

# Criminal Law News

online



THOMSON REUTERS

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- Chief Editor: Sally Ramage, Member of the Chartered Institute of Journalists; Society of Editors and Society of Legal Scholars, UK.
- Consultant Editors: Dr Nicholas Ryder, Reader in Law, Head of Commercial Law Research Unit, University of the West of England, UK.  
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- Design: David. E. Tonkinson, Designer and Online Editor, Poole, UK.

## United States' Walmart involved in bribery accusations at its subsidiary 'Walmart de Mexico'

Sally Ramage

### The United States Foreign Corrupt Practices Act

Foreign corruption undermines the rule of law, stifling competition and the health of international markets and American businesses and the United States Department of Justice is fiercely committed to bringing to justice all the players in bribery schemes—the executives who conceive of the criminal plans, the people they use to pay the bribes and the companies that knowingly allow these schemes to flourish, because bribery has real consequences. The United States' Department of Justice (DOJ) has recently made the prosecution of companies and corporate executives under the FCPA a department priority.<sup>1</sup> The DoJ is fiercely committed to bringing to justice all the players in bribery schemes—the executives who conceive of the criminal plans, the people they use to pay the bribes and the companies that knowingly allow these schemes to flourish. Bribery has real consequences. Companies may now have even more reason to avoid trial and seek non- and deferred-prosecution agreements with the DOJ when it asks about suspicious foreign payments. Companies have generally avoided the risk posed by defending criminal charges at trial by seeking deferred and non-prosecution agreements with the DOJ. As part of these agreements, companies have been willing to submit to very expensive and intrusive conditions, including heavy fines and penalties, cooperating with further DOJ investigations, establishing internal compliance programs, and appointing and funding independent, corporate monitors in order to avoid the drastic consequences a criminal conviction would pose. However, investigating and punishing companies for paying bribes to win public business remains an increasing priority of law enforcement agencies around the world...

[THE FULL ARTICLE CAN BE BOUGHT FROM WESTLAW]

## Civil Liberties Issues in the United States

### Prosecution of terrorism suspects in US Federal Court

On 14 March 2010, the Washington Post reported on this proposed educational day at Capitol Hill. During Attorney General Holder's recent appearance before a House subcommittee, he stated that the administration has not yet made a final decision on the place of trial of terrorist suspect Khalid Sheikh Mohammed and others, accused of planning the 9/11 terrorist attacks. On 18 March 2010, signatories to the bipartisan declaration, titled, '*Beyond Guantanamo: a Bipartisan Declaration*', spent the day on Capitol Hill, Washington D.C. This included Theodoorenson, advisor to President John F. Kennedy, retired diplomat Ambassador Thomas Pickering, former federal judge and FBI Director William S. Sessions, as well as many former federal judges, journalists, prosecutors, and military leaders, and family members of the 9/11 victims...

[THE FULL ARTICLE CAN BE BOUGHT FROM WESTLAW]

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<sup>1</sup> The United States 1977 Foreign Corrupt Practices Act (FCPA) criminalizes the corruption of foreign public officials to win or keep business. Representatives of state-owned companies could be public officials under the Act. The FCPA also requires companies whose shares are traded in the US to maintain books and records that accurately and fairly reflect their transactions, and to maintain an adequate system of internal accounting controls. Infringement of the FCPA can lead to civil or criminal penalties. Individuals can be jailed for up to five years. Fines in criminal proceedings can be up to twice the benefit sought by paying the bribe, and civil penalties can equal the gross amount of the benefit gained by the defendant.

## Extradition to the United States prisons: April 2012

**Sally Ramage**

A surprising ruling came after Easter 2012 by the European Court on Human Rights in Brussels. The ECtHR decided that the five UK suspected terrorists must be extradited to the U.S. even though that same court had decided in 2010 that it will not allow Abu Hamza and three other men to be extradited *until it is satisfied he will be treated humanely*.<sup>2</sup>

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<sup>2</sup> Vikram Dodd, 'Abu Hamza extradition blocked by European Court of Human Rights', *Guardian*, 8 July 2010. See also, Editor, 'Abu Qatada in court seeking bail', *Guardian*, 10 February 2012. Abu Qatada was held at Long Lartin prison in Worcestershire, from where he applied to be released on bail as defended himself against a UK deportation order to Jordan, having won his trial against extradition to Jordan.