

## **Federal Bureau of Investigation Authority to Investigate a Killing in the Virgin Islands**

Under 28 U.S.C. § 533(3), the Federal Bureau of Investigation (FBI) has authority to conduct an investigation of any "official matters under the control of the Department of Justice." Since, under 48 U.S.C. § 1617, the United States Attorney for the Virgin Islands is empowered to prosecute serious offenses against local law, including murder, the murder of an immigration judge in the Virgin Islands is within the FBI's investigative jurisdiction.

October 2, 1980

### **MEMORANDUM OPINION FOR THE SPECIAL ASSISTANT TO THE ATTORNEY GENERAL**

Your inquiry concerning the authority of the Federal Bureau of Investigation (FBI) to investigate the killing of an immigration judge in the Virgin Islands has been forwarded to me for response.

In our view, the FBI does have the power to investigate this matter if authorized by the Attorney General to assist the U.S. Attorney for the Virgin Islands in the execution of his duties. Under 28 U.S.C. § 533(3), the Attorney General may appoint agents

to conduct such other investigations regarding official matters under the control of the Department of Justice . . . as may be directed by the Attorney General.

The question is therefore whether an investigation into the killing of an immigration judge would concern an "official matter[ ] under the control of the Department of Justice."

Under 48 U.S.C. § 1617, the U.S. Attorney for the Virgin Islands is empowered to prosecute all offenses against the laws of the Virgin Islands which are cognizable in United States District Court there. Under 48 U.S.C. § 1612, the district court has jurisdiction over offenses against local law, exclusive jurisdiction over which is not conferred on the inferior courts. Section 1613 of that title provides that the inferior courts shall have exclusive criminal jurisdiction only over minor offenses involving a maximum fine of \$100 or imprisonment for six months, or both. Hence, the U.S. Attorney for the Virgin Islands has statutory jurisdiction to prosecute all more serious offenses. Although by local agreement his duty to prosecute crimes under Virgin Islands law is limited to felonies punishable by at least a five-year sentence, an

investigation into the possible murder of an immigration judge satisfies this condition.

The U.S. Attorney is an officer in the Department of Justice and hence subject to the direction of the Attorney General (*see* 28 U.S.C. § 519). The investigation of this incident could lead to a prosecution within the jurisdiction of the U.S. Attorney. The investigation can therefore properly be regarded as an "official matter[ ] under the control of the Department of Justice." Accordingly, quite apart from any possible violations of federal law, the FBI can legally undertake an investigation if authorized to do so by the Attorney General to assist the U.S. Attorney.

LEON ULMAN  
*Deputy Assistant Attorney General*  
*Office of Legal Counsel*