

The Sovereign District of New York

In his article, “Street Cop,” Nicolas Lemann describes the prosecutors of U.S. Attorney’s office of the Southern District of New York. *New Yorker*, November 11, 2013. Given that so many defendants are prosecuted by them, it would be useful to know them:

“If you’re not a lawyer, and you meet a quiet, studious-seeming person and ask him what he does for a living, you may hear, ‘I’m an Assistant United States Attorney for the Southern District of New York.’ Sounds dull, like ‘I’m a tax preparer.’ What you were really meant to hear was: ‘I’m a member of the Killer Elite, baby! I’m Special Ops. I’m strike force. Be very afraid!’”

“U.S. Attorneys are federal prosecutors who work all over the country and report to the Justice Department in Washington. Working for a U.S. Attorney is a prestigious job for lawyers, and the U.S. Attorney for the Southern District of New York, whose jurisdiction is Manhattan, the Bronx, and the northern suburbs, has had a special, top-dog status. The office’s nickname is the Sovereign District of New York. People

who work in the Southern District went to the best law schools, were elected to law reviews, and clerked for federal judges. (Alumni of the office include former Mayor Rudolph Giuliani, former Attorney General Michael Mukasey, and the new director of the F.B.I., James Comey.) Now, in close cooperation with cops and F.B.I. agents, they prosecute the biggest, baddest, scariest criminals: evil billionaires, the Mafia, drug gangs, terrorists. This gives them macho points in addition to their academic credentials.

“Lawyers who get jobs in the Southern District mostly spend their careers moving around a small circuit that encompasses the federal courthouse in lower Manhattan, the major Wall Street law firms, and a few government agencies in Washington, notably the S.E.C. Inhabitants of this closed world who work as prosecutors or enforcers have in the past and will in the future defend, for a lot more money, the sorts of people they’re going after now.

“Members of the Killer Elite see government as the highest calling. [As the head of the SEC] told me, ‘Your job as U.S. Attorney is to do the right thing. You’re going after bad guys. You’re doing something for society every day. You feel good about your job every day. It sounds hokey, but it’s true.’ On the other hand, if you spend your whole career in government, or in a fancy law firm or a

big bank, you’re seen as ever so slightly a loser. In the Southern District, you get much more courtroom experience than you would in a firm, and in a firm you get much more training in the complexities of the financial world than you would working for the government.

“While you’re busting your ass for relatively little money in the public sector, you need not worry that you’re sacrificing future earning potential. You’re actually doing the opposite, since law firms are increasingly seeking attorneys who can defend their clients against newly empowered financial regulators. As one former Assistant U.S. Attorney told me, the Southern District’s securities-fraud division is its ‘departure lounge.’

“The Killer Elite brush aside any suggestion that they might go easy on Wall Street firms because they expect to work for Wall Street later; or that, when they’re practicing law, they would trade on their connections with government prosecutors to make their clients’ problems go away. ‘Rightly or wrongly, there’s a kind of arrogance that comes from being in the Southern District of New York,’ Steven Cohen, a former assistant who is now a partner at a law firm. ‘Most of these people do not view themselves as being subservient to their clients. The client is free to accept or reject their advice. That’s all I owe them. I’m not beholden to them.’

Daniel Richman, a Southern District alumnus who teaches at Columbia Law School, told me, ‘When you hear about a former Assistant U.S. Attorney coming back to the office to talk about an investigation, one could say, ‘It’s the old-

boy network.' But those who are closer to the situation see that it's a much more beneficent system. The company chose a former Assistant U.S. Attorney. That shows it's committed to playing by the rules. And that's rewarded.' "

Street Cop By Nicholas Lemann,
New Yorker, November 11, 2013

Congress shows bipartisan support of changing mandatory sentencing laws

Published January 05, 2014
FoxNews.com

An unusual alliance of leaders in Congress is pursuing major changes in the country's mandatory sentencing laws. The congressional push comes as President Obama draw attention to the issue of mandatory sentences, particularly for nonviolent drug offenders.

Supporters say mandatory minimum sentences are outdated, arguing that they lump all offenders into one category and rob judges of the ability to use their own discretion. They also cite the high costs of the policies: The Justice Department spends some \$6.4 billion, about a quarter of its budget, on prisons each year, and that number is growing steadily.

The yearly cost for one federal

inmate ranges from \$21,000 to \$33,000 depending on the prison's level of security. About half of the nation's more than 218,000 federal inmates are serving time for drug crimes -- and virtually all of them faced some form of mandatory minimum sentencing.

The Fair Sentencing Act, passed in 2010, drew bipartisan support for cutting penalties on crack cocaine offenses. The bill reduced a disparity between crack-related sentences and sentences for other drugs, though it only addressed new cases, not old ones.

One of that bill's chief sponsors, has written a much broader bill called the Smarter Sentencing Act. It would expand a so-called safety valve already on the books that gives judges discretion for a limited number of nonviolent drug offenders. The new law would allow judges the same latitude for a larger group of drug offenders facing mandatory sentences.

Senator Leahy has introduced legislation that would expand the safety valve even more, to all federal cases with mandatory sentences if certain conditions are met. Another bill, allows inmates to earn credit for completing programs designed to reduce recidivism.

Leahy's committee delayed work on the legislation until early 2014 in large part because behind-the-scenes talks are proving fruitful.

A number of outside groups have expressed support for the changes in the law and they run the ideological spectrum,

Commentary: this all good news but

as I read the new proposals they simply provide for widening the eligibility of people who can qualify for safety valve consideration. That is not the wholesale or even partial elimination of the mandatory minimum sentences. you still have to earn your way to coming from under the mandatory minimum sentences. Oh, and one more thing. NONE OF THESE BILLS ARE IN EFFECT!!!!!! NOT in effect. They are just proposals. When they become law you can be sure that To the Point (in Spanish (Al Grano) will let you know.

– David Zapp

David Zapp and Johanna Zapp

articles are available on the web at <http://davidzapp.com>

Mr. Zapp and Ms. Zapp

(daughter) are criminal defense lawyers specializing in narcotics, extradition and money laundering cases.

Mr. Zapp can be contacted at

917-414-4651 or

davidzapp@aol.com.

Ms. Zapp can be contacted at 917-742-4953

or jszapp@aol.com

Write to us:

Legal Publications in Spanish

P. O. Box 5024

ATTN: David Zapp, Johanna Zapp

Montauk, NY 11954

