

Desenreda casos en MPs de Michoacán la limpia de corrupción en México

Un examen del expediente de un caso cerrado muestra que los fiscales se basaron en pruebas deleznable bajo el escrutinio judicial y en tres informantes anónimos pagados, cuyo testimonio fue en gran parte de oídas.

An examination of the sealed case file shows prosecutors relied on evidence that didn't hold up under judicial scrutiny and on three anonymous paid informants whose testimony was largely hearsay.

MEXICO UNDER SIEGE

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Reporting from Mexico City and Morelia, Mexico — When 35 mayors, prosecutors, police chiefs and other officials in the state of Michoacan were hauled into jail and accused of taking bribes from a cartel last year, it looked as if the federal government was finally attacking the political collusion that has long nurtured the drug gangs. But instead of heralding a bold new front in Mexican President Felipe Calderon's 4-year-old drug war, the case has turned out to be an embarrassing example of how that offensive is failing.

More than a year later, the prosecution is in ruins.

Judges ruled that the evidence was too flimsy, and all but one of the suspects has been freed. Many have returned to their old jobs, accusing the government of a politically motivated witch hunt during an election season.

The high-profile collapse underscores fundamental defects in the Mexican criminal justice system, including the country's *ministerios publicos*, a combination detective and prosecutor. These officials are poorly paid, frequently lack professional training and have been known to throw cases in exchange for bribes or to escape possible retribution.

"This is the weak link of the Mexican criminal justice system," said John Mill Ackerman, a law professor at the National Autonomous University of Mexico and editor in chief of the Mexican Law Review. "If the *ministerio publico* doesn't do its job right — even if you have an honest judge — you're not going to be able to convict."

An examination of the sealed case file shows that prosecutors relied on circumstantial evidence that didn't hold up under judicial scrutiny and on three anonymous paid informants whose testimony consisted largely of hearsay.

Court files in criminal cases in Mexico, unlike in the United States, are not public. The Times obtained the file from participants in the case, opening a rare window onto the workings of the Mexican judiciary.

Some suspects were accused of accepting tens of thousands of dollars a month from La Familia, the dominant cartel in Michoacan, according to the court filings. But there was no sign that investigators found or even looked for proof in the accused officials' financial holdings or telephone records.

In affidavits, Mexican federal police described stakeouts in which they watched alleged drug figures hand suitcases and envelopes to people the officers said they believed to be corrupt officials. But investigators were not sure of the identities of the recipients, and the file contains no evidence that they ever determined what was in the bundles. The accused officials denied they were at such meetings.

The disintegration of the case has added to skepticism among Mexicans already mistrustful of the justice system. The Calderon government's suggestion that judges acted improperly won't do much for public confidence either.

"If even a case with so much resonance and so much attention can't end in conviction," political analyst Alfonso Zarate asked, "what can we expect from the rest of the cases that don't claim as much attention?"

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La Familia, one of Mexico's newest drug cartels, has grown steadily in ruthless power and influence in Michoacan, Calderon's picturesque home state.

Unlike other criminal organizations, La Familia has deep roots in society, projects a cult-like aura and sees itself as a political player. It has penetrated city halls and police departments while maintaining tight control over methamphetamine labs and vast marijuana fields.

It had long been an open secret that numerous Michoacan officials took money to facilitate La Familia's operations or turn a blind eye. The arrests last year stunned many who thought so-called *narcopoliticos* were untouchable.

Ignacio Mendoza, then deputy state prosecutor for Michoacan, was on vacation in Las Vegas with his wife and friends when Mexican soldiers and federal police swept

into the state May 26, 2009, in a surprise roundup. When he got word that he was among those wanted, Mendoza went home the next day and turned himself in.

He says he assumed he would give a statement and be done. Instead, he was bundled off to a row of small cells where he found his boss, state prosecutor Miguel Garcia Hurtado, and a who's who of Michoacan's political and law enforcement elite.

The indictment accused Mendoza of accepting \$20,000 a month to provide La Familia with protection and to inform its henchmen about pending military operations, information to which Mendoza says he did not have access.

In an affidavit, four federal agents said they watched from a neighboring table as Mendoza and a police commander met in a Sanborn's restaurant in the state capital, Morelia, with an alleged La Familia leader known as "El Tio," or "Uncle." At the end of a 15-minute meeting, the alleged drug boss handed over a black suitcase. Its contents were not revealed, and it was not clear from the court documents examined by The Times whether any photographs were taken.

Mendoza insists the meeting never happened.

After Mendoza had spent eight months in prison, a judge threw out the case, saying the testimony by the prosecution witnesses was vague and contradictory and didn't meet legal standards of proof.

"Their case was full of inconsistencies and lies. We are not the Sisters of Charity, but what they accused us of was not true," Mendoza said in an interview.

He said the case was riddled with errors, including mistaken names of suspects, reports of surveillance at locations that didn't exist, and an allegation that dirty money financed a political candidate who was appointed to office, not elected.

A witness who claimed Mendoza met with cartel leader Jose de Jesus "El Chango" Mendez later could not recognize Mendoza's photograph when police showed it to him, according to the court file.

In bits and pieces, the broader prosecution unraveled as district judges and appeals courts examined the evidence.

Three suspects were freed almost immediately and nine others eventually acquitted. In 22 other cases, judges set aside charges or granted injunctions halting proceedings.

"Once I got out of prison, I knew we would all get out," Mendoza said. "The kernels were falling from the cob."

Mendoza, 39, whose family has strong ties to the opposition Democratic Revolution Party, or PRD, said he is convinced he was targeted because of his politics. He has not returned to the prosecutor's office but is working as a special advisor to leftist Michoacan Gov. Leonel Godoy of the PRD.

One of the last to be freed was Mario Bautista, who at the time of his arrest was commander of the Michoacan state police. He was one of the nine detainees acquitted by a judge.

"I was a police officer for 32 years, and in 10 minutes they destroyed my life," said Bautista, who was accused of accepting \$20,000 a month from La Familia's reputed boss, Nazario Moreno. "We had to prove our innocence."

Among those accused was also Genaro Guizar, mayor of the remote city of Apatzingan, a stronghold of La Familia. Guizar is a U.S. citizen who lived for many years in San Jose, where he made a small fortune operating restaurants and liquor stores. He returned to his native Michoacan in 2004.

In court filings, prosecutors alleged that Guizar was point man for the importation of chemicals used in La Familia's methamphetamine labs and for distributing the finished product.

In an interview, Guizar, 63, said the charges were politically motivated and presumed he had powers he did not. Guizar, who owns a 400-acre lime farm in semitropical flatlands around Apatzingan, was freed in April after a judge declared him not guilty. He is back at work, inaugurating hospitals, meeting voters and even attending a meeting with Calderon.

"Calderon just had to try to impress the world, to prove that he was catching traffickers," Guizar said. "But we are all out now. So you tell me what he achieved."

Some of the former prisoners strain credulity in denying any knowledge of or dealings with La Familia. Mendoza claimed he'd never heard of Servando "La Tuta" Gomez Martinez, one of Mexico's most notorious drug suspects, until he was questioned in jail. Bautista said it wasn't his job to investigate the cartel because drug trafficking is a federal crime, not a state offense. Guizar said, essentially, that one survives by not noticing.

Guizar noted proudly that he moved about without the bodyguards who escort most officials: "If you don't get involved, you shouldn't be afraid."

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The piece of evidence that federal authorities regarded as a smoking gun was

discovered when police captured Luis Gomez, the son of "La Tuta," in January 2009.

In the younger man's Cheyenne truck, police testified, was an Excel spreadsheet listing La Familia payoffs to 28 mayors, police commanders and other officials. Judges said prosecutors never proved a direct link between La Familia and the suspects, rendering the spreadsheet meaningless.

Much of the case was based on the testimony of three witnesses identified in court records with code names: "Ricardo," "Emilio" and "Paco."

Far from bolstering the prosecution, these paid informants contributed to its unraveling. Judges said they found it improbable that the informants could know all they claimed to know about so many defendants, and that much of their testimony was mere hearsay.

"Ricardo," a former Michoacan police officer who said he had worked as a bagman for La Familia, offered a lengthy list of officials to whom he allegedly delivered cash. But defense attorneys say "Ricardo," once charged with kidnapping, became an oft-used government witness in 2005 — before much of what he testified to happened.

In case after case, evidence was thrown out on the ground that it was hearsay or came from unqualified witnesses, such as street vendors speaking about payments to top officials.

Calderon's office and the federal attorney general's office did not respond to requests for comment for this article.

In public comments in October, Mexican officials accused the Michoacan judge, Efrain Cazares, of ignoring evidence and overstepping his power. Some officials hinted at judicial misconduct. Calderon, a lawyer, called the judge's standards "absurd," saying Cazares erred in rejecting testimony from the unnamed witnesses.

The government's heavy reliance on unnamed "cooperating witnesses" was a fundamental flaw, analysts said.

"This is where the process broke down," said Pedro Jose Penaloza, a criminologist who teaches at the Ibero-American University in Mexico City.

In the same case, charges are pending against a federal congressman, Julio Cesar Godoy, half brother of the Michoacan governor. Accused before his July 2009 election victory of having ties to La Familia, he vanished for 15 months. Then, in September, he slipped past police surrounding the Chamber of Deputies to take the oath of office.

As a congressman, Godoy is immune from prosecution.

Federal prosecutors are trying to strip Godoy's immunity. But that decision rests with his fellow congressmen — far from the reach of Mexican law enforcement.

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