fugitives. INTERPOL issues "red notices", which are in effect international all point's bulletins. Some countries also view red notices as international arrest warrants and, in effect, international requests for provisional arrest. The United States does not provisionally arrest a person simply because of a red notice.
- b. Other U.S. Government agencies with direct involvement in international extradition include the U.S. Marshals Service, which transports fugitives from overseas and occasionally returns them to foreign countries, and the Department of Homeland Security (to which the responsibilities of the former Immigration and Naturalization Service have been relocated), which authorizes the entry of alien fugitives extradited to the United States. The Federal Bureau of Investigation, the Drug Enforcement Administration, and customs officers within DHS may also assist in locating fugitives abroad.

7 FAM 1615 EXTRADITION PROCESS: U.S. REQUESTS TO FOREIGN COUNTRIES

(CT:CON-100; 02-07-2005)

- a. No extradition (as opposed to provisional arrest) of a fugitive from the United States who is found in a foreign country should be initiated except through a Foreign Service post abroad on instructions from the Department (L/LEI).
- b. The extradition process begins when a state or federal prosecutor requests that a fugitive known or believed to be located in a foreign country be returned for prosecution or punishment. In the United States, the prosecutor works with the Department of Justice (OIA). The prosecutor provides the necessary documents to OIA, which reviews them for sufficiency under the extradition treaty. If the documents are sufficient, OIA delivers them to the Department of State (L/LEI). L/LEI conducts a second review of the request and, if it agrees that the request is sufficient, transmits an instruction to the appropriate Foreign Service post (which is usually an Embassy, but may also be a Consulate General, such as in Bermuda).
- c. The Foreign Service post submits extradition information to the foreign government formally by note verbale requesting provisional arrest (on the basis of information) or the extradition (with documents) of the fugitive.
- d. If the foreign authorities, deem that the case against the fugitive is well founded, and within the terms of the extradition treaty, they will direct that the fugitive be apprehended. In most instances, the fugitive will receive a judicial hearing (not a trial). If the court finds the fugitive extraditable, the appropriate authorities of the requested state will surrender the fugitive to the custody of U.S. escort agents for return to the United States.
- e. In cases of urgency, such as when the prosecutor fears that the fugitive will leave the territory of a country with which the United States has an extradition treaty or pose a threat to persons or property, the United States may request the provisional arrest of the fugitive. Some extradition treaties provide that provisional arrest requests be made by diplomatic channels; others allow requests to be made by a Ministry of Justice to its counterpart. After the fugitive has been arrested, the requesting state must submit its formal extradition request within the deadline provided in the treaty. The processes described above apply.

7 FAM 1616 EXTRADITION PROCESS: FOREIGN REQUESTS TO THE UNITED STATES

(CT:CON-100; 02-07-2005)

- a. A foreign government's request for the extradition of a fugitive located in the United States must be addressed to the Department of State. The

request is generally made as a diplomatic note with accompanying documents, by the government's embassy in Washington, D.C., to the Department (L/LEI). If officials of the host country make the request directly to the post, post must notify the Department (L/LEI).

- b. When L/LEI receives the diplomatic note and documents requesting extradition, it determines that there is a treaty in force and reviews the request to see if it meets the treaty's requirements. L/LEI then forwards the request to the Department of Justice (OIA) and notes either that it meets treaty requirements or that there are inconsistencies or deficiencies in the request. L/LEI and OIA jointly decide whether to pursue or reject an extradition request.
- c. If OIA determines that the information presented is sufficient to justify apprehension of the fugitive and initiation of the extradition, it sends the note and documents to the office of the U.S. Attorney in the district where the fugitive is located.
- d. Once the fugitive is apprehended, an extradition judge conducts a hearing to determine if:
 - (1) There is a treaty in force;
 - (2) The person arrested is in fact the person sought by the requesting state;
 - (3) The crime of which the fugitive is accused is an extraditable crime under the treaty;
 - (4) The request sets out probable cause to believe that the fugitive committed the charged crime; and
 - (5) There are no treaty grounds requiring denial of extradition. An Assistant U.S. Attorney represents the requesting state; the fugitive is represented by a private attorney or court-appointed counsel.
- e. If the fugitive is found extraditable, the District Court certifies the record of the case to the Department of State for a final decision whether to order extradition. If, upon reviewing the relevant materials, the Secretary or Deputy Secretary agrees to order extradition, he or she will sign the surrender warrant, and the fugitive will be surrendered to the escort agents of the requesting state.
- f. In cases of urgency, the foreign authorities may ask the United States to effect a provisional arrest of the fugitive. If OIA agrees to proceed on the provisional arrest, it forwards the information to the U.S. Attorney in the district where the fugitive is located. The U.S. Attorney applies to the court for an arrest warrant. If the fugitive is provisionally arrested, the requesting state must submit its formal extradition request within the deadline provided in the treaty. The processes described above then

apply.

7 FAM 1617 COMMUNICATIONS

7 FAM 1617.1 Timeliness and Channels of Communications

(CT:CON-100; 02-07-2005)

- a. Extradition operations are often time sensitive and may require urgent communications between the Department and Foreign Service posts. Extradition instructions are therefore sent to posts by IMMEDIATE precedence telegrams. If the situation merits it, a NIACT cable may be sent, but this is reserved for emergency situations only.
- b. Post action officers may also be alerted by telephone in cases requiring immediate action. In particularly urgent situations, telephone as well as FAX transmissions may be employed.
- c. Supporting documents for formal extradition requests are sent to posts by express mail delivery. Occasionally, to meet a treaty deadline, either a "pilot's package" or a special courier may be used to hand-carry the documents. In all cases, the Department (L/LEI) notifies the post by telegram of the action taken. (See 7 FAM 1623.1).
- d. Most extradition cases are largely simple law enforcement matters that may be handled by unclassified communications. Exceptional cases, such as those involving political or other sensitivities, however, may justify the use of classified communications.
- e. Occasionally, U.S. prosecutors, police investigators, or other law enforcement authorities directly contact the post in an effort to obtain the immediate arrest or return of a fugitive. Post should not act on such a request until it has sought and received instructions from the Department. Post should immediately inform L/LEI of any such request. Unauthorized and ill-conceived provisional arrest requests may cause embarrassment to the post and to the U.S. Government.
- f. Occasionally, post may be contacted by officers in the host country, who are prepared to arrest a person based on an Interpol Red Notice. (See 7 FAM 1613.2). Post should immediately inform L/LEI; it is not the policy of the United States to use Red Notices as a substitute for a request for extradition or provisional arrest.

NOTE. There is no objection to providing status reports on individual extradition cases to the Department of Justice or other interested U.S. Government agencies. Requests for other action, often received by telephone or FAX, should not be granted without the Department's authorization.

- g. In extremely urgent situations, such as when a located fugitive is transiting through another country or is in the process of fleeing, an interested U.S. Government agency (DOJ, FBI, DEA, or DHS) may ask the Embassy to immediately request a fugitive's provisional arrest. Many treaties require the submission of provisional arrest requests through diplomatic channels. In such cases, since all decisions to proceed with provisional arrest require a review of the relevant extradition treaty, post should seek approval by L/LEI before proceeding with the request by the most expeditious means possible, i.e., by phone or by FAX. After hours, L/LEI personnel may be reached through the State Department Operations Center.

7 FAM 1617.2 Telegraphic TAGS

(CT:CON-100; 02-07-2005)

- a. Correct TAGS and subject line terms assist in the proper distribution of extradition telegrams within the Department and to other U.S. Government agencies. The subject TAGS for all extradition messages is **CJAN**. NOTE: The subject TAGS is also used for the related field of judicial assistance, for which CA/OCS is the action office. The distinction between the two functions is made by the **use** of "**Extradition**" or "Judicial Assistance" **in the subject line of the telegram**.
- b. Other TAGS used with CJAN include CASC (assistance to U.S. citizens abroad, including arrest cases) and CPAS (passport and citizenship services) when the extradition of a U.S. citizen is sought. When the fugitive is a foreign national, CVIS (visa services for aliens) is used. Other useful TAGS are SNAR (narcotic drug offenses), PTER (terrorism and hijacking offenses), KCRM (criminal activity), KOCI (for parental kidnapping cases) and PREL (violation of U.S. arms control laws). Appropriate country TAGS must be used in all cases.

7 FAM 1617.3 Telegraphic Captions

(CT:CON-100; 02-07-2005)

- a. The Department's telegram to the field normally is captioned for the officer at post responsible for extradition matters. If the name of the

officer is not known, the responsible section will be designated by the symbol "CON" or "POL" as appropriate. As needed, the telegram will also be captioned for "LEGATT" (FBI attache), "DEA SAIC" (Special Agent in charge of DEA office), "CUS" (U.S. Customs attache), "RSO" (Regional Security Officer) or other Embassy officer, as warranted by the circumstances.

- b. Post telegrams to the Department on extradition matters should always be captioned for L/LEI, the primary action office. If the telegram indicates a finding of extraditability and requests arrangements for travel of the fugitive to the United States, it should also be captioned for CA/OCS/ACS (with proper geographic symbol). If the telegram concerns the need for a travel document for an American citizen fugitive, it should also be captioned for CA/PPT/PAS.

7 FAM 1617.4 Telephone and FAX

(CT:CON-100; 02-07-2005)

- a. Telephone calls between the Department and the field should be avoided in favor of telegraphic communications, which provide an easily distributed record of the message and the assurance that it has been cleared and approved at the appropriate level in the Department or the post. If the need for telephone communication arises in urgent cases, call the Department (L/LEI), (202) 647-5111, or (202) 647-7324. After business hours, the post should call the Department's Operations Center, (202) 647-1512.
- b. The use of FAX transmissions by the Department is increasing. While relatively rapid and easy to send, FAX communications lack the control and assurance of receipt provided by telegram. FAX transmissions, especially for action instructions, should therefore be used with restraint. When the urgency of a situation calls for FAX as the most rapid means of reaching an action officer, the Department will also alert the post by telegram. The FAX number for the Department (L/LEI) is (202) 647-4802.

7 FAM 1618 FISCAL RESPONSIBILITY

(CT:CON-100; 02-07-2005)

- a. The expenses incurred in a request for extradition and the transfer and travel of the fugitive are borne by the requesting country (18 U.S.C. 3195).
- b. Upon request by the requesting state, or when a transfer out of the United States must be executed urgently, the U.S. Marshals Service may

return a fugitive to the requesting state on a cost reimbursement basis. (See 7 FAM 1635.4). In such cases, the Department (CA/OCS) or the Department of Justice will notify the post concerned of specific arrangements by the most appropriate means of communication.

7 FAM 1619 FOREIGN SERVICE RESPONSIBILITIES

(CT:CON-100; 02-07-2005)

- a. Consular officers, by training and experience, are well suited to the extradition function, and most embassies assign this responsibility to a consular officer, often the head of the American Citizen Services unit of the Consular Section. Posts involved in extraditions should designate an officer and an alternate as responsible for extradition matters. At some posts, the political section is responsible for extradition cases.
- b. Foreign Service officers responsible for extradition matters, in addition to being familiar with 7 FAM 1600, should be aware of the provisions of the bilateral extradition treaty and have a working knowledge of the penal and extradition laws of the host country, as well as local procedures and practices regarding extradition. The responsible officer must also be conversant with procedures concerning host country requests for extradition (see Subchapters 1620 and 1630).
- c. The responsible officer should have at hand copies of the country's extradition law, penal code and code of penal procedures. As new laws and revisions come into effect, the officer should obtain and pouch two copies to the Department, (for L/LEI and the Department of Justice) with a translation if available.
- d. Post extradition officers should identify the host country officials responsible for extradition cases and seek to establish cordial working relationships.
- e. The post action officer will also have certain coordinating activities with:
 - (1) The passport-issuing officer for providing travel documents to U.S. citizen fugitives being transferred to U.S. custody;
 - (2) The visa officer for issuing letters of transportation to extraditable alien fugitives being paroled into the United States;
 - (3) The administrative section for making hotel and meet-and-assist arrangements for U.S. escort agents and paying local costs incurred in an extradition case, such as translation of documents at post;
 - (4) The notarial officer for certifying host country documents for an extradition request to the United States; and

- (5) The regional security officer for assistance in appropriate cases.
- f. The post action officer also should maintain contact with the representatives at post of U.S. Government agencies with law enforcement responsibilities such as FBI, DEA, DHS, and others as necessary.