

Heavy Traffic

Miami attorney Joaquin Perez helps drug kingpins get minimum jail time, maximum profits, by cooperating with the feds

By Steven Dudley

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Joaquin Perez steps gingerly from an SUV onto a red dirt soccer pitch. A dozen shacks surround the field. Behind a makeshift goal a man and a woman putter about their small wooden home. Children kick around empty Pepsi bottles and plastic bags littering the grass of their front yard. The heat from the sun flattens the senses; everyone gravitates toward the shade of broad-leaved Caribbean pines. This would be an everyday scene in most any Latin American village,

except for the group of men in green fatigues with AK-47s slung over their shoulders who linger at the edge of the property. The rifles are a reminder that Perez is far from his Miami law practice and plush Coral Gables home. Although he defends some of the most notorious drug traffickers in the world, regularly visits detainees in Florida jails, and frequently travels to Colombia, this jungle war zone is no place for a citified lawyer, and he knows it. Perez turns nervously toward the house, as a diminutive, neatly barbered man wearing a freshly pressed camouflage uniform and matching hat extends his hand to the lawyer. "*Hola, doctor,*" the man beckons in a raspy voice.

"¿*Cómo está?*" Perez answers, smiling meekly.

The two exchange a firm handshake. It is a formal yet gracious greeting. They are old pals from a war that has no end. The man in fatigues is Carlos Castaño, one of the most powerful individuals in a strife-torn country and one of the most sought-after fugitives in the hemisphere. Perez may have a small army of lawyers working for him in Miami, but Castaño has a *real* army. He's the head of the Autodefensas Unidas de Colombia (United Self-Defense Forces of Colombia) or AUC, a loosely knit federation of illegal paramilitary groups that has been fighting left-wing rebels in this country for two decades.

The men meet at this ramshackle settlement in the jungles of northern Colombia to talk about Castaño's future. The prognosis is grim. Castaño's war against the leftist guerrillas, which began as an act of revenge, has become a ruthless campaign of extermination that threatens to undermine

Steven Dudley



Surrounded by pigs and soldiers, Perez and Castaño talk strategy

Jonathan Postal (top),
Steven Dudley (bottom)



Perez moves from courtroom, to back room, to jail cell via telephone, airplane, and automobile

Jonathan Postal



Perez's toughest challenge yet: Keeping Castaño alive

Steven Dudley

Colombia-U.S. relations. AUC leaders massacre civilians and traffic drugs. Castaño is wanted in Colombia for killing scores of people: some shot, some burned, others buried alive. There are dozens of outstanding warrants for Castaño's arrest, and he has been convicted in absentia for arranging the Bogotá airport murder of an opposition political leader.

Last year, Attorney General John Ashcroft indicted Castaño for allegedly exporting several tons of cocaine to the U.S. The indictment also said that Castaño and his cohorts ordered men to decapitate a rival in Colombia and threatened to do the same to a man in Miami-Dade. During the news conference Ashcroft called Castaño's paramilitary organization "criminals ... who poison our citizens and threaten our national security."

Following the indictment, the U.S. asked for Castaño's extradition. For Castaño, extradition is akin to a death sentence, a borderless decree stating that sooner or later he will have to face justice. And the scarred warrior has turned to Perez for help.

Just outside the wooden home at the foot of the soccer pitch, the two men visit at a white plastic table beneath a canopy of foliage. It's been several months since Perez's last visit to Castaño's stronghold in Colombia. Perez hands the paramilitary leader a big plastic bag from Burdines. Inside are gifts for Castaño's wife and ten-month-old daughter. Like Castaño, Perez has a newborn -- a nine-month-old pudgy *barón* who has the serious countenance of his papa. The two men swap baby stories, and Castaño thanks the lawyer for the *regalos*. "You're a good friend," he tells Perez.

To get here, Perez took a commercial flight from Miami to Bogotá, where a three-person logistical support team waited: one Colombian lawyer and two of Perez's associates. The lawyer's handlers had rented an armored Toyota Land Cruiser strong enough to withstand a bomb blast, but no one was carrying a gun. ("I prefer a low profile," Perez says without irony.) The group traveled to a private airport just north of Bogotá, then climbed into a six-seat Piper Saratoga Perez had hired for the journey.

There, "04," a hulking paramilitary commander, and two Colombian policemen were waiting. "04" said the police had spotted an unidentified aircraft buzzing the area a few minutes earlier. After a quick chat, "04" thanked the policemen for their concern and ushered Perez into his SUV for the final leg of the trip.

Policemen, townspeople, and government authorities all know where Castaño is, but no one has turned him in. He has lived in their midst for years. Some credit him and his family for getting rid of the leftist guerrillas who'd terrorized and robbed the region. This tacit approval gave Perez comfort as he bounced over the bumpy roads and through dank settlements to see Castaño.

Doing flips



Perez's transport in Colombia: Two unarmed handlers and a Toyota Land Cruiser that can withstand a bomb blast

Perez's journey to the Colombian jungles began in Cienfuegos, Cuba, where sympathy for Castro's socialism ran strong in the streets and the family. His father was Spanish, his mother Cuban; Perez's grandfather worked in the Republican government of Spain before Francisco Franco overthrew it during the Spanish Civil War. Eventually the family relocated, first to Spain, then to Boston. Perez's parents worked in a medical equipment factory to support his studies at the University of Massachusetts and Boston College Law School. When Perez graduated, he got a job as a public defender in Rhode Island. "I was full of ideals. I was going to save the world," he says of those days.

Perez did well by the small state, which gave him a plaque that still hangs in his office commending him for his "contribution to the Hispanic community and the poor of Rhode Island." When he arrived in Miami in the early Eighties, Perez became a prosecutor for the State Attorney's Office. Then he took a position as the manager at Legal Services in Liberty City. But by the

end of his two-year stint there, his taste for civil service had soured. "I learned that the best way to help people is by *not* being nice to them," he says.

Perez's first foray into private practice came at a heady time. It was the 1980s, the era of "cocaine cowboys," cigarette boats, and souped-up Mercedes Benzes. For every "cowboy" there was also a "tonto" -- a high-priced, smartly dressed lawyer who defended his client with vigor. For a while, the so-called "White Powder Bar" seemed as untouchable as its clients. Peter Baraban alternated between two Rolls Royces and a pair of Palm Beach estates. Mel Kessler sped around in a flashy go-fast boat, and Joel Hirschhorn boasted about getting paid in bars of silver.

In those days defense attorneys took their cases to trial or they were considered traitors by their colleagues and the big narco bosses. It was a war, and war required artillery, not finesse. It also required sacrificial lambs. The underlings -- the money launderers, the drivers, the assassins, the couriers -- would be offered up in court in order to protect the bosses. The instructions from the big dealers to the lawyers were understood: Defend clients in front of a jury and a judge; no backroom deals allowed.

But Perez took a different approach. Instead of leading his clients to the slaughter, he advised them to cooperate with authorities. "Flips" -- informants who trade names for shorter prison sentences -- quickly became the centerpiece of his practice. It didn't make him very popular. "Other lawyers were openly hostile," remembers Miami attorney Ruben Oliva, who, along with Perez, began negotiating deals for narcos in the late Eighties. "They called us 'cheese-eaters' and 'rats.'"

Yet Perez, Oliva, and a handful of others soon proved they were ahead of the game. "Twenty years ago, some lawyers would say 'I'm just a trial lawyer, I don't do flips,'" says José Quiñón, who defended Carlos Lehder in the late Eighties. "These days everybody does flips, except that Joaquin is one of the most successful at it."

To handle the informant trade, Perez has acquired deep knowledge of the drug world -- learning names, watching alliances, avoiding feuds. He also keeps a close eye on the U.S. government's war on drugs -- the penalties and the politics. Over the years, he has developed a studied approach to fostering deals between the government and his clients. It's Perez's job to make sure that everyone -- the client, the police, the federal agents, the prosecutors, and the judge -- walks away feeling like a

winner.

Visiting the jungle lair of Carlos Castaño is not usually part of Perez's routine. A more typical morning for the 50-year-old begins at 9:00 at the Richard E. Gerstein Justice Building on NW Twelfth Street. The sixth-floor hallway is packed. Visitors in their Sunday best speak softly to one another; jail guards trade jibes; oblivious children play beneath the wooden benches; and well-dressed defense lawyers haggle with prosecutors.

Perez is the picture of tranquility. Dressed in a dark blue suit, he floats from one conversation to another. His lightly gelled hair remains in place, his shirt crisply starched. He doesn't have a pen or paper in his hands, nor does he carry a briefcase. It is as if Perez is hosting a party. He chats with an undercover police agent, then slips behind a closed door down the hall for another negotiation. When he finishes with that meeting, he walks into the jury room of one court. Twice he exits the jury room and goes back to the busy hallway to speak to a lawyer about another case. Then he finds the prosecutor for a third case and disappears into another back room.

After an hour of jumping from case to case, Perez heads to the federal courthouse. About half of Perez's clients -- Castaño included -- face federal charges. "Now we're going to the big leagues," he says. He crosses an enclosed, elevated hallway linking the court building with a structure that resembles an old warehouse. The windows, walls, and hallways are all painted white. "They call this the igloo," Perez explains.

The igloo got its name because no one seems to be able to control the air conditioning in this section of the federal court complex. Over the years, it has become the clearinghouse for the big narcos -- the place where prosecutors and federal agents try to elicit confessions and tale-telling; refusal can mean a life behind bars. It's the trade that every man wants to avoid: your dignity or your life. These days few defendants leave with their dignity intact. "It's not very glamorous," Perez says of the igloo, "but it's really where a lot of the action takes place."

Perez then drifts down the hallway to start another negotiation.

The pipeline

Perez might never have met Carlos Castaño but for several laws passed nearly twenty years ago, as well as the strange progression of the paramilitary leader. In 1987 the U.S. government instituted stricter sentencing guidelines. Trafficking 1.5 kilos of cocaine, for instance, can mean twenty years in prison. And those convicted of drug-related offenses must serve 85 percent of their sentences before they are eligible for parole. Colombian authorities rejoined the drug war in 1997, when, after a seven-year hiatus, an extradition treaty between the U.S. and Colombia was reinstated. Since then, there has been a steady flow of traffickers sent to the U.S. to face trial as they began flipping *en masse*. "So long as there was a safe haven," Perez says of the ease with which these narcos could avoid capture in Colombia, "they felt safe. But now nobody is safe."

The new laws and sudden influx of Colombian flips started Perez down the road to Castaño's enclave. In the late Nineties, several big-name narcos -- Arturo Piza, Julio Correa, and Nicolás Bergonzoli -- came to Miami and, with the help of Perez, struck deals with the FBI and the DEA: Piza and Correa got out on bond without restrictions; Bergonzoli got limited jail time; all three became informants. The narcos got to keep most of their money and were able to relocate and protect their families. Those who could not move their families received protection from Carlos Castaño. Without this protection, these

informants and their families might have been killed. Perez might have lost this burgeoning business.

Castaño's reasons for protecting these snitches are complicated, but had their roots in the four-decades-old civil war in Colombia. He'd begun fighting leftist guerrillas as a teen in the early Eighties after his beloved father, Jesus Castaño, was kidnapped. The guerrillas sent two ransom notices and the family complied with their demands for cash. When he received a third note, Carlos's older brother Fidel replied: "Even if I had the money, I'd use it to fight you." Jesus's body was never found, and the war was on.

Carlos, Fidel, and a handful of brothers and cousins -- "the House of Castaño," as Carlos calls it -- became sentinels for the Colombian army, assuming the authority to deal with suspected guerrillas or collaborators. Castaño explains, "We would get on our civilian clothes, grab our rifles or whatever, and -- tan! tan! tan! -- we would kill them."

The Castaño cadre was relentless. The first to fall were Jesus's kidnapers, but the House of Castaño didn't stop there. One witness reported a week-long killing spree in a neighboring province by men "dressed in ponchos, white hats, and carrying new machetes, rifles, knives, pistols, and grenades." Dozens were killed, including women and children. "The first year after they kidnapped my father, all I wanted was revenge," Carlos says. "I wanted to destroy everything. At that time the border between justice and vengeance was very difficult to decipher, very vague.... We killed a lot of civilians."

Over time the House of Castaño joined with other vigilante groups roving the Colombian countryside. To finance their war, they turned to drug traffickers who were willing to use the private armies for their own ends. Eventually the two forces merged. In 1994 the U.S. State Department's Bureau of Intelligence and Research produced a dossier titled "Profile of Fidel Castaño, Super Drug-Thug," in which it claimed that Fidel was notorious Medellín kingpin Pablo Escobar's primary muscle man.

After Escobar was killed in 1993, and Fidel mysteriously disappeared in 1994, Carlos tried to repaint this sordid image. He took the disparate paramilitary groups and formed the Autodefensas Unidas de Colombia. The AUC began holding meetings, making political pronouncements, and developing a code of conduct. Castaño gave TV interviews in which he appeared as the clean-shaven commander of the new and improved paramilitaries. The public bought it. For a time, local media polls showed Castaño with a higher approval rating than the Colombian president. Recruiting soared. The AUC went from 4000 to 15,000 soldiers in just four years. But the law continued to dog Castaño, who faced accusations of massacres, assassinations, extortion, plundering, and drug trafficking.

When traffickers such as Piza, Correa, and Bergonzoli began handing themselves over to the U.S. justice system, Castaño saw it as an opportunity. By protecting narcos who wanted to surrender, Castaño thought he could show the U.S. that he was on its side, that he was fighting drugs. "I have a lot of power because of my anti-guerrilla war and basically I prohibited anyone from killing their families," Castaño says of his role in this scheme. "I said that any person who wants to recognize the harm he's done to this society [by trafficking drugs] is in his right to do so, and no one can stop him."

Around this time, Bergonzoli introduced Perez to Castaño and the two set up a pipeline. Castaño protected them in Colombia; Perez defended them in Miami. The narcos they channeled gave invaluable information to the FBI and the DEA, which started new investigations against other high-level traffickers. These first flips also became a vanguard for what they thought would be a new U.S. policy: Turn in your cohorts and you get to keep your money and secure your family.

"Because of what Julio [Correa] and Nicolás [Bergonzoli] did, it became *en vogue*," Perez says. "[And]

I am sure that many people who collaborated with the United States did so because they knew that Carlos Castaño was backing them up."

Castaño and Perez became fast friends and confidants. "I got to know a man of integrity," Castaño explains, "a man who wanted to fight against drug trafficking, getting these countries [the U.S. and Colombia] back to normal. [His] interest went much further than simply the law. [He wanted] to contribute, to end these problems and avoid violence. Since then, we've had almost permanent relations via the Internet, and telephone."

Perez agrees. "I believe what we're doing is global," he says with pride. "In other words, you need to bring the war back here [to the United States], and when you do that you're more effective."

Perez claims he now works pro bono for the paramilitary leader. "I haven't earned a dime from him," he says.

The pipeline pumped cooperating drug traffickers through to U.S. jails for several years. But the honeymoon didn't last. DEA agents involved in some of the deals came under scrutiny when they expanded the program without authorization. Piza was murdered in 1999. Correa was assassinated during a trip to Colombia in 2001. Bergonzoli slipped into obscurity but quietly continued to provide information for the government from his prison cell. And in 2001 the U.S. State Department put Castaño's organization, the AUC, on its list of terrorists, which was followed by the indictment against Castaño and two others.

The only one who walked away unscathed was Perez.

Downward departures

Despite his connections to Castaño, Perez says he's still a progressive at heart. He is a self-described liberal Democrat. He's anti-Castro but also anti-embargo. He's an advocate of dialogue with the Cuban leadership -- a position he's been known to take in the company of even the most hard-line Cuban exiles. He battled his Cuban-born wife, Sonia, over the Elian Gonzalez case, arguing that the boy should be sent back to his homeland. In the meantime, he's solidified his position in the party. Perez has a photograph of himself with Bill Clinton on his desk in his office; he regularly receives solicitations for money from other high-powered members of the party and local judges facing elections. During Bob Graham's presidential bid, he received a flurry of phone messages from the senator, whom Perez calls a good friend. And Alex Penelas recently enlisted Perez to raise money for his U.S. Senate campaign.

Perez is not ashamed to admit that the political muscle he has at home has come from the wealth he's garnered abroad. Since the Piza, Correa, and Bergonzoli deals, Perez's business has been booming even though the feds aren't willing to give today's narcos the same sweet deals as the earlier crop of informants. Perez bought a used six-seat twin-engine Cessna 340 last year in order to easily visit his clients in Sebring, Tampa, and Orlando, and has hired a private investigator and several more attorneys.

His income and lifestyle do come under scrutiny. Perez was subpoenaed in 1998 for receiving an illicit payment from an associate of the infamous "cocaine cowboy," Willie Falcon. The subpoena was dropped, though, and Perez denies he had any relationship with Falcon. To avoid problems these days, Perez occasionally discusses unusual methods of payment with the U.S. Attorney's Office. For Perez,

the government has greenlighted everything from a condo to an entire apartment building, both in Miami Beach. "The reality is that these guys aren't IBM executives," Perez says of his clients.

Perez spends weekends and holidays in county and federal jails talking to his clients. "You need to have an understanding for the client," he explains. "[And] the clients, deep inside, need to feel that you're making an effort." He sends his clients books and dines with relatives eager for reassurance about their confined loved ones. Perez's trustworthy image helps persuade these clients that they should betray their colleagues, their friends, and sometimes their own relatives.

Government statistics show that 95 percent of federal cases are resolved in the prosecution's favor, usually through a plea. "We spend a lot of time talking and teaching people about trials when the vast majority of these cases don't go to trial," Perez says. "The idea that people have of lawyers is what you see on TV. But the reality of our work is something else."

This work was on display recently in Orlando, where Perez talked with one of his clients in the Seminole County jail. The accused is a short, chubby Mexican in his thirties with dark skin and a thin mustache who authorities say had more than 100 kilos of marijuana in his living room. After going through jail security, Perez and the client meet in a small visiting room with telephones on both sides of a thick glass wall. Dressed in a red smock and plastic flip-flops, the Mexican leans against the wall, answering Perez's questions about his criminal record. The Mexican listens intently and squirms as Perez presses him on his past. He stares at the floor, then looks at Perez, then back at the floor again. Perez asks for names of his associates and their locations. The Mexican balks at this request but assures Perez that he can do a lot for *los federales* once he's back on the streets and has a car and some money. Perez tells him that it doesn't work that way, that choices are limited. The Mexican reassures Perez that he's going to cooperate, that he can't stay in jail, that he wasn't made for jail.

It is the first step in the flip process. The next occurs at a closed-door meeting in a nondescript office in an Orlando strip mall. There Perez tells federal agents and prosecutors that the Mexican will cooperate. He suggests the prosecutor recommend to the judge a "downward departure," meaning a shorter sentence. According to federal sentencing guidelines, such deals depend on "the court's evaluation of the significance and usefulness of the defendant's assistance ... ; the truthfulness, completeness, and reliability of any information ... ; the nature and extent of the defendant's assistance; any injury suffered, or any danger or risk of injury to the defendant or his family resulting from the assistance."

Perez says prosecutors and judges realize that people who cooperate help them continue to build cases. "Prosecutors started to believe that it's better to get five people in [jail] for five years, than one person in for twenty-five years," he explains. "They look at it from a practical standpoint.... They are being more creative."

Perez concedes this practice generates more business for him. His colleague, José Quiñón, is more explicit. "It's like a pyramid scheme without an end," he explains. "You come in and bring some friends to the party and then they bring some friends to the party. This goes on and on and on. There's no end to it. And as long as there is a demand for drugs you're going to have that pyramid."

Still, many of Perez's old-school defense attorney colleagues consider him a traitor for negotiating at all. Some even speak of him as an extension of the United States government, an accusation that Perez firmly denies. "A satellite is somebody who does what they're told," he says. "I don't do what they tell me unless it's suitable for my client."

Saving a killer

Carlos Castaño is no ordinary client. Perez can't cajole him into confessing; cooperation isn't yet an option. The game is different for the paramilitary leader, and both men know it. Their meeting behind the soccer pitch in the small northern Colombian village reflects this. Castaño talks at length about the war, the AUC, illegal drugs, and his innocence. Perez hardly says a word.

The paramilitary leader accepts responsibility for using drug money to finance his battles against the guerrillas, but he doesn't admit to trafficking several tons of cocaine, as the Ashcroft indictment alleges. "I've told *Doctor* Perez that with regard to the United States, if the charge is drug trafficking, I'm not afraid to confront the United States. What's more," he adds, "I think that my extradition gives me the possibility to show the entire world that I've never been a drug trafficker, and that I can be an honorable member of society."

Hubris is naive, and Perez gently reminds Castaño that justice could take a back seat to politics in this case. Keeping this client out of jail may be Perez's greatest challenge yet. Keeping him alive may be impossible. Through the early Piza, Bergonzoli, and Correa handovers, Castaño was thought to have some leverage with the U.S. government. The indictment has sapped him of this influence, and his AUC colleagues are wondering who will be safe from prosecution if Castaño becomes the next big flip.

Perhaps the only thing keeping Castaño alive is his role as the symbolic leader of the AUC. The group has sought peace with the government and last month some 850 of its fighters laid down their weapons. Many believe gestures like these are part of an effort to escape prosecution for years of criminal activity. Indeed Castaño has pushed for an assurance that neither he nor his men would get prosecuted in Colombia or face extradition to the U.S. on charges of drug trafficking. Because of his popularity, Castaño may be the only representative who can broker any further agreements with the government. "It's almost like a confederacy of drug dealers under one umbrella," Perez explains. "I think that but for Carlos this would be a very loose association of individuals that didn't have anything in common."

The irony is that once a peace deal is brokered, Castaño's future becomes increasingly uncertain. If he stays in Colombia, he may be safe from prosecution, but his AUC colleagues may try to dispose of him. If he tries to go to the United States, he will have to face John Ashcroft. "What's going to happen from here in the long run, I don't know because I think that the more he undermines the political base of the AUC, the more he's potentially digging his own grave," Perez says in reference to a possible settlement with the government. "I mean it's almost like working himself into a nonexistent position.... He's going to become a liability to a number of people and there will be many, many people that prefer to see him dead than in the United States."

It's up to Perez to guide Castaño through this maze, and as he bounces along the dirt roads of the northeastern Colombian jungle in the SUV, the lawyer considers this. This may be the start of another chapter in their relationship. Or it may be the end of their journey. In either case, reminders of his client's dilemma surround Perez: "O4" sits behind the wheel of the car; paramilitary soldiers dot the roads; unidentified aircraft circle the sky; corrupt policemen wait at the remote airstrip. Miami is a distant dream.