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A Protocol Against Trafficking in Persons: Is it Enough? The Impact of a Trafficking Treaty

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SANTA CLARA LAW
LAWYERS WHO LEAD

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What has been done?

UN Convention against Transnational Organized Crime

-Sept. 29, 2003, by the UN General Assembly

Action against/Convention on Trafficking in Human Beings

-Feb. 1, 2008 by the Council of Europe

Victims of Trafficking and Violence Protection Act of 2000

-January, 2006, by US Congress

- incorporate the Protocols and Conventions
 - assess effects
- monitor the extent of Trafficking
 - address ongoing needs
- take regional countermeasures
- make more binding agreements

Individuals must be:

INFORMED, KNOWLEDGEABLE, DISCUSSING

Nations must:

ENFORCE LAWS, ENGAGE INTERNATIONALLY

The Global Community must:
COOPERATE INTERNATIONALLY,
DEVELOP CREATIVE SOLUTIONS,
CREATE ONGOING TREATIES & AGREEMENTS

Understanding the Nature of Trafficking

- flexible
- sophisticated
- unconventional
- hidden
- transnational
- lucrative

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 - *required full restitution to victims
- *more adequate protection of trafficked victims

Luis CdeBaca

Ambassador-at-
Large:

Office to Monitor
and Combat
Trafficking in
Persons

What the Violence Protection Act does:

- focuses on the victim

Exemplary Models in Europe



- The European Union: cooperation
- Belgium: making trafficking a priority
- European Court of Human Rights,
Germany, & France: creative court procedures
- Italy: looking out for others

How to Fight Transnational Organized Crime

-Reversing the burden of proof

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- Interception of Communication & Intrusive
Surveillance

 - Cross-border cooperation

How to Fight Transnational Organized Crime

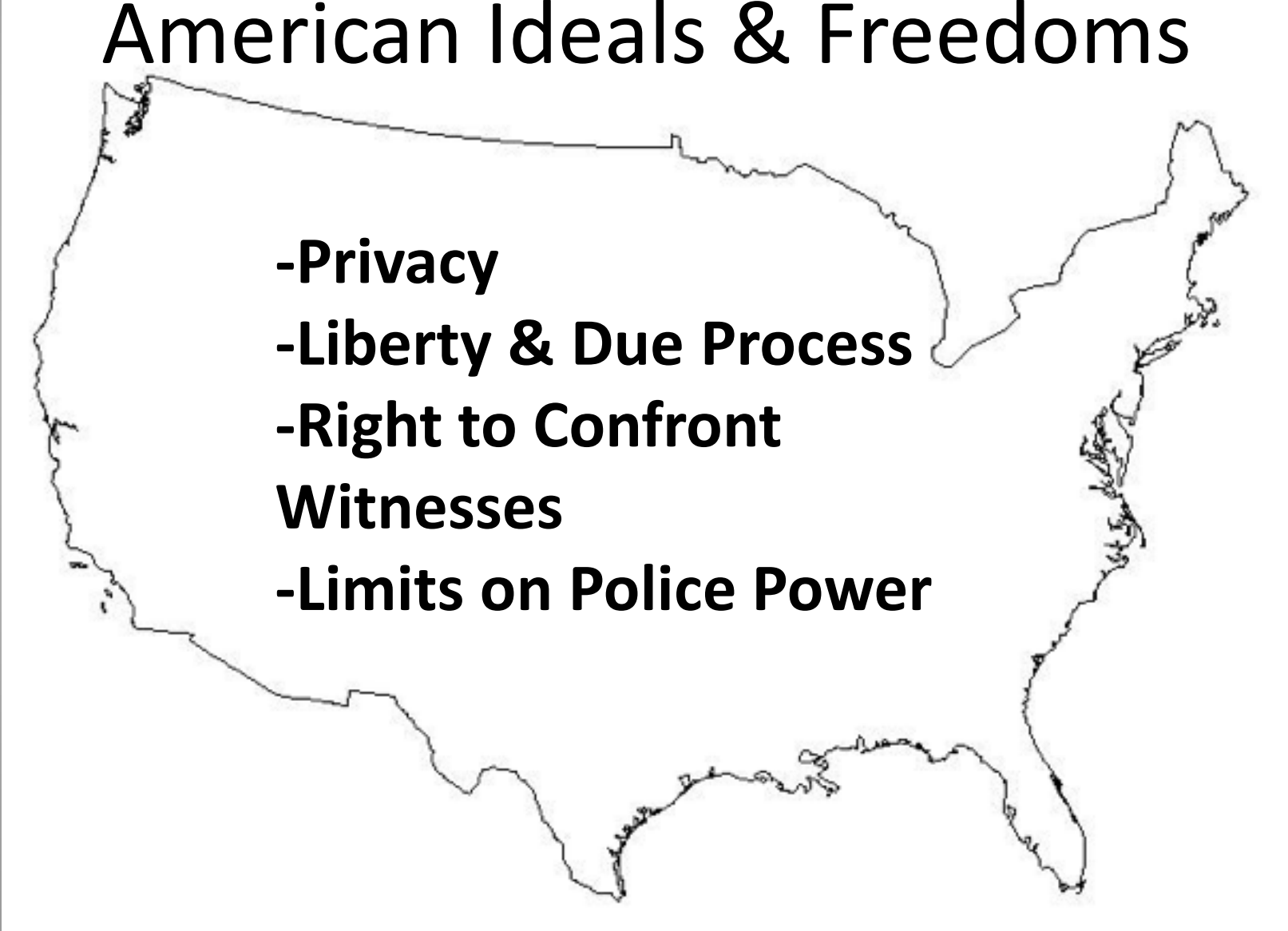
- Reversing the burden of proof
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- Provisions on membership of criminal organizations
 - Witness Protection
- Interception of Communication & Intrusive Surveillance
 - Cross-border cooperation
- Cooperation against Trafficking

Witness-Protection

- housing
- medical needs
- legal assistance
- personal protection & privacy
- economic aid
- employment
- urgent measures

Interception of
Communication
&
Intrusive
Surveillance

Potential Infringement upon American Ideals & Freedoms

- 
- An outline map of the United States, showing the continental United States and Alaska. The map is centered on the text.
- Privacy**
 - Liberty & Due Process**
 - Right to Confront
Witnesses**
 - Limits on Police Power**

Safeguards to use of Surveillance

- limit the use of evidence
- increased warrant specificity
- also use less intrusive means

Cross-Border Cooperation

Sources & Models:

-EU

-Treaty of the European Union

-Convention on Mutual Assistance in Criminal Matters

-Convention on Mutual Assistance and Cooperation

-*Schengen Agreement & Mondorf Agreement

Cross-Border Cooperation

Example, FINLAND-RUSSIA border:

- *exchange of strategic information on illegal cross-border phenomena
- regular meetings about strategic decision and guidelines
 - a joint working group
 - *regional border delegates
 - local control authorities

Cross-Border Cooperation

Example, SLOVENIA:

-undercover agents of domestic origin and from
other countries

Cooperation Against Trafficking

Example, Austria:

- *nine NGO “service centers”

- legislative amendments, signed Palermo Convention

- *initiatives “to link up law-enforcement bodies, courts, NGO’s, and other institutions”

- *crime Prevention Council, providing advice and supporting preventative measures

- specialists can handle trafficking cases

- *court departments that specialize in sexual offense

- Federal Criminal Police, focus on trafficking

- *cooperation between police, criminal justice offices, social services, and NGO

Cooperation Against Trafficking

Example, Italy:

- thinking about needy countries
- knows unstable countries are very vulnerable to trafficking
- gave financial aid