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Fraud Squad. How Improving Relations Between the U.S. and Cuba Could Impact Fraud Cases

By Frank S. Goldstein

The possibility of a political thaw between the U.S. and Cuba is sparking discussion across the country—especially among legislators—but also it might affect insurance fraud prosecutions in the U.S. How are these two issues linked, and why should you care?

Cuba had a reputation for safeguarding Medicare and insurance fraud fugitives. Now the island nation has expanded its safe harbor to other criminal activities. As an attorney concentrating in the detection, investigation, litigation, and prevention of insurance fraud, I can confirm that many schemes carried out in the U.S. have their roots in Cuba at the expense of consumers throughout this nation.

The problem stems from those who take advantage of our nation's open-door policy for Cuban refugees by falsely representing that they are fleeing communism and the Castro government.

This virtually guarantees admission to the U.S. and, along with the ability to freely travel to and from Cuba, has enabled a thriving underground criminal network to take root and operate here.

Everything from Medicare and credit card scams to staged auto accidents and phony medical clinics have become “cash cows,” enabling crooks to scam millions of dollars from insurance companies and others.

A year-long investigation by South Florida's *Sun Sentinel* newspaper resulted in a series of articles published earlier this year entitled, “Plundering America: The Cuban Criminal Pipeline.” The series detailed the breadth of Cuban-operated organized scams.

While many of these criminal enterprises initially start in

Florida, investigative reporters found that Cuban crime rings had begun expanding across the country to tap new markets or, in some cases, escape prosecution. For example, when Florida cracked down on one gang, members simply moved up I-75 into Georgia and continued their scams.

The newspaper cited statistics that Cuban natives had been convicted of criminal activities in 34 states, Puerto Rico, and

Washington, D.C., during the last 20 years. But conviction doesn't necessarily mean time served or restitution paid.

When authorities close in on their criminal operations, perpetrators simply flee to Cuba. The newspaper offered details about one auto fraud suspect who caught a flight to Cuba in 2012 on the morning that his trial was to begin. Other Cuban-born fugitives have fled to the island after bonding out of jail or on the eve of their trials.

Once in Cuba, they no longer

have to worry about being arrested by U.S. authorities, but the fraud-related costs continue to mount for American consumers.

In the case of the fugitive who skipped out the morning of his trial, litigation against him moved forward—along with an appeal—at the taxpayers' expense, even though the fraudster would never serve his sentence or pay restitution. In other instances, fugitives now living in Cuba reportedly are continuing to manage fraud rings in the U.S. long distance.

The *Sentinel's* report says authorities estimate that more than 500 Cuban-born fugitives have outstanding arrest warrants on federal charges in the U.S., and as many as 500 more face state charges in Florida alone. Not only will they never be tried on those charges, but also attorneys cannot even interview them to



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Investigation

learn how we might better curb criminal fraud in the future.

I'm one of those attorneys. "Operation Sledgehammer" was a three-year, multi-agency probe into a major insurance fraud ring that led to the arrests of 26 ring leaders, but several evaded capture. At least five reportedly fled to Cuba, including several who were suspected of defrauding my insurer clients. But Cuba is sheltering the staged auto scheme participants that I and other attorneys need to question to protect our clients from ongoing scams. The Cuba-U.S. extradition treaty signed more than 100 years ago is no longer recognized by either country, so we are stuck on the outside looking in.

Normalized relations between the U.S. and Cuba might remove some obstacles to extraditing fugitives or at least allow for interviews about their criminal activities. But will it actually happen?

There certainly are no guarantees, and reestablishing diplomatic relations with Cuba could easily be a double-edged sword—or worse.

Relaxing our stance against Cuba could open up free trade and free travel, but still not allow extradition or grant

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access to question Cuban residents about criminal activity here. At the same time, any newly established freedoms could spark an even larger influx of organized crime from the island.

There are those who argue that new, softer policies regarding Cuban immigrants and travel to the country already enable the so-called "Cuban criminal pipeline" to exist and operate successfully in the U.S. Reestablishing diplomatic relations with Cuba might only exacerbate

the problem. These critics of the new policies may be right, but I'd still like to see our government take steps that could help put a chink in the armor that fugitives currently enjoy wearing in Cuba.

Pragmatically, I don't expect I'll be speaking anytime soon with those Cuban fugitives. This is why I believe we must continue to aggressively fight the battles that we can here in the U.S. That means proactively going after organized fraud ring leaders, making it harder for fraud to succeed, and implementing tighter bond restrictions in cases where foreign nationals are charged with crimes.

If we can take the profits out of the equation or at least reduce the windfall potential, perhaps the Cuban fraud pipeline, and others like it, won't look quite so attractive. **CM**

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