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## Cooperation as a Money Making Scheme. Beware of The Messenger...

Ex-defendants who have cooperated with law enforcement and have served their sentences, are trying to monetized their experience by bringing drug dealers to U.S. agents—for a price, of course to be paid by the drug dealers. *The quid pro quo* though is that the drug dealers have to cooperate with the government. Some lawyers have begun this practice too. This unseemly practice has even extended to unindicted people on the OFAC list. People should know that being on the OFAC list does not nec-

essarily mean that you are in danger of being indicted. In most cases it means that the government does not have the sufficient evidence to indict you criminally.

So why become an informant to get off OFAC? Why insinuate yourself into “Gringolandia” if you do not need to? Trust me, you won’t like it.

– David Zapp and Johanna Zapp

## Explanation of Sentencing Reform Act and Corrections Act of 2015

Sentencing Reform and Corrections Act, was approved by a bipartisan vote of 15 to 5 on October 22, 2015. before it can become law, it must pass through the senate, it must pass through the house of representatives and then the president must sign the new law.

There are high hopes that this will happen, but its not clear when this will happen. So, to be clear, these not changes have not been enacted yet.

Under the bills, the mandatory sentences that are currently issued under the federal “three strikes” law for people convicted of three drug-related crimes would be reduced from a life sentence to a mandatory minimum of 25 years. The mandatory minimum sentence for a second drug conviction would also be reduced

from 20 years to 15 years. In many cases these changes would apply retroactively to currently incarcerated inmates. Judges would also get more discretion to issue sentences below the statutory minimums for defendants who have not been involved in violent crimes, have not been known to possess firearms, and are not part of a “continuing criminal enterprise.”

The bills would also retroactively reduce sentences for inmates who were sentenced under the exceedingly harsh guidelines for crack possession that were required by federal law until 2011. From 1994 to 2011, a person possessing just five5 grams of crack was considered a felon, while a person found with powdered cocaine would have to have 100 grams in their possession for a similar conviction. In 2011 Congress increased the amount of crack required for a similar future convictions to 28 grams, and this bill would apply that change to people convicted of crack possession prior to 2011 as well. The statutory maximum sentence for unlawful possession of a firearm by a convicted felon would be increased under the bills from 10 years to 15 years.

– David Zapp and Johanna Zapp

## OFAC and the Law

OFAC puts kingpins on the “kingpin list” also known as the “Clinton List” But many people who get on the list are not kingpins—far from it.

Once official word gets around that you are on the list, banks in the U.S. will close your accounts. In fact, banks in other countries may close

your accounts as well and cancel your credit cards although they are not required to do so.

Your lawyer can determine the basis for putting you on the list by reviewing the “administrative record” which he or she will request from OFAC. You may challenge your designation on the list. But I can tell you from experience that getting on the list is much easier than getting off it.

In time, however, the government has the burden to demonstrate to a court why an individual should still be on the list, and your argument should be that you should *no longer* be on the list. If OFAC refuses to remove you, (a likely probability,) you can and should challenge the decision in court. That is when they almost always settle with you. If they settle with you, that means you will be removed from the list. OFAC is not an organization that makes decisions about who gets off the list, they are more like cops, they just do what they are told. You’ll get your justice in court.

– David Zapp and Johanna Zapp

## US Citizen in La Picota looking for help from Federal Judge

*The article below is an excerpt from a New York Post article that was published on November 21, 2015. It was written by Josh Kosman.*

A Manhattan federal court judge took prosecutors to task for not helping a US citizen escape an “intolerable”

situation in Colombia’s notorious La Picota jail.

Kaleil Isaza Tuzman, a serial entrepreneur charged fraud, had asked Manhattan US Attorney Preet Bharara (SDNY) for help in expediting his extradition hearing saying he has been beaten and feared for his life.

But Bharara claims there is nothing he could do as the US was bound by the US-Colombia extradition treaty. Plus, prosecutors claimed there was no real evidence Tuzman was beaten.

Tuzman is also a flight risk, prosecutors claim.

Judge Paul Gardephe chastised prosecutors — his voice rising at times — telling them to find a way to get Tuzman back to the US as soon as possible.

“I want someone to make it their number one priority” to get him extradited to a US jail, the judge said. “I don’t get the impression you are making it a priority!”

“I believe that good people working together could find a creative solution here, but what’s lacking for whatever reason is the motivation,” he said.

Tuzman had been working and living in Colombia part-time when he was arrested on Sept. 7 — one day before a grand jury empaneled by Bharara indicted the 44-year-old businessman, who was the star of the 2001 documentary, “Startup.com.”

Tuzman is sharing his 90 square-foot cell with two inmates, one an accused narcotics trafficker and the other an alleged murderer.

Lawyers for the businessman claim Tuzman was beaten because he

is a Wall Street hotshot.

After the attack, Tuzman’s lawyers asked Bharara to help get him out of the jail ASAP by vacating the indictment, allowing him to walk free.

But Tuzman agreed to be immediately rearrested and taken back to the US.

Bharara, in turning down the request, said Tuzman is a flight risk. Once free, Tuzman could flee and there would be nothing the US could do to stop him.

Lawyers for the jailed businessman denied their client was a flight risk, saying he frequently returns to the US to see his family.

“I don’t know if it would wreak havoc to have him surrender to a US official,” Judge Gardephe said.

The judge ordered prosecutors to provide him with an affidavit from a State Department official by close of business Nov. 25 explaining why it would hurt relations between the countries.

– David Zapp and Johanna Zapp

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