

# Memorandum

Assoc. Dir. \_\_\_\_\_  
 Dep. AD Adm. \_\_\_\_\_  
 Dep. AD Inv. \_\_\_\_\_  
 Asst. Dir.:  
 Adm. Servs. \_\_\_\_\_  
 Crim. Inv. 11/25  
 Ident. \_\_\_\_\_  
 Intell. \_\_\_\_\_  
 Laboratory \_\_\_\_\_  
 Legal Coun. JAM  
 Plan. & Insp. \_\_\_\_\_  
 Rec. Mgnt. \_\_\_\_\_  
 Tech. Servs. \_\_\_\_\_  
 Training \_\_\_\_\_  
 Public Affs. Off. \_\_\_\_\_  
 Telephone Rm. \_\_\_\_\_  
 Director's Sec'y \_\_\_\_\_

TO : The Director

FROM : Legal Counsel JAM

SUBJECT: EXTRATERRITORIAL JURISDICTION  
UNDER FEDERAL LAW

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 10/1/92 BY 1022 DKL/mcn

Leo Ryan

At 6 p. m. on November 21, 1978, Assistant Director Moore called me and said that he was, at that time, in the Director's office and the Director had requested me to furnish an opinion concerning whether the Federal statutes prohibiting slavery and involuntary servitude would be applicable to activities occurring in a foreign country. He was specifically referring to the circumstances involved in the recent events in Guyana. (u)

I conducted the necessary research and at approximately 8 p. m., November 21, I attempted to call you in your office and spoke to Russ Bruemmer in your absence. I furnished Mr. Bruemmer my opinion and then in a conference call with Associate Director Adams and Assistant Director Moore, at 8:11 p. m., I advised them. At approximately 8:20 p. m., I reached Mr. Boynton and advised him 18 USC 1583 (slavery) and 1584 (involuntary servitude) would not apply in a foreign country. (u)

Though there is little in the way of authority, the Supreme Court decision in United States v. Bowman 67 L. ed. 149 discusses the principle of territorial limitation of power and jurisdiction of a government to punish crime. The court stated (at page 151): (u)

"Crimes against private individuals or their property, like assaults, murder, burglary, larceny, robbery, arson, embezzlement, and frauds of all kinds which affect the peace and good order of the community, must, of course, be committed within the territorial jurisdiction of the government where it may properly exercise it. If punishment of them is to be extended (u)

22 DEC 4 1978

LEGAL COUNSEL JAM

- 1 - Mr. Adams
  - 1 - Mr. Moore
  - 1 - Mr. Boynton
  - 1 - Mr. Mintz
- JAM:bpr  
(5)

IMR XEROX  
DEC 7 1978

ADS

8 FEB 7 1979

CONTINUED - OVER  
Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

UNRECORDED COPY FILED IN 66-30-222

Memo Legal Counsel to the Director  
Re: Extraterritorial Jurisdiction  
Under Federal Law

to include those committed outside of the strict territorial jurisdiction, it is natural for Congress to say so in the statute, and failure to do so will negative the purpose of Congress in this regard." (u)

The court contrasted the interest of the government with the individual interest as follows: (u)

"But the same rule of interpretation should not be applied to criminal statutes, which are, as a class, not logically dependent on their locality for the government's jurisdiction, but are enacted because of the right of the government to defend itself against obstruction or fraud, wherever perpetrated, especially if committed by its own citizens, officers, or agents. Some such offenses can only be committed within the territorial jurisdiction of the government because of the local acts required to constitute them. Others are such that, to limit their locus to the strictly territorial jurisdiction, would be greatly to curtail the scope and usefulness of the statute, and leave open a large immunity for frauds as easily committed by citizens on the high seas and in foreign countries as at home. In such cases, Congress has not thought it necessary to make specific provision in the law that the locus shall include the high seas and foreign countries, but allows it to be inferred from the nature of the offense." (u)

Congress has acted to extend Federal jurisdiction by statute to the special maritime and territorial jurisdiction of the United States which is defined in Title 18 USC, Section 77. Under that specific statutory extension of jurisdictional authority, crimes against the person may be prosecuted under Federal law if the conditions of the maritime and territorial jurisdiction are met. For example, in United States v.

(u)

Memo Legal Counsel to the Director  
Re: Extraterritorial Jurisdiction  
Under Federal Law

Erdos 474 F.2d 157 (4th Cir. 1973) the court held that there was jurisdiction under Federal law to prosecute an American citizen who killed another American citizen in the American Embassy located in the Republic of Equatorial Guinea. Federal jurisdiction may also extend to cases in which the Federal statute is intended to protect the government itself. In such cases, the offense is complete when the elements of the statute have been met and there is no specific requirement that the offense be committed within the territorial jurisdiction of the government. Specific application of the principle would result in the conclusion that the killing of the President of the United States or a member of Congress could be investigated and prosecuted under Federal law regardless of the physical location of the killing. The rationale for application of those statutes to events occurring outside the territorial authority of the government is that the statutes were designed to protect a function of government. Venue for prosecution in such cases is decided by reference to 18 USC 3238 which provides for venue in the district within the United States where the offender is arrested or first brought. This area of the law is not well developed and though it is my opinion that the general principles can be described, such questions arising in the future should be considered carefully on an ad hoc basis and I recommend that any such questions be referred promptly for a legal opinion. (u)

The general principles are: (u)

(1) There is Federal jurisdiction in any case meeting the requirements of 18 USC, Section 7, which generally extends authority to vessels at sea, government reservations, and U.S. aircraft. (u)

(2) Federal jurisdiction extends, according to the intention of Congress, to those statutes designed to protect the government itself and where the elements of the offense are not necessarily limited to the territorial jurisdiction of the United States (u)

(3) Federal jurisdiction does not extend to instances where offenses are committed against the person and there is no direct harm to a statutorily protected government interest. (u)

RECOMMENDATION: For information. (u)

APPROVED: <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. <i>[Signature]</i>
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec Mgnt. _____
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____