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MICHELLE GARCÍA

MONDAY, NOV 14, 2011 07:00 AM CST



A narco's case against the U.S.

How Operation Fast and Furious and a U.S. government informant benefited Mexico's Sinaloa cartel

BY MICHELLE GARCÍA

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Joaquin Guzman-Loera, aka "El Chapo," and Jesus Vicente Zambada Niebla (Credit: AP/Reuters)

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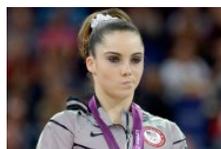
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to protect a region of villages and ranches in northern Mexico from the Gulf Cartel and Zetas can describe, in detail, the profile of his assigned enemy, the country's notorious drug cartels.

"These guys are sick in the head," he says, gazing at the brush and mesquite from behind his aviator sunglasses, toward the camps of the "enemy." "They follow a sick ideology, they're animals." Without missing a beat, he continues, "Look, there's no jobs, the poverty is bad; there aren't enough schools. There is nothing for these boys and the cartels offer them a job. They tell them, 'You can have any kind of pickup truck you want,' he says. "They get paid more than we do!"

The commander and his soldiers have staked out a lakeside mark

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fishing tournament. Bureaucrats from the state tourism department and soldiers, some manning gunners mounted on military trucks, vastly outnumber the few tourists. Even so, reporters from TV Azteca prepare a promotional report about the event, an image that makes an effort to convince tourists that the "frontera chica" (small border), the nickname for this swath of the border, is secure and ready for tourists. Last year when the Gulf Cartel and Zetas launched their siege on the frontera chica, the then governor of Tamaulipas dismissed the reports of decapitations, incinerated cars and shootouts as merely a "collective paranoia."

Such is the panorama of Mexico's violence, a distorted battleground of propaganda, impunity and duplicity amid death. Such is the conflict in which the U.S. government has become firmly entrenched over the last four years since newly elected President Felipe Calderon launched his controversial U.S.-backed "war against the drug cartels." The conflict has cost between 40,000 and 50,000 lives and violence has worsened with the U.S.-Mexican military deployment, according to a recent report on global violence by the Geneva Delegation. Violence in some parts of Mexico now outstrips the levels of many war zones.

In Washington pundits and pols have beat the drums of war calling for more intervention. Rep. Michael McCaul, R-Texas, recently convened hearings on a bill to designate Mexico's organized crime groups as "terrorists."

Retired Gen. Barry McCaffrey, the former drug czar, took to the podium at a recent conference on crime and terrorism at George Washington University to sound the alarm of a "cross-border threat," saying, "For God's sake, these people are fighting for their lives, they are being murdered, these men and women of law enforcement ... we need to stand with them."

Meanwhile, Republicans fire political ammunition at the Obama administration and Attorney General Eric Holder, in particular for the catastrophic Bureau of Alcohol, Tobacco and Firearms operation Fast and Furious, the 2.0 version of the Bush administration's 2007 Operation Wide Receiver. Both sent high-powered weapons into Mexico and the eager hands of criminals. Under Fast and Furious, the weapons were largely funneled to the Sinaloa cartel, a drug-trafficking syndicate that became a formidable force in the last decade.

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The journalistic mind

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formidable force in the last decade.

Some in Washington have suggested that the war as waged by the U.S.-backed Calderon has effectively shielded the Sinaloa cartel. Asked about allegations at the conference, Gen. McCaffrey responded cryptically, “Almost nothing in life is yes or no.”

A cartel capo speaks.

From inside a Chicago courtroom, a high-level capo with the Sinaloa cartel has mounted his defense by exposing the murky inner workings of organized crime and the U.S. government’s strategy in Mexico. A television beams in the image of Jesus Vicente Zambada Niebla, his slight frame draped with a prison-issued white shirt, from a minimum-security prison in Michigan where officials transferred Zambada to allow him access to fresh air while minimizing the risk of a jailbreak or assassination.

Zambada was allegedly a senior cartel operative. He is said to have handled the logistics of moving heroin and cocaine into Chicago and delivering the proceeds from drug sales — some \$1.3 billion over three years — to two Sinaloa cartel leaders, Ismael “Mayo” Zambada García and Joaquin “Chapo” Guzman.

The Zambada case has electrified the Mexican political class and rattled the U.S. press after his attorneys claimed that U.S. government agents sanctioned his criminal operations. Defense attorneys have demanded government documents related to operations that permitted weapons to flow into the hands of the Sinaloa cartel and government informants responsible for killings and moving drugs. Zambada and his lawyers are arguing that the U.S. government has effectively aided the Sinaloa cartel, or at the very least condoned criminal activity. Zambada’s defense, in essence, is a Mexican legal offensive against the U.S. tactics in the war on the cartels.

It is a bare-knuckled legal fight. On one side are two veteran organized crime attorneys George Panzer and George Santangelo (whom a New York judge once described as house counsel to John Gotti). On the other side is federal prosecutor Patrick Fitzgerald, best known for prosecuting the 1993 World Trade Center bombing and drawing up the first indictment for Osama bin Laden. The U.S. prosecutors say Zambada’s argument is built on “the unsupported and implausible pretense that an authorized agent of the United States government sanctioned not only the defendant, but the entirety of one of the largest criminal organizations in the world, to traffic limitless quantities of drugs.”

Yet Mexican suspicions of U.S. actions are running higher than ever. Like the disastrous ATF operation Fast and Furious that unleashed thousands of weapons onto the streets of Mexico, the Zambada case has big implications for U.S.-Mexico relations.

Luis Astorga, author and researcher in drug trafficking, says Mexicans may begin to see an ally with two faces: “a friendly one that wants to support the institutions of Mexico, and the other that makes deals and undertakes operations like Fast and Furious,” he said. “If it turns out that there was some sort of agreement, that would be a low blow to Mexico because who is paying the cost in blood and politically is Mexico, not the

United States.”

The informant as trafficker

Zambada’s case largely relies on his relationship with a Mexican attorney and longtime confidant named Humberto Loya. In 1998, when Loya was facing federal indictment in San Diego on drug charges, he met with DEA agents in the Mexican city of Monterrey and signed on as an informant. DEA agents cleared the deal with DOJ’s Sensitive Activities Review committee, which oversees potentially controversial or high-risk operations.

Under the agreement submitted to the court, Loya was authorized to purchase and deliver drugs and infiltrate drug cartels. According to the defense and not disputed as of yet by the government, Loya supplied DEA handlers with information on rival cartels. The information came from Zambada, his father, Ismael “Mayo” Zambada, and from Joaquin “Chapo” Guzman himself. Zambada’s attorneys say because the U.S. agents knew the intelligence originated from Zambada and Guzman, who gave their blessing to Loya’s snitching, they too are covered by the deal — an implicit agreement.

The Mexican government was kept in the dark about the agreement. Indeed, Zambada says that U.S. agents tipped off Loya and the Sinaloa cartel about Mexican law enforcement operations. According to one DEA agent who spoke on the condition of anonymity, informant agreements are tailor-made for each case, he said, and drug trafficking by informants is only permitted under agents’ watchful eyes.

“Everything you do is under our direction,” he said. “We’re not going to let him go off and do his thing.”

It is conceivable, the agent said, that DEA agents understood that Loya was cooperating with the express permission of Chapo Guzman. He declined to comment if informant agreements between U.S. officials and cartel informants are kept secret from America’s ostensible ally, the Mexican government.

“Look, you need bad guys to get bad guys,” said a law enforcement agent working on drug trafficking on the Texas border. “Sometimes you have to make a deal with the devil.”

For Loya his cooperation paid off and the charges were dismissed. The 1998 federal indictment, which also lists Chapo Guzman, revealed the cozy relations the Sinaloa cartel enjoyed with some people of the Mexican government. Loya allegedly was responsible for paying off Mexican officials to ensure drug loads weren’t intercepted, according to court records. And if a member of the Sinaloa cartel was arrested, Loya simply bribed officials in the Mexican attorney general’s office, for access to the files so he could alter them.

“The cartels themselves aren’t powerful,” says investigative reporter Anabel Hernandez, author of “Los Senores del Narco,” a popular book about cartel leaders. “If Chapo didn’t depend on the protection of the Mexican government, he couldn’t have grown so much or be able to buy so much drugs. Chapo studied to the third grade ... he’s a *pendejo* [idiot]. The power he has is not because the Mexican government is dumb. It’s because of

corruption.”

ICE agents listen to a murder

Zambada’s attorneys have resurrected some lesser-known cases of informant relations gone badly, citing them as examples of U.S. agents turning a blind eye to criminal activity — often to the benefit of the Sinaloa cartel.

In Ciudad Juarez, a former police chief Jesús Fierro-Méndez took orders from Guzman while supplying U.S. Immigration and Border Enforcement (ICE) agents with information on the rival Juarez cartel at the same time he was smuggling drugs for the Sinaloa cartel. DEA agents eventually arrested Fierro-Méndez.

More notorious was Guillermo Ramirez Peyro, aka Lalo. He served as U.S. informant 913 for ICE. He also purchased the tape and quicklime used to dissolve at least one body in the infamous Juarez “House of Death” of 2003, where police turned up the remains of 12 people. ICE agents in El Paso reportedly listened in on one killing where Ramirez was present. Agents went to lengths to protect their informant. Dallas Morning News veteran drug trafficking reporter Alfredo Corchado reported that after the “House of Death” was discovered, handlers tampered with an internal memo to make it appear that Ramirez merely “supervised” rather than actually participated.

The U.S. government collaborated with Ramirez for four years, according to court documents in his immigration case. ICE agents provided him with immunity and \$220,000 in return for information on the rival Juarez cartel. His information resulted in more than 50 arrests. Earlier this year Ramirez was released from an immigration center after six years in detention. U.S. officials agreed to cancel his order of deportation citing risk of death by the Mexican government or organized crime. He served no time for the killings. He has applied for a U.S. green card.

“We armed the cartel ... disgusting”

The case of the corrupt cops went to trial as the Sinaloa cartel was waging a violent offensive to capture the lucrative Ciudad Juarez route from the Juarez cartel, with the apparent help of the Mexican military. According to a 2009 U.S. diplomatic cable released by WikiLeaks, the Mexican army did little to quell the violence: “The view is widely held that the army is comfortable letting the Sinaloa and Juarez cartels diminish each other’s strength as they fight for control of the “plaza” (with a corollary theory being that the army would like to see the Sinaloa cartel win).”

In April 2009, President Obama traveled to Mexico for his first state visit. He declined to reinstate the U.S. assault weapons ban but promised help to the Mexican government concentrating on gun smuggling and gun trafficking. In the fall, the Phoenix branch of the Office of Alcohol Tobacco and Firearms launched Operation Fast and Furious that sent some 2,000 high-powered firearms into Mexico by allowing straw purchasers — middlemen — to buy weapons and hand them over to organized crime groups. The catastrophically misguided idea was to follow

the weapons to drug cartels.

Almost immediately agents knew the weapons were landing in the hands of the Sinaloa cartel, according to a report from a congressional investigation. ATF agent Jose Wall wrote in an email, “[the head of the Sinaloa cartel] is arming for a war.” In a congressional hearing, ATF attache Carlos Canino testified, “We armed the [Sinaloa] cartel. It is disgusting.”

Some 200 people were found dead at crime scenes where weapons tied to Operation Fast and Furious were found. To date, one-half of the weapons have been recovered.

The Fast and Furious investigation has revealed disparate perspectives of the violence in Mexico as seen in the U.S. and Mexico.

“I cannot see anyone who has one iota of concern for human life being OK with this,” said whistle-blower John Dodson. But congressional reports show that in its pursuit of “higher-ups” the U.S. government paid scant attention to the deaths of Mexicans. Dodson testified that ATF supervisor David Voth “was jovial, if not giddy ... that, hey, 20 of our guns were recovered with 350 pounds of dope in Mexico last night.”

To some ATF agents the presence of Fast and Furious firearms at crime scenes meant their plan was working; that they were making connection between straw purchasers under surveillance and the drug trafficking organizations. It was only in December 2010 when an American, a Border Patrol agent named Brian Terry, was killed with a weapon linked to the operation that ATF terminated the operation.

Holes in the defense

Zambada’s defense, if the case goes to trial — both sides have engaged plea negotiations three times — will be tested in court next spring. What Zambada’s attorneys have suggested as signs of complicity could well be the result of the lack of information sharing and coordination that has long plagued intelligence agencies as cited in government audits. The El Paso Intelligence Center, located across the river from Juarez, which hosts 21 agencies with the objective of interdicting drugs, weapons and human trafficking, came under scathing criticism last year by the DOJ inspector general for its ineffectiveness.

Zambada certainly moved in a treacherous world. Just before Fast and Furious wound down in December 2010, his attorneys met with the informant Loya at the Four Seasons hotel in Mexico City. In a sworn declaration submitted to court Loya reportedly said he was warned by DEA agents that if ties between the U.S. government and Sinaloa cartel were discovered it would be disastrous for everyone. A defense attorney who served as an interpreter signed a sworn statement to that effect, but not Loya. Rebutting the argument, the government says Loya told his handlers that he disagreed with Zambada’s claims of immunity and he offered to meet with government prosecutors to “tell the truth.” The government, for its part, neglected to record those conversations with Loya, according to court documents. In the end, Loya canceled the meeting with the government prosecutors, claiming fear of

retribution. And for now it seems both sides are left empty-handed.

Both sides agree on this: On March 18, 2009, Loya escorted Zambada into the Four Season Hotel in Mexico City to meet with DEA agents and begin talks about a “direct” relationship as an informant. News of the meeting had leaked to a Mexican newspaper prompting a DEA supervisor to call off the plan. But Loya, according to the government, disregarded orders not to bring Zambada and all parties crossed paths that night. Zambada was arrested a mere five hours after the meeting.

Zambada’s argument is that the U.S. plays both sides when it comes to the Sinaloa cartel, and even President Calderon does not disagree. Chapo Guzman, the most-wanted drug capo, Calderon recently told the New York Times, “is not in Mexican territory, and I suppose that Chapo is in American territory.”

Along the border

As fishing boats zipped around the lake near Ciudad Mier, the commander and I discuss the imminent arrival of some 600 soldiers who had recently departed with great fanfare from Mexico City. Calderon was expected to inaugurate the newly constructed military barracks. In the long term, if soldiers expel the Gulf and Zetas, the area would be ripe for the taking. But that is merely more speculation in the shrouded world of drug wars, where bad guys can be harbored by anyone.

The commander strolled toward the lake and with the two soldiers that trail him everywhere, he mimes a rifle shot at the nearby black ducks and laughs. He then reaches down and selects a good-size rock, twirls it in his hand, cocks back in pitcher’s stance and launches the rock at the ducks. For all of the theatrics, the rock falls short, sending ripples across the water and scaring away a few straggler ducks, but the core group scarcely seemed to notice.

–This piece was reported from Ciudad Mier, Tamaulipas, Chicago, Mexico City.

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