

Plea Bargains, Fees for Witnesses

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MIAMI—Lawyer Michael O'Kane said he had no trouble last month when he sat down with federal prosecutors to resolve the case against his client, accused Panamanian drug pilot Daniel Miranda.

"We gave them a list of demands and they basically agreed to all of them," he said.

Last Wednesday, Miranda pleaded guilty to one count of trans-

porting \$800,000 in drug proceeds. In exchange for prosecutors recommending a lenient sentence that may result in less than a month of prison time, Miranda agreed to testify against his better-known co-defendant, ex-Panamanian dictator Manuel Antonio Noriega.

The deal with Miranda was the latest in a series of plea bargains that, in the eyes of some lawyers, underscores the extraordinary lengths to which the Justice Department has gone in its effort to convict

Noriega—the first former head of state to be brought to the United States for trial as a result of a foreign invasion by the United States. The Justice Department declines to comment on individual plea bargains.

The propriety of these deals had already emerged as an issue by the time jury selection began last week in Noriega's trial on drug trafficking and conspiracy charges. Noriega's lawyers have repeatedly accused prosecutors of passing out "Get Out of Jail Free" cards in exchange for

Against Noriega Questioned

cooked-up testimony against their client.

Moreover, say critics, not only have prosecutors dropped counts and offered dramatically lowered sentences to Noriega's codefendants, but prosecutors also have paid \$1.5 million in "fees" to another six men—most of them convicted drug traffickers and pilots—for information and potential testimony against Noriega. The prosecutors informed Noriega's lawyers of the fees in a letter.

One of the six was Tony Aizprua,

a Panamanian drug pilot who began to implicate Noriega after Aizprua's cocaine-filled plane was forced down in Florida four years ago. Since then, Aizprua has received \$510,921 from the U.S. government.

"What they are doing is giving the courthouse away," said Jeffrey Weiner, a Miami lawyer who is president of the National Association of Criminal Defense Lawyers.

Diane Cossin, spokeswoman for

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the U.S. attorney's office, declined to discuss any specific arrangements with witnesses, but said of the plea bargains, "We do not consider them unusual."

Many lawyers and former prosecutors agreed last week that the plea bargains are not radically different from those entered into by the Justice Department in other cases. The practice of "flipping defendants" to get higher-ups is a longtime prosecutorial practice that has been used in recent years in such high-profile, successful prosecutions as those of drug cartel kingpin Carlos Lehder in 1988 and District drug trafficker Rayful Edmond III in 1989, they noted.

"Within reason and common sense, you do what needs to be done to make your case," said Neal Taylor, a former assistant U.S. attorney who represents another Noriega codefendant who has pleaded guilty—Medellin drug pilot Roberto Streidinger. As Taylor and others have noted, without secret videotaped or written documentation proving that Noriega dealt drugs, prosecutors have been forced to find evidence among drug dealers, money launderers and other felons.

Nevertheless, many defense lawyers here say the bargains for testimony have rarely been as overt and across-the-board as in the Noriega case.

With Miranda's plea last week, seven of the 15 codefendants indicted with Noriega in February 1988 have agreed to plead guilty and cooperate with the government. Many of these "cooperating witnesses" were, like Noriega, charged with serious drug-trafficking crimes and under different circumstances could have faced decades in federal prison. Instead, prosecutors have recommended they receive sentences sharply lower than normal and have offered help with immigration and other problems.

"I've never seen anything like this, and I've been doing criminal defense work here for 18 years," said Joel Rosenthal, a Miami lawyer who represents Amet Paredes, another Noriega codefendant who pleaded guilty in the case last year.

Miranda, for example, had acknowledged flying a Learjet to Colombia to be outfitted for cocaine shipments of Medellin cartel boss Pablo Escobar. He had been facing up to five years in prison.

But prosecutors agreed to recommend he serve no more than 30 months, which O'Kane said will make his client eligible for parole within a few weeks—given the time he has served since his 1989 arrest.

Prosecutors also threw in a couple of sweeteners. They will ask the Immigration and Naturalization Service to grant Miranda, a Panamanian citizen, permanent "legal entry" into the United States. And at what O'Kane said was his insistence, they will recommend to the Federal Aviation Administration restoration of Miranda's commercial pilot's license.

Furthermore, O'Kane said last week, Miranda could provide only corroborating testimony about background events; he has never met Noriega.

A few weeks earlier, former Panamanian diplomat Ricardo Bilonick—who prosecutors charge served as Noriega's go-between with the Medellin cartel—entered a guilty plea to one count of racketeering. Besides agreeing to the dropping of two other counts (one of which involved the smuggling of more than 2,100 pounds of cocaine), prosecutors agreed to help expedite the entry of Bilonick's wife and children into the

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United States, recommend they stay here without visas and urge foreign governments that he not be prosecuted.

Bilonick, a confessed high-level trafficker who said he met regularly with Escobar, will serve some hefty prison time. He had been facing up to 60 years; prosecutors agreed to recommend 10 years at most, which, if adopted by U.S. District Judge William M. Hoeveler, could make him eligible for parole in less than seven.

(Current federal sentencing guidelines do not permit parole, but that applies only to crimes committed after they went into effect in 1987. All of the acts in the Noriega case allegedly took place before then.)

"This is a deal of a lifetime for a guy like this," said Daniel Forman, Bilonick's lawyer and a former federal prosecutor. "Given the level of this guy's activity, and the type of conduct he was involved in, this is the type of defendant who would have been looking at a lot more time."

The government reached a similar arrangement last December with former Panamanian Defense Forces Lt. Col. Luis del Cid, who is expected to testify about handing Noriega envelopes stuffed with hundreds of thousands of dollars of cash that had been passed to him by narcotics traffickers.

Del Cid had been facing four drug and racketeering counts totaling a possible 70

years in prison. Prosecutors dropped three of them and recommended a maximum of 19 years on the fourth. In addition, they promised to forgo deportation proceedings when del Cid is released.

Some lawyers pointed out last week that the government's offers to help with immigration problems is not unusual. The government has long sought to protect its most valuable witnesses through such vehicles as the federal witness protection program. In this case, Panamanians or Colombians who testify run a high risk of making enemies back home and also need protection.

The government should not extract cooperation from a witness and then leave him hanging," said Jim Gailey, the federal public defender in Miami. "They can't very well have him cooperate and then deport him back to Colombia."

Gailey last month arranged a deal for another codefendant, David Rodrigo Ochoa Hermida, a Colombian drug pilot serving a 15-year sentence in France for smuggling cocaine through Guadeloupe. Prosecutors said they would recommend a 10-year sentence for him but agreed that it could run concurrently with his prison time in France.

But Gailey said he is not surprised by the government's behavior. "There's probably never been a trial where the stakes are as high," he said.