

Opening Statement Chairman Mark Souder

“Strengthening the Long Arm of the Law: How Are Fugitives Avoiding Extradition, and How Can We Bring Them to Justice?”

Subcommittee on Criminal Justice, Drug Policy,
and Human Resources
Committee on Government Reform

October 1, 2003

Good morning, and thank you all for coming. Today our Subcommittee will address the status of the extradition process, an area of growing concern for lawmakers and law enforcement officials throughout the U.S. The extradition process, which is governed by a series of bilateral treaties between the U.S. and various foreign countries, is intended to ensure that criminals cannot escape justice by fleeing from one country to another; under an extradition treaty, the new host country will arrest the fugitive and return him to face trial. Recent developments have put strains on the extradition process, however, hindering or sometimes completely impeding the ability of law enforcement to bring criminal fugitives to justice.

The most significant problem with the extradition process today is the conditions imposed by foreign nations on extradition. This problem is not new. For many decades now, certain nations that ban the death penalty within their own borders have refused to extradite any criminal who could face the death penalty in the U.S. Other countries refuse to extradite any fugitive who was convicted *in absentia*. Prosecutors in the U.S. have generally dealt with this problem by agreeing to seek life imprisonment instead of the death penalty, or by agreeing to hold a retrial.

In October 2001, however, the Mexican Supreme Court issued a decision banning the extradition of anyone facing life imprisonment without the possibility of parole, on the grounds that the Mexican constitution gives all criminals the right to be rehabilitated and reintegrated into society. Thus, no matter how heinous the crime or how dangerous the criminal, Mexico will refuse to extradite anyone facing life imprisonment – which in most of our states is the minimum punishment for first degree murder. If Mexican authorities officially refuse an

extradition request, they will then proceed to prosecute the fugitive under their own law – which often results in much lesser penalties. American prosecutors thus face a dilemma. They must either agree to charge a murderer with manslaughter or another lesser offense that does not match the seriousness of the crime; or they must trust to the Mexican justice system. Many prosecutors have simply refused to request extradition under such conditions, preferring to hope that the fugitive will sneak back into the U.S. and be apprehended.

The case of Deputy Sheriff David March illustrates this problem. Deputy March, a seven-year veteran of the Los Angeles County Sheriff's Department, was murdered while making a routine traffic stop in April 2002. His suspected killer, Armando Garcia, a Mexican national and violent drug dealer who had been deported three times from the U.S., immediately fled to Mexico. Mexican authorities have refused to extradite Garcia, on the grounds that he faces, at a minimum, life imprisonment.

The case of Deputy March and others like it has spurred calls for the Administration to put pressure on the Mexican government to renegotiate its extradition treaty with the U.S. Deputy March's widow, Teri, has actively campaigned for justice for her husband and similar victims of fugitive killers. This is indeed not an isolated case; the Los Angeles district attorney's office estimates that over 200 murder suspects in Los Angeles County alone have fled to Mexico. In response, several Members of Congress have offered legislation calling for changes to the existing extradition treaty.

Other issues surrounding the extradition process must also be examined by Congress. For example, in March 2002 the Justice Department's Inspector General released a report criticizing the Criminal Division's Office of International Affairs, the main Justice Department agency responsible for extradition matters, for its management of extradition cases. Questions have also been raised about how vigorously other federal agencies with potential influence are pursuing extradition cases.

This hearing will address all these difficult issues, as well as legislative and other potential solutions. We are pleased to be joined by representatives of the two federal agencies primarily responsible for managing the extradition process, the U.S. Department of Justice and the U.S. Department of State. From the Justice Department, we welcome Mr. Bruce Swartz, Deputy Assistant Attorney General at the Criminal Division; from the State Department, we welcome Mr. Samuel Witten, Deputy Legal Advisor at the Department's Legal Bureau.

Given the impact that extradition has on local law enforcement and victims of crime, it is especially important that we hear from local representatives. Representing local law enforcement officials, we are pleased to be joined by the Honorable James Fox, District Attorney for San Mateo County, California,

representing the National District Attorneys Association; and the Honorable Daniel J. Porter, District Attorney of the Gwinnett Judicial Circuit in Georgia. We are also especially honored to be joined by Ms. Teri March, the widow of Deputy Sheriff March, who has worked so tirelessly to raise the awareness of this issue and to get justice for her husband. I thank everyone for taking the time to join us this morning, and I look forward to hearing your testimony.