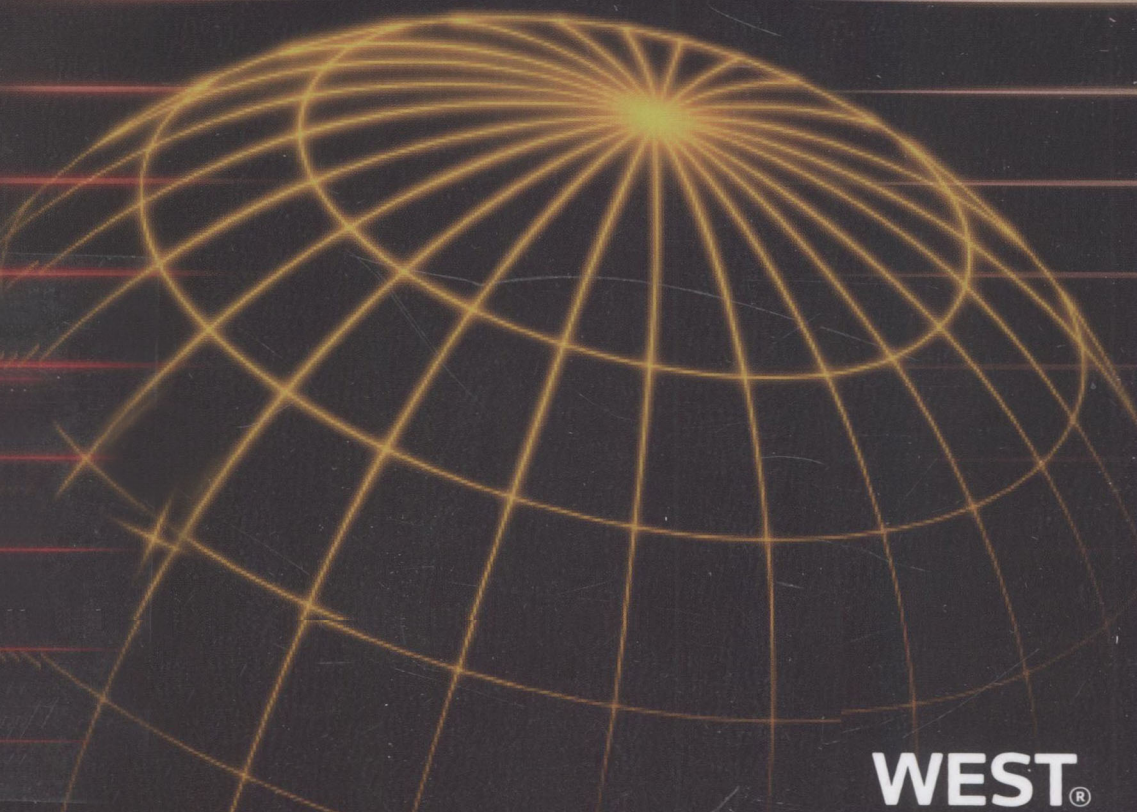


C A S E S A N D M A T E R I A L S

Global Issues in Criminal Procedure

LINDA CARTER ■ CHRISTOPHER BLAKESLEY ■ PETER HENNING



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Global Issues in Criminal Procedure

By

Linda E. Carter

Professor of Law

*Director, Legal Infrastructure and International Justice Institute
University of the Pacific, McGeorge School of Law*

Christopher L. Blakesley

Cobeaga Professor of Law

William S. Boyd School of Law &

Barrick Distinguished Scholar

University of Nevada, Las Vegas

J.Y. Sanders Professor of Law, Emerita, Louisiana State University

Peter J. Henning

Professor of Law

Wayne State University Law School

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P.H.

Preface

This book is part of a series that was conceived by Professor Franklin Gevurtz of Pacific McGeorge. Several years ago, he suggested that we incorporate transnational, comparative, and international law into all of the core courses in the law school curriculum. As a means to this end, Professor Gevurtz proposed a series of books that would supplement the primary textbooks in the core courses and provide professors with the materials necessary to teach with a global focus. From that initial idea, we now have books, either in print or in progress, in most of the main areas of the curriculum.

Global Issues in Criminal Procedure is designed to allow students to study the reach of U.S. constitutional issues abroad. Students will be able to gain knowledge of issues that arise in prosecutions in the United States when searches, seizures, and interrogations occur outside our borders.

We are grateful for the support of our universities, Pacific McGeorge School of Law, the University of Nevada, Las Vegas, Boyd School of Law, and Wayne State University Law School. At McGeorge, Dean Elizabeth Rindskopf Parker, Associate Deans for Academic Affairs Christine Manolakas, Phil Wile, and Julie Davies, and Associate Dean for Faculty Scholarship Ruth Jones assisted with support and resources. At UNLV Boyd School of Law, Dean John V. White, Associate Deans Jay Mootz and Kay Kindred, as well as the University's Barrick Distinguished Scholar Award assisted with support and resources. At Wayne State, Dean Robert Ackerman, Associate Dean John Rothchild, and research support from the Law School assisted in completing this project.

The "Globalizing the Law School Curriculum" conference, held in August 2005 at Lake Tahoe and sponsored by Pacific McGeorge was a great source of ideas. We would especially like to acknowledge the Criminal Law and Procedure group from the Tahoe conference, which included the three of us, Professor Roger Clark, Professor Bill Pizzi, and Professor Stephen Legomsky. Their thoughts and comments inspired many aspects of the book. And, great appreciation goes to Professor Gevurtz for his tireless efforts in organizing the conference and the whole series of books.

We would also like to acknowledge the students and administrative staff without whose assistance no book could have been

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LINDA E. CARTER
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INTRODUCTION

Time and space seem to be shrinking. Travel around the world is increasingly common and easy to undertake. Many travel for business or pleasure to Europe, Africa, Asia, and Latin America. Just as it is easy for us to travel globally, it is also becoming the norm for those who commit crimes to cross national boundaries, often impervious to domestic laws. Typical transnational crimes, such as money laundering, drug and human trafficking, and terrorism, are not the only situations in which people and property are located outside a country that have an impact on a nation's inhabitants. Crime can impact all countries and sometimes can occur almost instantaneously across the globe.

With the ease of travel today, people who commit crimes can flee to another country quickly, while those in one nation can facilitate the crime outside its borders. In addition to transnational crime, international crime, especially since the September 11, 2001 attacks has raised significant issues. As a result of the increasingly transnational nature of criminal activity, there is a corresponding increase in searches, seizures, and interrogations abroad. For a full understanding of the rights under the United States Constitution, it is important to know which constitutional rights apply when government actions are taken outside the United States. Complicating the legal issues is a differential in some circumstances between the rights of United States citizens and lawful residents on the one hand, and non-citizens on the other, when the investigation is conducted abroad.

This book is designed to give you an overview of the reach of the United States constitutional protections provided in a criminal investigation, and the obligations of officials when action is taken outside the borders of the United States. The book is divided into two major parts: (1) searches and seizures abroad; and (2) interrogations abroad. Within each chapter are subsections that provide case law developments in this quickly evolving area. The chapter on searches and seizures includes searching property of U.S. and non-U.S. citizens, electronic surveillance for national security purposes,

and seizures of individuals abroad. The chapter on interrogations first focuses on the right not to be coerced into making a statement and *Miranda* rights abroad, including whether it makes a difference if the interrogation is conducted by United States officials or by foreign officials, either as agents or on their own. The second part of the interrogations chapter explores the international and domestic law on torture that is binding on the United States and the related issue of extraordinary renditions. The cases and notes provide an overview of how the rights afforded by the United States Constitution impact the investigation of transnational crimes that arise outside, or across, national borders.