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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

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- Interception of Communication & Intrusive  
Surveillance

  - Cross-border cooperation



# How to Fight Transnational Organized Crime

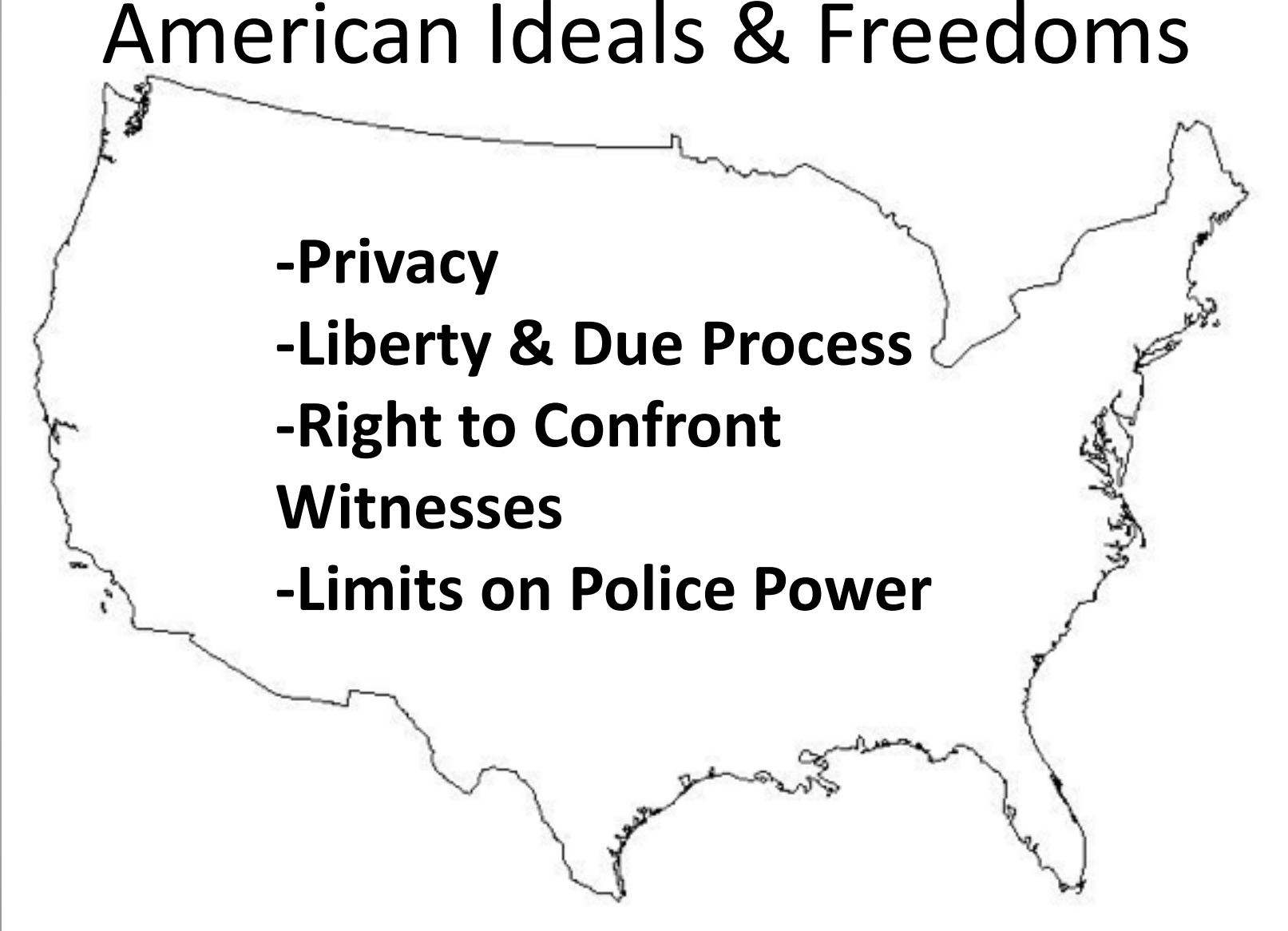
- Reversing the burden of proof
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- Provisions on membership of criminal organizations
  - Witness Protection
- Interception of Communication & Intrusive Surveillance
  - Cross-border cooperation
- Cooperation against Trafficking

# 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