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## *THE DEA IN LATIN AMERICA: DEALING WITH INSTITUTIONALIZED CORRUPTION\**

by ETHAN A. NADELMANN

AMONG THE MANY OBSTACLES that confront the government of the United States in its global battle against international drug trafficking, drug-related corruption of foreign governments ranks as one of the most troublesome. It is present in virtually every country. In many of the less developed countries in Asia, Latin America and the Caribbean, it is pervasive. Not just policemen and customs officials, but judges, generals, cabinet ministers and even presidents and prime ministers are implicated. Corruption in most of these countries is, of course, nothing new—although the temptations posed by the illicit drug traffic are unprecedented. Nor are US diplomats unaccustomed to dealing with foreign corruption. Their experience in this regard dates back to the origins of US diplomacy. But the need to incorporate the drug control objective, and especially its criminal justice dimensions, into their conduct of US foreign policy has presented US government representatives abroad with a rather unique challenge.

This article examines how the US government has dealt with drug-related corruption in Latin America and the Caribbean. Most of the responsibility for this delicate task has fallen to the US ambassadors and to the agents of the US Drug Enforcement Administration (DEA), which has approximately 100 agents stationed

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throughout the region. Bereft of any sovereign or police powers, these agents have little choice but to rely on their own diplomatic and investigative skills, as well as on the political leverage of the US embassy, in dealing with drug-related corruption. Between 1984 and 1986, I interviewed approximately thirty DEA agents who had served, or were serving at the time, in Latin American and Caribbean countries, as well as numerous others with knowledge in this area, including journalists, diplomats, and foreign law enforcement agents. Interviews were conducted in the United States (Washington, New York, and Miami) and in eight Latin American and Caribbean countries. Interviews were conducted with the objective of finding out how DEA agents operate abroad, what obstacles they encounter, how they deal with them, and how police in other countries enforce their own drug laws. The following discussion pulls together the assorted strands from those interviews that dealt with corruption and with DEA efforts to work above, around and against it.

I should stress at the outset what this paper is *not* about. There is no effort to address here the important question of why drug-related corruption has penetrated Latin America and the Caribbean so pervasively. Clearly, it reflects, in good part, the enormous economic temptation presented by the illicit drug traffic in a region where legitimate economic opportunities are lacking and far less lucrative. It also can be seen as an extension and expansion of the widespread corruption characteristic of many of the government institutions, and especially the law enforcement agencies, in these countries. One could legitimately draw analogies as well to the corruption that pervades most enforcement of vice laws around the world. Perhaps more significantly, one could view the far reaching drug-related corruption as a consequence of the tension between two demands which emanate from the United States: the US government demand that Latin American and Caribbean governments criminalize the drug market and enforce the laws aimed at its suppression; and the US drug consumer demand for the psychoactive substances produced and exported by those countries. In the absence of either demand, drug-related corruption would be a fraction of what it is today.

This article, however, is primarily a reflection of yet another perspective, one that views drug-related corruption as an obstacle to international drug enforcement efforts of the US government.

This perspective certainly is not the most important, or most useful, in terms of understanding the nature of drug-related corruption in Latin America and the Caribbean or even the failure of international drug control efforts. In fact, drug-related corruption is one of the less significant explanations for the inability of governments to stem the flow of illicit drugs to the United States. Nor is it possible to generalize broadly from the experience of the DEA in dealing with drug-related corruption. Relatively few other organizations find themselves faced with a similar task. Nevertheless, the subject gains importance in good part because of the light it sheds on a hitherto unstudied dimension of US foreign policy and criminal justice policy.

The principal objective of the DEA overseas is not to eradicate drug-related corruption. Rather, it is to “immobilize” drug traffickers and their organizations wherever they are found. Immobilization involves identifying those individuals who engage in crime, finding and arresting them, gathering the evidence necessary to indict and convict them, and—finally—imprisoning them. Corrupt officials can undermine pursuit of this objective in any number of ways, with the DEA agents themselves, and even the US government as a whole, largely powerless to do anything about it. From the US perspective, the principal and only realistic challenge is to view the corruption as a hindrance to be circumvented rather than a problem to be tackled directly.

From the perspective of interstate relations, epitomized by dealings between the US ambassador and high-level officials in the host government, diplomatic efforts aimed at reforming corruption can be particularly frustrating because they involve a form of transnational penetration which diplomacy is ill-suited to accomplish. In many respects, reforming drug-related corruption in foreign governments poses problems that are little different from those involved in trying to reduce human rights abuses. The US government must contend with different criminal justice traditions and *modi operandi*, conflicting political interests, and insufficient power at the top of government to challenge vested interests at lower levels. In some cases, foreign heads of government would like to oblige US demands but lack the capacity to do so. For instance, just as the current presidents of El Salvador and Guatemala lack the political power to punish the government officials responsible for the most egregious human rights abuses, so the presi-

dents of Peru, Colombia, and Bolivia are not powerful enough to prosecute every official known to have been corrupted by the drug traffickers. Alternatively, foreign heads of government may possess sufficient power to accommodate US demands but lack the desire to do so. This seems to be the case with the top-to-bottom corruption that permeates the military establishments in Panama and Paraguay, and it is also the case with the officially-sanctioned human rights abuses of military dictatorships in Chile today and other Latin American countries in recent years. On the other hand, it is equally likely that the apparent power of a Stroessner, a Noriega, or a Pinochet depends in good part upon their willingness to tolerate the behavior condemned by the United States. If that is the case, then US pressures on foreign dictators to reform their corrupt agencies are no more likely to succeed than are pressures on well-intentioned civilian leaders whose lack of power is more evident to outsiders.

Where US efforts to deal with foreign drug-related corruption differ from those targeted at human rights abuses is in the existence of an agency specifically charged with addressing that problem. The DEA, with agents stationed in most Latin American countries, has offered a hands-on complement to the diplomatic efforts of State Department representatives and other high-level officials. DEA agents, with their greater access to, and influence over, the actual workings of foreign agencies, are often in a stronger position to effect, at least to some degree, changes in government behavior. There is virtually no counterpart in the human rights area, or in almost any other area of international relations, with the possible exception of the CIA and, in a few countries, the US military. Because DEA agents work together with foreign police agencies, they are in a position to provide some degree of oversight and direction. Their influence is limited, however, by the fact that they lack any sovereign powers. What influence they are able to exert derives from their connection to the US government, their ability to reward and threaten local police in various ways, and their own powers of diplomacy and persuasion.

Virtually all studies of government corruption and the responses to it view the subject within the context of a self-contained unit, whether it be a city or a country. Outsiders are not deemed to have an interest in such matters and, in fact, they rarely exer-

cise any influence even when they are affected. No doubt many factors account for the irrelevance of outsiders, ranging from their sense that corrupt ways are an accepted mode of interaction with the local government, to feeling helpless to effect any changes, to an assessment that attempting to remedy corruption is not worth the effort, to a belief that local corruption is none of an outsider's business and that outside interference would be neither warranted nor welcome. There are, of course, a few exceptions. One, which does not fall totally within the outsider/insider distinction, is the investigation of local corruption in the United States by federal authorities, especially the Federal Bureau of Investigation (FBI). The other is the burst of attention and Congressional action which greeted reports of bribes by US multinational companies to foreign officials in the late 1970s.<sup>1</sup> Even in that case, however, the reaction was prompted not by outrage at corruption in foreign governments but by the purportedly unethical practices of US businessmen. One might imagine that a third exception would involve efforts by the United States, multinational banks and international organizations, such as the World Bank and the International Monetary Fund (IMF), to pressure indebted governments to reduce the corruption which siphons off so much of foreign loans and aid.<sup>2</sup> Yet, to my knowledge, none of these exceptions has received more than a smattering of scholarly attention.

In examining US efforts to deal with drug-related corruption in foreign governments, this analysis contributes to two areas of public policy studies that rarely intersect: corruption reform and foreign policy. This approach to the problem of corruption in government is unique in two respects; it focuses on the role played by an outsider, one lacking any sovereign power, in trying to influence the nature and impact of government corruption; and it is primarily concerned, not with how corrupt agencies are reformed, but, rather, with how they are made to perform their designated tasks despite that corruption. From the perspective of foreign policy studies, this analysis provides insight into a dimension of US foreign policy that is intensive, penetrating, and politically delicate.

The question addresses an aspect of foreign policy behavior hitherto unstudied: When Government A seeks cooperation from Government B in pursuing Policy Objective A, but is hindered by

corruption in Government B, what are its available options? Specifically, when the US government seeks cooperation from Latin American and Caribbean governments in apprehending, arresting, prosecuting and punishing drug traffickers, but is hindered by corruption in those governments, what are the options available to it? Even more specifically, how does the DEA pursue its objective of immobilizing drug traffickers overseas despite pervasive corruption in foreign governments?

The ability of the DEA to deal with foreign corruption in any country is influenced strongly by the nature and scope of the corruption, in particular the extent to which it is condoned, or tolerated, by top officials. Even in those countries in which drug corruption is thoroughly institutionalized, however, the DEA agent has options beyond packing his bags and leaving. The diplomatic leverage of the US government, combined with the international consensus, of sorts, among governments that drug trafficking is both illegal and evil, ensure that no government will blatantly turn its back on US requests for cooperation without incurring some costs. Even where a government has succumbed almost entirely to the influence of drug traffickers, the skilled agent can still rely on his own diplomatic ability and appeals to the transnational value system of police. No matter how deeply rooted the corruption, the fact remains that almost no one is totally corrupt. Even those who have virtually no moral or other limits to their corruption still will lack, upon occasion, the opportunities to be corrupted. It may be because they have failed to make the necessary contact. It may be because they find themselves in the spotlight when the opportunity arises. Whatever the case, it means that there will be times when the only option left is to cooperate with the DEA agent.

In most Latin American countries, the DEA agent encounters drug corruption at every level of government from the street cop and airport customs official to the police chief, military general, and cabinet minister. The breadth of the corruption tends to reflect two factors. The first is the number of government agencies involved in drug enforcement. The fewer the agencies, the less dispersed the corruption, since there is little need or incentive for drug traffickers to bribe those officials whose jurisdiction does not include them. The second is the pervasiveness of drug trafficking within the country. The more pervasive the traffic, the greater the

opportunity for those officials outside of drug enforcement to profit by becoming facilitators and initiators. Thus, in Mexico, Bolivia, Colombia, Peru, Belize, Jamaica, Ecuador and the Bahamas—of which all but the last two are drug-producing countries—drug corruption is widespread at all levels, and many departments, of government from top to bottom. In other countries, whose role is principally that of transit, opportunities to profit from the drug trade are more limited—to top government officials and those involved in law enforcement.

By and large, customs officials are regarded as the most corruptible, perhaps because of their long experience in “regulating” all forms of contraband smuggling. The military, which has stayed out of drug enforcement activities in most Latin American countries, has had the greatest success in preserving a reputation for clean hands in this area—although there are conspicuous exceptions. In Mexico, for instance, military officers and police officials have competed for the largesse of drug traffickers. In Colombia, the military was unable to resist the corrupting influences of the drug traffickers when it briefly assumed principal responsibility for marijuana eradication in the Guajira in 1979-80. According to some reports, the general in charge of the effort retired shortly after the military was withdrawn, having become a wealthy man during his months in the Guajira. Indeed, the fear of the corrupting power of drug traffickers has been a major consideration of both military and civilian chiefs in choosing to keep the military out of drug enforcement. Military officers also have found that opportunities to profit from the drug trade exist even when the military is not charged with drug enforcement responsibilities. Among the police services, those agencies and units which specialize in drug enforcement tend to have the most notorious reputations for corruption. The exceptions are a number of elite units with which DEA works very closely—about which more below. Among the other generalizations which one can make about drug corruption is the greater involvement in, and likelihood of, corruption in outlying areas as opposed to the capitals. Far from the prying eyes of superiors and DEA agents, police and military *commandantes* can feel far more at ease in working out profitable relationships with drug traffickers. In Mexico, for instance, a police or military *commandante* regards a transfer to headquarters in the capital as a serious financial setback.

## FINDING SOMEONE YOU CAN TRUST

IN MOST LATIN AMERICAN COUNTRIES, the DEA agents have a great degree of freedom—much more so than in most of Europe—in choosing which agencies and agents they will work with.<sup>3</sup> This provides some degree of flexibility in their efforts to circumvent corruption—although the degree of corruption is not the only factor that DEA considers in choosing with whom to work. Often DEA agents will prefer to work with a corrupt agency or agent over an honest one because of significant differences in their abilities. As one DEA agent who had worked throughout much of Latin America said of the Mexican federal police: “Sure the *Federales* are corrupt, but when a *Federale* is doing his job, there’s no better cop anywhere.” In Bolivia, the US Embassy pressured the Siles Zuazo government to appoint, as head of the government’s Narcotics Coordination Committee, someone they knew to be corrupt because the alternative was an honest but ineffective official. The corrupt appointee, on the other hand, was a smart, ambitious politician who could get things done—even if he would accept, and even solicit, bribes in some cases. The US Embassy hoped that it could work around his corruption while it used him to get the anti-drug programs underway. Then, once the programs had become somewhat institutionalized, the embassy would get him fired and replaced by a more honest official—at least that was the plan.

In international law enforcement efforts, there is little substitute for the cultivation of good personal and working relationships based on trust—even with those who are corrupt. With scarce manpower and resources in any country outside the United States, the DEA country team abroad has little choice but to rely on local agents for most investigative tasks. When the agent with whom the DEA agent works is always on the lookout for corrupt sources of money, the DEA agent has little choice but to appeal to one of an agent’s three basic instincts: friendship, the pride and professionalism of a fellow policeman, and fear. Although all three, and particularly the first two, are often linked, the first seems to be the most important.

Most DEA agents in Latin America seek to develop special relationships with a few local agents. These relationships are

characterized by different forms of trust. Of these agents, a DEA agent might say: "I'd trust him with my life," or "He's 100% honest," or "I know he'll always be straight with me," or "He's a great cop," or "I tell him about everything we're doing here." Many DEA agents consider the development of these relationships the most essential aspect to effective functioning overseas, especially in a corrupt environment. There are a number of reasons for this: the legal, political, and practical constraints on unilateral DEA actions abroad; the discretionary nature of law enforcement, which makes it impossible to operate effectively "by the book;" the vulnerability of the agent to violence or otherwise being "set up;" the need for a free flow of information; and the need to recognize the variety of obstacles which might render DEA efforts against certain traffickers futile. To some extent, there is also a requisite element of mutuality to such relationships based on both friendship and professional courtesy. As one agent stationed in the Caribbean said:

It's just like in the US. If the guy finds out you're holding back information from him, he'll stop helping. He'll "do" you, tell you to go through formal channels. Then you may as well forget about it. So you try to be up front and sincere.

As the above descriptions of trusted agents suggests, the fact that a DEA agent trusts a local agent does not necessarily indicate that he is totally honest. It does tend to mean that the DEA agent feels he can trust him completely on whatever matters they work on together. Indeed, given the corrupt environment and low pay of most police in Latin America, a DEA agent typically assumes that almost all police—with the exception of a few well-paid, honest high-level officials and an occasional man of exceptional principle in the lower ranks—will find illicit sources of money somehow. What he counts on, however, is that, to the extent the local agent *is* corrupt, he will not let it undermine their relationship. He won't take bribes in a case he's working on with the DEA agent. If he is being paid by a particular trafficker, he will find a way to let the DEA agent know that there is no point in wasting time pursuing that target. And regardless of whom he may be taking money from, he will not let the DEA agent get hurt.

In the rare cases where a DEA agent cultivates a relationship with a local agent who is both intelligent and honest, he often must make special efforts to maintain the relationship. One effort is

financial, in the form of supplements to the local agent's salary. Another is more political, and requires that the DEA agent develop a good sense for the internal politics of the domestic law enforcement agency. With some agencies, DEA agents can use their influence to lobby for promotions, salary raises and other perquisites, such as trips to the United States to testify in a case or attend a DEA training session. In more corrupt organizations, however, too favorable comments from DEA can represent, as one DEA agent put it, a "kiss of death" for the local agent, since they indicate that the agent is not playing by the *de facto* rules of his agency. Such an agent can find himself transferred to an exceptionally undesirable position. One DEA agent described the situation in Peru, which is not atypical, as follows:

Sure there are honest cops, not at the top but among the majors and colonels. But they get screened. One major who had made some big drug cases was sent for two years to a post on the Peruvian border with Brazil—a horrible jungle area. When he came back to Lima, he wasn't doing narcotics anymore. And he'll probably never get promoted again.

Depending upon the influence of the DEA and the US embassy with the local government, the DEA can offer some protection to those who help them, shielding them, in effect, from their superiors. However, in the long run, the DEA and the cooperative agent must hope for a change in regime, or in the organization, if the agent is to outlast those of his superiors whom he has antagonized.

Since there are so few police whom DEA agents can trust entirely, and since many law enforcement operations involve at least a few agents, DEA has little choice but to work with corrupt agencies and agents. This is particularly so when agencies do not have overlapping or competing jurisdictions. The modes of operation which DEA agents develop under such conditions vary dramatically, depending upon the degrees of organizational and individual corruption, the susceptibility of the government to pressures from both traffickers and the United States, and the freedom and willingness of agents to increase the extent of their operational activities. Much also may depend upon the relationship between the DEA office in the embassy and the ambassador. His willingness to back the resident DEA agents when they get

into trouble, and to use his influence on behalf of DEA objectives, can be crucial to the success of DEA activities.

One of the most successful measures employed by DEA has been the creation of elite drug enforcement units composed of local police. Resident DEA agents have taken an active hand in creating these units, often training them, handpicking their heads and overseeing their hiring, and generally working closely with them in all aspects of their operations. Some of these units have been independent agencies, others part of an established police agency. In some cases, they have been funded in good part by DEA and the US State Department, with all of their training and much of their non-lethal equipment provided at US expense. Because these units typically have represented a threat to established institutions and interests, both DEA and the US ambassador often have been obliged to use their influence to guard against interference by corrupt officials and others.

The elite units generally fall into two categories: the paramilitary units known as Mobile Rural Patrol Units (*Unidad Móvil de Patrullaje Rural* or UMOPAR) in both Peru and Bolivia, and as Special Action Narcotics Units (SANU) in Colombia—although the formal names tend to change every few years—that are primarily involved in raiding and destroying coca bushes and refineries in the outlying areas; and the elite criminal investigative divisions, usually within the national police agencies, with whom DEA works narcotics cases. In Colombia and, to a lesser extent, Bolivia, the investigative units have maintained relatively good reputations for staying mostly clean of drug corruption. In Bolivia, the unit is closely supervised by the DEA and sheltered from those seeking to undermine it by the political influence of the ambassador. In Colombia, the unit gets the first pick of new police recruits, and they are rotated to other units after a while to avoid their developing overly close relations with traffickers. In Argentina, the DEA has begun to carve out a small narcotics unit in the customs agency. In a number of other countries, DEA has carved out less formal groups or divisions, often headed by an official of the intermediate rank whom the DEA agents have come to respect for his honesty and ability.

Obviously, the ability of DEA to maintain such units both free of corruption and operationally effective depends upon the political will of the United States and the host government, as well as

upon key personalities within and above those units. DEA's experience with the creation of DENACTIE in Ecuador provides a warning. There the DEA office succeeded in having a trusted friend of one its agents, a European-born Ecuadoran, appointed as head of the agency. After a brief run of success, however, the new agency proved unable to resist the political pressure which arose when it arrested two traffickers who turned out to be the children of two high-level officials, including one of the most powerful generals in the country. After refusing a bribe and then being threatened, the agency chief resigned. Thereafter, DENACTIE proved unable to resist either the corrupting influences or the political pressures from higher-ups and from a competing drug enforcement division in the national police.

Somewhat different problems have plagued the Bolivian UMOPAR unit known as the Leopards. The first problems were apparently unrelated to the drug traffic. Shortly after having created, funded and trained the 300-member strike force, US officials were deeply embarrassed when the unit led a coup against the Siles Zuazo government, kidnapping the president in the process (Simons, 1984b). The coup was defeated with little violence after intervention by the US ambassador, and UMOPAR's commanders were replaced. A second problem that has emerged in both Bolivia and Peru has stemmed from the military's resentment of an independent para-military force composed of policemen. In Bolivia, the military seized a foreign gift of expensive guns intended for the Leopards and confined the unit to its barracks by declaring the Chapare, where much of the coca is grown, a military zone (NYT, 1984). In Peru, military operations against the Maoist Shining Path (*Sendero Luminoso*) guerrilla movement led to the suspension of anti-drug operations in the coca-growing region around Tingo Maria (Simons, 1984a). Although both UMOPAR units have survived and continued to operate, they must continue to contend with the antagonism and jealousy of the military and other police units.

A third problem has been the underfunding of the elite units by local governments. DEA and the US State Department's Narcotics Assistance Units have been unwilling to assume the entire burden for funding the drug enforcement units, believing that foreign governments should share the responsibility. The governments, however, have proven far from generous in funding these

units. Bolivia's UMOPAR troops, for instance, have gone for months without receiving their salaries, money for rations, medical supplies and other essentials (Kline, 1987: 22-27). In Ecuador, agents in the DENACTIE unit were better paid than most other Ecuadoran policemen but otherwise provided with virtually no money for weapons, transport, gasoline or almost anything else. Its chief was obliged to appeal to foreign weapons manufacturers and local citizens for contributions to keep his unit operating.

The general problem of lack of funding has contributed to a fourth problem—the tendency for even the elite units to become corrupted as well. In virtually all of the countries where DEA and the State Department have assisted in the creation of such units, drug-related corruption has extended to the very highest levels of government, up to and including the interior and defense ministers, top military and police officials, and their aides. No amount of diplomatic pressure and liaison has been sufficient to isolate the elite units from the corruption all around them.<sup>4</sup>

Yet even given all of these problems, the elite drug enforcement units have proven indispensable to DEA's efforts to immobilize drug traffickers in Latin America. Often they offer the only opportunity to accomplish anything at all. Especially with those units which have been able to attain an *esprit de corps*, DEA agents have been able to conduct fairly sophisticated operations against major drug traffickers. These operations have proven most successful when their objective has been to do no more than seize a trafficker and spirit him out of the country as quickly as possible. More typically, however, successful operations have been undermined by the ability of drug traffickers to corrupt others in the criminal justice system who have the power to undo what the elite units have accomplished.

The question of rotation of police in and out of drug enforcement units is also a complicated one. On the one hand, rotation (in and out of drug units, and in and out of regions where drug trafficking is pervasive) is seen as an important check on the potential for corruption of police and other government officials. In Mexico, for instance, where the military has been heavily involved in both drug enforcement and drug corruption, the government responded to US pressures in early 1987 by deploying a unit of 5,000 men, which it called the Mars Task Force, named after the Roman god of war, to roam the Sierra Madre, in units of 35 men,

to search out and destroy the omnipresent marijuana and poppy plantings of the region. All members of the task force were on a program of strict discipline and rotation.<sup>5</sup>

At the same time, rotation poses a serious problem for a number of reasons. It makes impossible the creation of an institutional memory within the drug enforcement units. It undermines DEA efforts to create a trained corps of drug enforcement agents in the police force. And it requires resident DEA agents to build new relationships with local police every year. In Argentina, for instance, the resident DEA agent expressed his frustration with the annual rotation of the federal police every December. The operating assumption of the agency is that its agents are not specialists but generalists, who should be exposed to all areas of policing as they are transferred and promoted. Argentine police trained by DEA in drug enforcement methods are no exception, so that every year the narcotics unit of the Federal Police is transferred practically *en masse* to other units. The DEA agents must thus form new relationships every year with a new crop of drug enforcement agents. Occasionally, they are able to request that a particularly skilled agent continue to work with them, but only at the cost of creating tension with, if not jealousy among, other police officials.

In Peru, the frustration expressed by the resident country attaché with the annual rotations, known as *cambios*, was even greater. Police in all of the agencies, including the top officials, were transferred every year, with few exceptions. Between 300-400 Peruvian police were being trained by DEA each year but then were being transferred to other units. In an effort to retain trained personnel to work with for a longer period, in 1984 the DEA office refused to send any Peruvian police to attend a much-desired training course in the United States. It also demanded that agents trained by the DEA remain in the drug enforcement units for at least two years, and that DEA be given the opportunity to choose which agents would be sent to training programs. In the DEA view, the *cambios* had not reduced the susceptibility of police to corruption in any significant way. Rather, most police who transferred to the drug unit regarded the move as an opportunity to earn more illicit revenue than was possible in other units. From the DEA perspective, the increased risk of corruption, posed by two years in the drug unit as opposed to one, was outweighed by the benefit of being able to work with agents who were better-

trained, and—more particularly—by the opportunity to retain the few good agents who also happened to be honest and dedicated.

## THE INS AND OUTS OF WORKING AROUND CORRUPTION

**I**NSTILLING FEAR MAY NOT SECURE eager cooperation but at least it will limit the degree to which joint operations are undermined. As one DEA country attaché stated regarding his approach toward corrupt officials:

I just tell them I don't care how they make their money as long as they don't screw me on drug cases. If they do, I tell them, I'll nail 'em to the wall; I'll get them arrested or kicked out of their job. And I can do it.

Obviously, the capacity of the DEA agent to maintain his credibility and fulfill his threat depends upon the existence of higher-ups in the government, typically in the Ministry of the Interior, to whom he can appeal. Although even the higher-ups may not necessarily be honest, they may be more sensitive to considerations of professionalism, the “image” of the police force, and the government's international reputation. And, if they are not getting paid off by the same trafficker as their underling, or getting a cut from him, they may have little to lose by complying with DEA's wishes.

The DEA agent's ability to threaten directly, and to carry through on the threat, depends also upon the rank and connections of the corrupt official. Obviously, the most vulnerable is the lower level agent, who can be influenced by any DEA agent. Next is the mid-ranking official, on whom the country attaché can either exert influence directly, or indirectly through seeking the support of his superiors. Less vulnerable are those who occupy high-level positions, and with whom dealing can become a far more politically sensitive matter. The DEA agent, even the country attaché, is unlikely to attempt direct threats or intimidation. Rather, he (or the ambassador) may approach a higher-level official, assuming that one is available, to ask that something be done. Finally, there are those officials, such as ministers of interior and senior generals, whose power is such that they can be regarded as essentially untouchable by the United States. To these may be added the relatives and close friends of the most powerful officials. In

such cases, the ambassador must often decide whether seeking the assistance of the head of government is worth the potential political backlash which may result. On occasion, a senior level official from Washington, such as the head of the DEA, the Assistant Secretary of State for International Narcotics Matters, or the chief White House aide on drug matters, will bring up sensitive cases when he or she meets with top officials either in Washington or in the foreign country. As for the occasional country in which the president himself is suspected of being involved in drug trafficking, the US government must rely on less direct methods of expressing its dissatisfaction—such as leaks to the media.

The susceptibility of officials at the highest level to US pressure in this area is, of course, closely tied to their overall dependence upon the United States, and to the leverage which the US government has and is willing to exercise. The US government has rarely, if ever, accorded the drug control objective such priority that it has been willing to sacrifice all other objectives. This is true not just of Mexico, where the tremendous importance of other US interests is obvious, but even in relatively small countries such as Bolivia, Paraguay and the Bahamas. With respect to those countries and others, the US government has strongly suspected the very leaders of those countries of having accepted bribes from drug traffickers. However, only in Bolivia was the US government able and willing to exert sufficient pressure to have the García Meza regime deposed—and, even there, it required over a year of overt and covert pressures. Nor have cabinet-level ministers proven much more vulnerable. In a number of countries, US ambassadors have found that, even after presenting foreign leaders with indisputable evidence of drug corruption by their cabinet ministers, those ministers have remained in office. Foreign leaders have responded with expressions of curiosity, sympathy, even anger, but rarely by dismissing their political cohorts, and almost never by throwing them in jail.

When US officials present information of drug-related corruption in their governments, foreign leaders often respond by asking to see the evidence. More often than not, the US officials decline to provide it, on the grounds that they need to protect their sources. Consider the following 1985 incident, as reported in *The New York Times*:

The scene was familiar, both to John Gavin, then the U.S. Ambassador to Mexico, and to the Mexican officials he was meeting, including President Miguel de la Madrid.

United States officials had put together information implicating a Mexican Government official in drug trafficking, and... Mr. Gavin wanted to tell Mr. de la Madrid about the case, as he had done with others before it.

But this time the case involved the son of the Defense Minister, who directs a significant part of Mexico's drug-eradication program.

Asked how the Mexican officials reacted to his information, Mr. Gavin imitated them with a shrug and a grimace of mock concern.

In that case and several others, Mr. Gavin said with frustration, "they would say to me: 'Show me the proof. Show me the proof.'"

"But as they knew," he said, "to show the proof would be the death warrant for my sources (Brinkley, 1986a: A-1).

Another source which US officials have not felt comfortable revealing, for very different reasons, are the telephone, electronic and satellite intercepts provided by the Central Intelligence Agency (CIA), and, especially, the National Security Agency (NSA). Indeed, these have probably constituted the principal source of US information on high-level drug corruption in foreign governments.<sup>6</sup> Often this information is so highly classified that even the DEA is not privy to it. Nor is information derived from such sources usable for purposes of prosecution. Availability of such information has thrust US ambassadors and others into the frustrating position of knowing about drug-related corruption but of not being able to provide the evidence of that corruption either to US prosecutors or to foreign leaders.

Only in the smallest countries can the United States fully throw its weight around, and even there its options are limited. In the Bahamas, for instance, an abundance of information indicated that a number of cabinet ministers, up to and including Prime Minister Sir Lynden O. Pindling, were receiving payoffs from drug traffickers. Direct US pressures met with little response. It was only when the information was leaked to the US media, causing an uproar in the Bahamas and providing ample ammunition for his political opponents, that Pindling was pressured to appoint a commission

of inquiry to investigate the corruption charges. Pindling survived the uproar, but a number of his ministers were obliged to resign (Bahamas Commission of Inquiry, 1984; Hiaasen and McGee, 1984). Three years later, however, as charges of drug corruption dominated pre-election campaigning, Pindling indicated that, if he won, it was "very possible" that he would reappoint one of the ministers who had been obliged to resign (Brinkley, 1987: 1).

For DEA agents overseas, high-level corruption in foreign governments is particularly frustrating, in part because it directly undermines their basic instinct of going after, not just the biggest traffickers, but also those people, such as celebrities and politicians, who are most in the public eye. Most agents who spend no more than a few years abroad are reluctant to abandon this operating principle and to accept politically motivated constraints on their operations. This can, of course, lead to friction with US State Department officials in the embassy, whose institutional and occupational predispositions resist viewing foreign officials as criminals. In effect, high-level corruption in foreign governments imposes specific limits as to which cases DEA agents may pursue. In many countries, for instance, they never know when an investigation will lead to the door of an official who is, for all intents and purposes, untouchable.

There are some instances in which corruption has been so pervasive and institutionalized that DEA ability to function effectively has been almost totally undermined. In some cases, such as that of the García Meza regime, the US government has gone public with its protests and withdrawn both its ambassador and the DEA presence—although undercover DEA agents continued to operate within Bolivia. Within the DEA, agents are divided as to the merits of such a policy. Some believe that it is always better to maintain presence in a country, no matter how widespread and high-level the corruption, because, at the very least, it represents something of a deterrent to drug traffickers and can be useful for gathering intelligence. Others feel that there comes a point beyond which it becomes difficult to justify the cost of maintaining the overseas office, and at which the symbolic value of withdrawing the office—and announcing the reason for doing so—is ultimately more valuable.

In such cases, the typical decision is to maintain the DEA presence, provided that (a) a minimum of cooperation is

forthcoming and (b) high-level involvement in the drug trafficking is not too blatant. As one DEA agent who worked in Paraguay and Panama put it:

You can't dwell on drug involvement at the highest levels. There's nothing you can do about it. If you do, you'd just get depressed. What you can do is play on their weaknesses, for instance, their desire for a better international image. And you try to show them why they have an interest in helping you out.

In such situations, the overseas DEA agent recognizes two limits on his activities. He doesn't target the most powerful officials, even though he may gather intelligence on their involvement in drug trafficking. And he doesn't bother trying to get the richer, more powerful traffickers prosecuted within the country. What he can do is secure cooperation in gathering intelligence, arresting drug couriers, seizing vessels and airplanes transporting drugs, seizing shipments of ether and other chemicals used to refine coca into cocaine, collecting evidence for prosecution in the United States, and in getting a few high-level drug traffickers deported or extradited to the United States.

When a DEA agent tacitly accepts this arrangement, he is, of course, open to the criticism of having acquiesced in the most virulent forms of drug trafficking in return for cooperation in getting the "small fry." The criticism is most acute when traffic within the country is dominated by a few powerful "untouchables," inside and outside the government. DEA willingness to work with, rather than against, such people can be perceived as succumbing to the organizational temptation to build up the number of seizures and arrests while allowing the biggest violators to go about their business unimpeded. In fact, such a strategy can be viewed as a boon to the "untouchable" traffickers because it helps to eliminate competition and increase their control of the traffic at the same time that the corrupt officials are publicly lauded for what limited assistance they offer. Typically, the DEA responds with one of three arguments: (1) that pursuing such a limited strategy is better than the alternative, i.e., closing the office in the country; (2) that, given the constraints imposed by the US State Department, they, in effect, have no choice; and (3) that they are just awaiting the time when the "untouchables" become vulnerable.

One price which the US State Department and, to a lesser extent, the DEA have paid in pursuing such a policy is the need to endorse publicly the drug enforcement efforts of corrupt officials both in Congress and within the countries. For instance, when the leading opposition newspaper in Panama, *La Prensa*, published a report linking General Noriega to a notorious Peruvian drug trafficker, the pro-government newspaper was able to respond the following day with a disclaimer from the resident DEA agent. Following other charges, Panama's embassy has sent out copies of a letter from the head of DEA to Noriega thanking the general for his cooperation against drug traffickers. In Congressional testimony, drug enforcement officials have similarly lauded the token efforts of the Bolivian, Colombian, Peruvian, Jamaican and other foreign governments while mostly avoiding any direct criticism of corruption at the highest levels. They have repeatedly cited their frequent drug seizures, courier arrests, and crop destruction forays as evidence of increasing cooperation, portraying such steps in the most optimistic light possible.

At the same time, it would not be entirely accurate to accuse the DEA, and even the US State Department, of pursuing a policy of accommodation in every case. In some countries, the DEA has simply acknowledged the futility of getting anything accomplished by a resident agent and closed the country office. That was the action reportedly taken in Paraguay, where the police had to steer clear of interfering in the drug trafficking activities of the military who run the country. The opposite tack was pursued in the Bahamas for a brief period. There, the two resident DEA agents—a Miami-based FBI agent and the embassy's *chargé d'affaires* (who was in charge pending the arrival of a new ambassador)—pursued an aggressive law enforcement policy which thoroughly antagonized the Pindling government. The activism in this case no doubt reflected a number of factors: the personalities of the agents, the presence of a State Department official interested in giving drug enforcement top priority, the vast influence of the United States over the Bahamas, and the fact that the Bahamas were regarded as the principal transit point for cocaine on its way from the Colombian coast to the southern part of the United States.

In the Bahamian case, however, pressures for a more conciliatory policy eventually won out. According to some reports,

the DEA decided, or was told, not to reveal evidence it had obtained which strongly suggested drug payoffs had been given to Prime Minister Pindling. When the Bahamian Commission of Inquiry subpoenaed the US agents who had dealt with the Bahamas, DEA responded by sending the Miami SAC (Special Agent in Charge), who played down the tensions that had arisen. Pindling responded by agreeing to increase cooperation substantially, including an extensive joint US-Bahamian interdiction effort code-named Operation BAT and the commencement of negotiations on a treaty to improve cooperation in criminal prosecutions (Brinkley, 1986b).

In those countries, most typically democracies, in which extensive personnel changes occur following elections and changes in the government, the levels of corruption and DEA ability to work with corrupt officials follow a cyclical pattern. Typically, the worst corruption emerges toward the end of a political administration, be it a civilian or military regime, when officials actively pursue any and all opportunities to enrich themselves before leaving office. One agent discussed the evolution of a DEA agent's relationship with a *commandante* of the Mexican Federal Judicial Police during the course of the *sexenio*.

When a new *Federale* arrives in town at the beginning of a new presidential term, for instance, he has a couple of incentives to cooperate with the DEA. First, he needs DEA most then. Usually his predecessor will leave nothing but an empty filing cabinet—if that. So he must rely on DEA to find out who is who and what is what. Second, he has an interest in making a statement, cracking down hard soon after his arrival to show who's in charge. Thus, during the first year or so, DEA will tend to get excellent cooperation from him.

Sometime during the first year, the traffickers will try to cut deals with the commandante to buy protection. So the commandante starts receiving offers: a car, an apartment, a house, women, free dining and travel, and so on. Eventually, he decides which offers he will accept. Then he and the chosen traffickers will reach a special understanding, usually involving a retainer. The traffickers understand that if they do anything stupid, the police will have to act. But there is also an understanding that he will not pursue them too hard. He will stall and find ways to avoid cooperating with other authorities, such as the DEA, who have targeted the traffick-

ers. There are many subtle aspects to this, but eventually the DEA agent will get the message. At that point, there is often little he can do.

During the next three years, the DEA agent will often get great cooperation in any operations not involving one of the *commandante's* special relationships. It is important to understand that unlike most Latin American police, a Mexican *Federale* is a great cop, when he's being a cop. They can also be pretty rough, but they know how to get the job done.

The last year or two, however, cooperation can really go down hill. Everyone is trying to make a killing before he leaves office. As the end of the term nears, the chances for any cooperation get very slim. By that point, there is almost nothing the DEA can do.

Probably 75% of DEA-*Federale* relationships fit this model. The 25% don't because of bad relations. The two don't hit it off, the *Federale* is insecure, he's greedy, he's anti-US, any number of things.

Is this "corruption?" By US standards, sure—although the US has lots of corruption itself. But in Latin America, that's just the way the system works. Every cop goes along with it or he's out.<sup>7</sup>

One option available to the DEA agent, although it may entail risks to his relationship, involves deceiving the local agent. For instance, the DEA agent may persuade the local agent to arrest a trafficker who, unknown to the local agent, has high-level protection from someone superior to the local agent or outside his jurisdiction. When the heat comes down on the local agent, the DEA agent may blame the informant or create some other excuse. Obviously, the willingness of a DEA agent to utilize such a technique depends upon his assessment of the risks to the local agent and the quality of his relationship with him.

Another tactic to which DEA agents often resort to circumvent corrupt officials is withholding information until the very last minute of an operation. Since most traffickers of any substance have contacts within the police who are paid to provide them with information and warnings of impending raids, DEA is often frustrated by leaks prior to major operations. For instance, police raids aimed at arresting such major traffickers as the Bolivian, Roberto Suarez, and the Colombians, Pablo Escobar and Carlos Lehder, have arrived at their destinations only to find the houses

empty and the refineries shut down. (After numerous efforts, Colombian police finally captured Lehder in February 1987.) To minimize the potential for such leaks, the DEA agent will try to withhold the target of a planned raid until the local agents involved are no longer in a position to notify the target. Typically, a trusted senior local agent will be provided with the information—since often DEA has no choice—but, occasionally, no one will be told until after the operation has commenced. Only when all the agents are already in the car or helicopter, en route to the target, will the ultimate destination be revealed to the driver or pilot.

Since most countries in Latin America have at least two agencies who play overlapping roles in drug enforcement, the DEA often may work with the less corrupt one. In 1984-85, the DEA office in Peru had reduced its reliance on the increasingly corrupt Peruvian Investigative Police (PIP) in favor of the somewhat less corrupt *Guardia Civil*—although it retained its links with a few PIP officers who had proven relatively cooperative. In Chile, during the same period, drug corruption in the *Investigaciones* had become so extensive that the DEA office had refused to work with them and was relying solely on the *Caribineros*. Although some agencies seem to have longstanding predispositions either towards or against extensive corruption, variations do occur over time, particularly following large-scale overhauls, or the appointment of new top-level officials. In a few countries, DEA may work with one agency in one city and another agency elsewhere. For instance, in Ecuador, both DENACTIE and INTERPOL (no relation to the international INTERPOL), the two agencies involved in drug enforcement, have been far from immune from corrupting influences. They also have been fierce competitors, with the drug section of INTERPOL (the national police agency under the Minister of Interior) resentful of the upstart DENACTIE, which had been created in the Ministry of Justice, at the urging of the DEA, with the hope that it would become an elite police force. Over the past few years, each has been headed by officials both honest and corrupt, and DEA's working relationships have varied accordingly. At one point, when corruption was within tolerable, but troublesome, limits in both agencies, the DEA office in Quito worked only with INTERPOL and the Guayaquil office only with DENACTIE. The split reflected both personal relationships and varying degrees of corruption among the local agents.

A DEA agent can also exact some leverage from the fact that most foreign law enforcement agencies are highly dependent upon DEA for leads and other information. Such access is important to make the arrests and seizures an agency needs to justify itself, bureaucratically and politically. It is useful for less legitimate purposes as well, such as maintaining some control over the illicit drug market for corrupt purposes. Intelligence from DEA, used for corrupt purposes, can provide opportunities to extort money from drug traffickers and to seize drugs which will be resold, rather than turned in as evidence for prosecution. When the local DEA office ostracizes an agency as being too corrupt to work with, preferring to use a competing agency instead, the former finds itself deprived of a valuable source of opportunities, both legitimate and illegitimate.

One factor which has particularly complicated DEA efforts in Latin America has been the intense competition between law enforcement agencies. This has been especially true when the DEA has chosen to work with one agency to the exclusion of another. In such cases, relations between the two competing agencies have even become quite nasty, with the more corrupt unit trying to undermine its competitor by arresting its informants and agents, by spreading rumors and planting evidence implicating them in drug trafficking, and even by threatening, wounding and killing informants and agents of its competitor. From the perspective of the DEA, such virulent competition is particularly problematic when the target is an agency with whom it has developed a good working relationship. On the other hand, the DEA has occasionally benefitted from such competition, as when corrupt agents and/or traffickers under their protection have been arrested by a competing agency.

Elsewhere, DEA agents have encountered problems where the arresting unit in a police agency has undermined the intelligence unit with which the DEA agents have been working. In both Bolivia and Argentina, the DEA developed a very good relationship with a select unit of the national police which had demonstrated ability both to develop, as well as to carry out, sustained drug investigations. However, these units are considered primarily as intelligence units only, and they lack authority to make arrests in drug cases. Consequently, as an investigation nears completion, the drug enforcement unit of the federal police

agency must be called in to make the arrest. In both countries, the drug units have demonstrated an exceptional capacity for corruption. On numerous occasions, DEA agents and the collaborating police unit have seen cases, developed only after many months, destroyed shortly after arrest because the target had succeeded in bribing the narcotics unit to eliminate the evidence or otherwise undermine the case. Although DEA has tried to circumvent corruption in the narcotics units and has pressured them to cooperate, so far its efforts have met with scant success. Typically, the honest police units do not report the corruption of fellow officers out of loyalty to the agency of which both are a part.

Even where DEA does have a relatively corruption-free agency with whom it can work, the ultimate objective of putting high-level traffickers in jail for any length of time remains elusive. Any high level trafficker who is so careless or unfortunate as to get arrested in the first place still has multiple opportunities to gain his freedom. He can bribe other police agencies who may have become involved, or the *fiscal* (prosecutor), or the judge, or, as a last resort, the prison warden. In the absence of overwhelming political and/or public pressure to punish the trafficker, it is a rare criminal of any means who will not be able to avoid a lengthy stay in jail. In exceptional cases, pressure from the US Government and, occasionally, from local media and politicians have managed to keep a major trafficker in prison for a longer period of time. As for those officials who are implicated in drug-related corruption and forced to resign, they almost never spend any time in prison at all. More often than not, they are simply transferred to another district or agency. Some just leave office quietly and maintain a low profile until the storm has passed.

The inability of DEA, and of the US Government in general, to follow through on cases after the arrest stage represents the greatest failing of US efforts in Latin America. Often all the DEA efforts to circumvent police corruption come to naught as soon as high-level judicial officials enter the picture. The extent of DEA contact with *fiscales* usually depends upon how closely *fiscales* in the country work with the police. In Mexico, for instance, police and *fiscales* work fairly closely, so DEA agents tend to become familiar with them. Elsewhere in Latin America, the relationship is often far more distant and formal, in good part because of the strong class divisions that separate them. Even where local police

and *fiscales* do work closely together, DEA agents are often reluctant to pursue cases through the courts for another reason. As one New York City police officer put it, regarding the frustration of seeing criminals whom one had arrested go free a short while later: "What happens in the courts is somebody else's business—we teach that in the academy—and if cops allowed themselves to be frustrated, they'd be doing nothing in the streets" (Gross, 1986: B-4). Overseas, it may be difficult for DEA agents to alter the mindset of police who regard their job as done once the criminal has been arrested. Even where they do adapt, options for dealing with corruption among prosecutors and judges are far fewer than those available for dealing with it among the police.

The problem with corruption in the higher reaches of the law enforcement system is twofold: (1) it renders futile the efforts of honest police officials who have succeeded in arresting a drug trafficker; and (2) it undermines morale of low-level officials who lose whatever incentive they might have had to remain honest. When police believe that any wealthy or powerful criminal they arrest will be able to gain his freedom by bribing a prosecutor or judge, the incentive to pocket the bribe personally can become not only logical, but irresistible. When the DEA does succeed in obliging its counterparts to resist drug corruption, the chief consequence may only be to shift the financial benefit from the police agent to the judge. The judge must beware of crossing the DEA only in those cases which generate extensive publicity or engender pressure from the United States.

Obviously, the level of judicial corruption varies widely from country to country, and even from court to court. In Ecuador, judges reportedly compete—even bid—to hear drug cases, because such cases offer the most lucrative opportunities. In Argentina, it was rumored that the judge who rejected a US extradition request for former Bolivian Minister of the Interior Luis Arce Gómez received half a million dollars for his decision. Similarly, and despite the many honest judges who still exist, judicial corruption has been rampant in Mexico, Bolivia and Peru. In Colombia, where traffickers are known to shoot before offering a bribe, and where the tradition of judicial rectitude is stronger, many judges resist assignment to districts known to have many drug cases. In Colombia, the power of the drug trafficker to intimidate is so great that even the Colombian Supreme Court has succumbed

to their threats. After upholding the validity of a US-Colombian treaty which authorized extradition of Colombian citizens, Colombia's Supreme Court saw half its members murdered in 1985, in an attack by the guerrilla group which calls itself M-19 (*Movimiento del 19 de abril de 1970*), which many believe was organized at the instigation of drug traffickers. During the subsequent two years, another justice was murdered and two chief justices resigned in succession when the threats became too violent.<sup>8</sup> The result has been a persistent effort by a majority of the Supreme Court to abdicate any responsibility over cases involving drugs.<sup>9</sup>

The abundant possibilities for securing cooperation through corrupt means are supplemented by the potential provided by legitimate legal procedures. Police in less-developed countries are even less likely than their US counterparts to abide by all the procedures required by law (such as obtaining a proper warrant). In all these countries, as in the United States, high-priced, sophisticated legal counsel is available to take advantage of every legal technicality and loophole to protect a client. In some countries, of course, a drug trafficker may still have to pay a judge to go by the book, but the legal route frequently offers an important option to the trafficker with the means to pay his way through it.

## GETTING FOREIGN DRUG TRAFFICKERS INTO US COURTS

**I**N THE MANY COUNTRIES where DEA knows that it has sufficient influence to have a major trafficker arrested, but insufficient power to ensure that he is prosecuted and imprisoned within the country's judicial system, other options still remain. Extradition is one means which the US government has pursued with increasing energy in recent years. Many of the extradition treaties between the United States and Latin American countries were so dated, some having been negotiated almost a hundred years ago, that they did not provide for extradition of drug traffickers, much less for violation of US conspiracy laws. Nor did most of the treaties authorize the government to extradite its citizens at all, given the strong tradition against extradition of nationals in countries under civil law. During the past decade, officials in both the US Justice

and State Departments have negotiated over a dozen new extradition treaties which redress most of the flaws which had hindered extradition in the past (Georgia Journal of International and Comparative Law, 1985).

In 1979, Colombia's Turbay administration signed an extradition treaty with the United States which explicitly authorized extradition of nationals. The treaty was subsequently ratified by the Colombian Congress, three years later, despite strong opposition, both on legitimate grounds as well as from powerful drug traffickers. Since then, drug traffickers have lobbied continuously against this treaty, publicly in newspapers as well as privately in political circles, and have tried to intimidate government officials in all three branches of government from supporting it. The advantage of an effective extradition treaty, particularly with a country which has a corrupt criminal justice system, is that the extradition process affords fewer opportunities than does the prosecution process for drug traffickers to bribe their way to freedom. On the other hand, because it *is* a legal process, and therefore rather slow and cumbersome, drug traffickers still retain numerous opportunities to escape the domestic criminal justice system before being put on a plane to the United States. A somewhat unusual situation arose when, in February 1987, notorious drug trafficker Carlos Lehder Rivas was seized by Colombian drug enforcement agents. The Colombian Supreme Court and the president had already approved, a few years earlier, the request by the US Government for his extradition. Thus, the DEA and Colombian agents were able to arrange for Lehder to be flown to the United States immediately, rather than having to go through the final formalities attendant upon the extradition process (Leen and Gugliotta, 1987).

A more efficient means of bringing drug traffickers to justice is to get them expelled to the United States as quickly as possible after they have been arrested. Since US courts do not consider how a defendant has been brought within their jurisdiction unless there has been severe mistreatment, DEA agents have had substantial flexibility in apprehending drug traffickers abroad by persuading foreign government officials to expel them to the United States. In some countries this is a legal process, particularly if the trafficker is not a citizen of that country. In other countries, especially those under a military regime, criminals will be expelled at the request of the United States, and of other governments, even if the law re-

quires a formal extradition proceeding. The option of expulsion is often used, even where extradition is available, because it is faster, less cumbersome, and affords far fewer opportunities for the criminal to bribe his way to freedom.<sup>10</sup> Sometimes, expulsion is used specifically because the trafficker cannot be extradited legally, often the case with traffickers accused of violating US conspiracy and narcotics laws from abroad. The practice has acquired many names: "irregular rendition," "*de facto* extradition," "informal expulsion," and even "extradition Mexican-style," which reflects the long-standing arrangement between Mexican and US police by which criminals are "pushed over the border" into the hands of waiting US law enforcement agents.<sup>11</sup>

One of the few governments which will expel its own citizens is Pinochet's Chile. Following the 1973 coup against the Allende government, Pinochet, eager to placate the US Government, summarily deported to the United States about 20 Chileans whom the DEA had identified as major cocaine traffickers.<sup>12</sup> Operation Grab-Bag, as this expulsion was termed, was significant for two reasons: (1) it virtually eliminated Chile as a major refiner and exporter of cocaine; and (2) it pointed up the hazards associated with such methods when one of the expellees turned out to be a case of mistaken identity.<sup>13</sup>

The Chilean case was relatively simple in that it required the US government to do no more than identify the traffickers and send a plane to Chile to collect them. The Argentine junta, which ousted the government of Isabel Perón in 1976, proved to be equally accommodating toward the US Government. Shortly after taking over, the junta expelled three "Class I violators" (DEA terminology for top-level drug traffickers)—the Frenchman François Chiappe, the Italian Miguel Russo and the Chilean Yolanda Sarmiento, all resident aliens of Argentina—to the United States (Axthelm and Marro, 1976). Indeed, requesting expulsion from foreign governments has probably been the principal means used by the US Government to acquire custody of drug traffickers operating abroad. Not just military regimes, but even many civilian ones, especially in the Caribbean and Central America, have frequently acceded to US requests to seize and expel drug traffickers from their territory. Often the most troublesome problem has been the right of the criminal, under the laws of many countries, to choose his destination. Some governments, particularly the

military ones, have simply coerced the trafficker into agreeing to go to the United States. Others have resorted to various deceptions, such as dispatching a trafficker to his chosen destination via a flight scheduled to make a stopover in a country where he could be taken off the plane and redirected to the United States instead.

A frequent problem for DEA agents has been the unwillingness and/or inability of top government officials in foreign countries to authorize the arrest and expulsion of major traffickers. In some countries, the laws prohibit the type of expeditious expulsion sought by DEA. Elsewhere, traffickers have remained elusive and/or protected by high-level friends in the government. Where DEA agents have faced such obstacles, they have adopted alternative tactics. The most common means of dealing with foreign corruption is to form alliances with government officials who have not been corrupted by the target of an investigation. During the first half of the 1970s, a number of innovative DEA agents created small units composed of local law enforcement agents, which were, typically, designated Special Action Units, to identify, arrest, and deport major drug traffickers as quickly as possible. Local agents were often seconded from their regular units and paid, trained, and equipped by the DEA. Because of the fear of corruption and other interference, such operations were planned with only minimal involvement of local officials, and were conducted with considerable discretion. Typically, DEA would secure permission from a top police or military official, or perhaps from the Minister of Interior. In at least one case, related to me by a DEA agent who organized such operations, the Minister of the Interior qualified his permission with the warning that he would deny knowledge of the operation if anything went wrong.

During the first half of the 1970s, the irregular rendition of drug traffickers by US drug enforcement agents was virtually systematized in Operation Springboard. Almost five dozen major traffickers operating in Latin America were seized and expelled to the United States without resort to formal extradition procedures (Solomon, 1979: 363-364). Typically, the special police units would seize the trafficker and try to put him on a plane out of the country as fast as possible, before any potential protector within the government would have an opportunity to intervene. In some cases, the trafficker would first be taken to another country, such as Brazil or Panama, from which the expulsion process could

proceed at a more leisurely pace. Quite a number of traffickers apprehended in this manner during the early 1970s were interrogated under torture by police operating on behalf of the DEA. Indeed, reports of DEA agents being present and even involved in such interrogation sessions ultimately contributed to Congress' passage of the Mansfield Amendment, which restricted operational activities of DEA agents abroad.

Perhaps the most notorious case involved an Italian drug trafficker, Francisco Toscanino, who was seized by a special Uruguayan police unit operating under the direction of an agent of the BNDD (Bureau of Narcotics and Dangerous Drugs, predecessor of the DEA). Toscanino was then driven over the border to Brazil, where he was kept for three weeks while the Brazilian police interrogated him under torture. He was then put on board a commercial airliner to the United States, where he was indicted and prosecuted. Until the abduction of Toscanino, US courts had uniformly followed the Supreme Court's long-standing Ker-Frisbie Rule, which held that a court need not examine how a defendant had been brought within its jurisdiction (*Ker v. Illinois*, 1888; and *Frisbie v. Collins*, 1952). However, the Federal Appeals court which heard Toscanino's case created an exception to that rule, soon modified by other courts, which stated that jurisdiction could not legally be obtained by an abduction involving "the infliction...of grossly cruel and inhumane treatment by or at the direction of American officials or agents" (*US v. Orsini*, 1976; also see *US v. Toscanino*, 1974; *US ex. rel. Lujan v. Gengler*, 1975). Although dozens of defendants have since pointed to the Toscanino case in an effort to invalidate their abduction, virtually none have succeeded in showing a direct, sufficiently heinous involvement by US officials. Indeed, since that time, not just the DEA, but the FBI and the US Marshal Service have undertaken hundreds of similar operations to secure fugitives from abroad.

US agents have also relied on a number of less forceful, but more deceptive, methods to obtain custody of criminals outside US borders. They have arranged for fugitives to be arrested in transit to foreign countries, or even during stopovers in countries en route to the trafficker's destination. In 1975, DEA agents arranged for Dominique Orsini, an Argentina-based drug trafficker, to be arrested by Senegalese police, for deportation to the United States, when his Buenos Aires-to-Nice flight made a brief stopover in

Dakar (US v. Orsini, 1976). There have also been cases in which DEA agents tricked drug traffickers into travelling to a foreign country in which they could be seized. One such case occurred in 1977 when a Venezuela-based DEA agent tricked a trafficker into going to Panama, where he was arrested and interrogated by Panamanian police before being deported to the United States (Di Lorenzo v. US, 1980). Similarly, Edwin Wilson, at the time a fugitive from the United States, was lured from his haven in Libya by an undercover informant to attend a meeting in the Dominican Republic, where he was seized by local police and put on a plane to the United States (US v. Wilson, 1983; and Maas, 1986). A variation of this tactic has been to lure a drug trafficker onto a sea-going vessel and then to arrest him once in international waters. In 1983, DEA and FBI agents, operating out of Miami, planned to do just that to Bahamian cabinet minister Kendal Nottage, who was strongly suspected of laundering money for drug traffickers. The US Ambassador to the Bahamas, Lev Dobriansky, vetoed the operation, however, out of concern for the consequences such tactics might have on other aspects of the US-Bahamian relationship (Stuart, 1983).

Another common tactic has been to lure traffickers directly into US territory. In 1971, the corrupt chief of Panama's air traffic control, Joaquín Him Gonzales, was invited to a softball game in the Canal Zone, where he was arrested by US police and immediately flown to the United States (Clark and Horrock, 1973). More often, traffickers have been duped into coming to the United States, unaware that a sealed indictment awaited them. A tactic employed with increasing frequency recently has been undercover operations designed to arrest the trafficker within the United States. Interestingly, a number of these operations have targeted corrupt foreign officials. In March 1985, for instance, undercover DEA agents arrested the chief minister of the Turks and Caicos, as well as one of his cabinet ministers, in Miami after these officials had agreed to assure safe passage for cocaine and marijuana transiting their island in return for a payment of \$20,000 (Nordheimer, 1985b; Balmaseda, 1985). A year later, undercover DEA agents, in Miami, arrested Etienne Bourenveen, commander of the Suriname army and, reportedly, the second most powerful man in the country, when he agreed to provide protection for shipment of

drugs and ether (used in cocaine-processing) through his country (Duffy, 1986; New York Times, 1986).

## CONCLUSION

**C**ORRUPTION IS NOT THE ONLY obstacle to arresting the drug traffic in Latin America; indeed, some DEA agents would say that underfinancing and poor training of police, throughout Latin America, constitute equally severe obstacles. Nor is corruption responsible for the fact that illicit drugs continue to flow in great quantities from those countries to the United States and Europe. Even if corruption in Latin America were far less severe than it is today, the nature of the drug traffic is such that even more earnest, better-funded efforts would be unlikely to effect a significant reduction in the volume of the traffic. Rather, drug-related corruption is important because of the obstacles it presents to DEA efforts to cripple major drug traffickers in Latin America. Even when the evidence needed to indict has been gathered, traffickers have still been able to elude arrest, and ultimate conviction, by bribing and threatening the right people.

With no more than a hundred agents stationed throughout all of Latin America and the Caribbean, and deprived of any extraterritorial police powers, the DEA has been hard pressed in pursuing its objective. Nevertheless, DEA agents have devised means of working above—and around—the corruption which infects criminal justice agencies throughout the region. They have pleaded, cajoled, threatened, and tricked their local counterparts into cooperating with them. Relying both on the diplomatic leverage exercised by the US ambassador, and on the transnational police subculture which police share the world over, DEA agents have succeeded in immobilizing many top traffickers who thought they had purchased their safety. In many cases, DEA agents have gone well beyond the privileges accorded them as representatives of a foreign police agency. Their diplomatic efforts, if their activities can be so described, most closely resemble those of the CIA and other transnational organizations in their pursuit of a common mission around the world, and in their persistent disregard of sovereign prerogatives.

So long as consumers in the United States continue to demand psychoactive substances produced abroad, and so long as the

market for those substances continues to be a criminal one, drug-related corruption promises to persist. It cannot be said that the US experience in dealing with that corruption has improved over time. Success in cleaning out corruption in police agencies abroad and in creating elite drug enforcement agencies has proved, all too often, to be ephemeral. The close relationships between DEA agents and local authorities, so essential to working around corruption, have rarely survived the transfer of one or the other to different assignments. The most persistent feature of US efforts to eradicate and circumvent drug-related corruption has been the resilience of the corruption itself. For DEA agents, the challenge has truly been a Sisyphean task. Few delude themselves into believing that their efforts can measurably reduce the flow of drugs to the United States. Indeed, they rarely identify that as their objective. Rather, it is to "immobilize" drug traffickers wherever they are found. The most successful of the DEA agents recognize the limits to their influence, focus on individual cases, and utilize whatever means they have at their disposal to accomplish their objective. In the final analysis, they have no other choice.

## NOTES

1. The leading academic studies of this subject are Reisman (1979); and Jacoby, Nehemkis and Fells (1977).

2. This problem is briefly discussed in Henry (1986).

3. A conspicuous exception is Panama, where the resident DEA and customs agents are required to clear virtually everything they do through one high level official who reports directly to General Noriega.

4. Ed Merwin, who served, from 1984-1986, as the chief adviser of the US Government to UMOPAR in Bolivia, described the corruption he had encountered there in an interview (Kline, 1987: 24):

Q: You had eight different commanders?

A: Eight. It was mostly because they either got too blatant about accepting bribes or, in the case of the only really good tactical field commander we had, he refused to take a bribe and he got fired by his boss, who had offered him the bribe.

Q: So the drug dealers were buying off [former director of the Narcotics Police] Colonel Guido López while you were there, as far as you know?

A: I was under that impression.

Q: How solid is the information?

A: Very solid.

Q: Can you reveal the source of it?

A: No, not really....The US is a very technological society and we have a lot of capabilities. That's something that the Bolivians never quite understood. Every time they talked on the telephone, we knew about it, you know.

Q: Is [the current director of the Narcotics Police] on the take?

A: I don't even know who he is right now...If this one isn't, his predecessors all were.

Q: All of them?

A: To my knowledge, all of them.

Q: In what ways?

A: New cars. Send your kids to the States to go to school. One of the former Leopard commanders who was dishonest—he was bad when we got him and he got worse—I understand that he now has a really nice ranch. Has a new BMW. Wears very nice clothes. All of the national directors [of the Narcotics Police], very natty dressers. Some of them had amazingly good taste.

Q: And the rest of the enforcement structure in Bolivia...how corrupted was that structure?

A: I have to tell you I think that 100% of the Bolivian enforcement structure was corrupted.

Q: Bought by the cocaine traffickers?

A: Yeah.

5. Brigadier General Adrián Almazán Alarcón, commander of the (Mars) Task Force, said his soldiers, volunteers from various army units, undergo a rigorous training and drug education program. They are then sent into the mountains for six months, and food and other supplies are airlifted to them every two weeks.

He said the men are under orders not to go into hamlets or to socialize with the local people; even contact with their own families is discouraged. At the end of their tour of duty in the Mars Task Force, the men are returned to their former units.

General Almazán added that his own assignment is temporary. He said that in a few weeks, after having served six months, he and his entire staff will take on new commands elsewhere and that their replacements will also serve for six months.

General Reta [regional commander of the Mexican armed forces] said the strict rotation and discipline policies are intended to prevent troops from "acquiring the habits of the populace." Other Mexican and foreign sources were more blunt: They said the task force is so organized in hopes of reducing the potential for corruption that has crippled previous drug eradication campaigns (Rohter, 1987: A-1, A-10).

6. See the comments by Ed Merwin, US police adviser in Bolivia (Kline, 1987: 24). Similarly, Seymour Hersh, in his exposé of Panamanian General Noriega's involvement in drug trafficking, notes that much of

the information provided to him by US government officials was "gleaned from National Security Agency intercepts (Hersh, 1986; see also Bamford, 1982: 325-336).

7. This is not a verbatim quote but, rather, one reconstructed from my notes.

8. Supreme Court President Fernando Uribe Restrepo resigned in March 1986 after four months in office; his successor, Nemesio Camacho Rodríguez, resigned in January 1987 (Miami Herald, 1987).

9. Early in 1987, the Colombian Supreme Court invalidated the extradition treaty on a technicality. When the technicality was corrected, it held that the court no longer was empowered to rule on extradition requests. In March 1987, it declared unconstitutional state-of-siege measures, enacted by the Barco administration, which gave the military special powers to judge civilians arrested in drug trafficking cases (see Miami Herald, 1986; and Latin American Monitor/Andean Group, 1987: 405).

10. Under US law, the existence of an extradition treaty between the United States and another government does not bar the use of other means to obtain custody over a criminal situated abroad (see the discussion in *United States v. Reed*, 1981).

11. This subject has been extensively discussed in the legal literature. See, for instance, Abramovsky and Eagle (1977); De Schutter (1965); Evans (1966); Fairman (1953); Feinrider (1977); Garcia-Mora (1957); O'Higgins (1960 and 1964); Scott Jr. (1953); New York University Law Review (1975); University of Toledo Law Review (1976); Georgia Journal of International and Comparative Law (1984).

12. Article 24 of the Chilean Constitution gives the government broad powers to expel Chilean citizens. The Pinochet government has used those powers frequently to expel opponents of the regime. Interestingly, the US Government has tried to persuade the Pinochet government to expel two former high-level intelligence agents who were implicated in the 1976 murder of President Allende's foreign minister, Orlando Letelier, in Washington. A previous effort to have the agents extradited was rejected by the Chilean Supreme Court in 1979 (see Christian, 1987).

13. The Axthelm and Marro article was subsequently included in testimony presented at hearings before the Senate subcommittee to investigate juvenile delinquency (US Senate, 1976: 70-72).

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