SUBJECT: Mexican Legislature Strips Accused Deputy of Immunity

1. (SBU) Summary: On December 14, the Mexican Chamber of Deputies voted to strip National Revolutionary Party (PRD) Deputy Julio Cesar Godoy Toscano of his legislative seat and the accompanying immunity from prosecution he enjoyed for three months. In May 2009, the Attorney General's (PGR) office issued an arrest warrant for the then candidate, Godoy for his ties to Michoacan-based transnational criminal organization (TCO), La Familia. In July 2009, Godoy won the election and vanished for 15 months. Then, in September 2010, he slipped past police surrounding the Chamber of Deputies to take the oath of office, thus making him immune to prosecution. Originally, immunity bestowed to politicians was meant to protect them from political persecution vice criminal prosecution. Godoy's case highlights issues surrounding whether Mexico will address the problem of "narcopoliticos" (politicians with DTO ties). End Summary.

"Michoacanazo" and Accusations Against Godoy

2. (SBU) On May 26, 2009, the political scandal referred to as the "Michoacanazo" resulted in the arrest of over 30 mayors, police chiefs, and other officials for accepting bribes from La Familia. However, the prosecutions eventually fell apart, and one by one the...
were released due to lack of evidence. Many of those released returned to their old jobs, accusing the National Action Party (PAN)-led federal government of a politically motivated witch hunt (the majority of public figures arrested belonged to the PRD) during an electoral season. GOM officials accused the Michoacan judge who presided over the hearings of ignoring evidence and overstepping his power. Some officials hinted at judicial misconduct.

3. (SBU) Godoy, half brother of Michoacan Governor Leonel Godoy Rangel (PRD), evaded the initial wave of arrests and disappeared for 15 months. The Federal Police alleged that Godoy was in charge of ensuring official protection for La Familia. In October 2010, PGR leaked one of several audio recordings of a conversation between Godoy and cartel leader Servando Gomez Martinez. In the conversation, reportedly from July 12, 2009, Gomez Martinez asks Godoy to get the governor to intervene at the federal level "so the police will stop interfering" with drug operations. The PGR also charged Godoy with money laundering, and with having received 25 million pesos (about $2 million USD) from Gomez Martinez.

Evading the Police and Playing the Immunity Card

4. (SBU) Godoy remained a fugitive until March 2010 when he received an injunction from what media reported as a "pliant" Michoacan judge stating that he could be sworn in. The ruling had no bearing on his criminal charges, but it did allow him to take his Congressional seat, assuming he wasn't arrested first. If he could manage to sneak into the Legislative Palace in Mexico City undetected, he could be sworn in, thus enjoying his political immunity. If he was caught, however, he would face prosecution.

5. (SBU) On September 21, according to El Universal newspaper, a fellow PRD congressman drove into the Legislative Palace with Godoy riding in the trunk. Godoy remained at the Legislative Palace for two days until, September 23, when he was sworn in as a Deputy. Solidly entrenched in his new position, Godoy quickly flaunted his newly acquired immunity, holding a press conference to assert his innocence and accuse the federal government of cooking up charges against the PRD for political gain.

Things Get Worse for Godoy

6. (SBU) At first, Godoy seemed to have the support of his party, the PRD. However, five days after the PGR leaked the audio recording, on October 19, Godoy renounced his affiliation to the PRD in order to "reduce the negative exposure" to the party. According to an Embassy contact, due to "mounting pressure from the PGR, clear evidence, and rising bad publicity," political leadership from across the spectrum realized they needed to act.
Rangel "stepped back from supporting Godoy and stopped calling this a political lynching." After considering the PGR's evidence against Godoy, on December 13, a smaller body of legislators agreed that the Chamber should vote on stripping his immunity so that he could face the charges (Godoy was present during this hearing).

7. (SBU) On December 14, the full Chamber of Deputies discussed the Godoy case and voted (382 in favor; 2 against; 22 abstentions; and 94 not present) to remove him from office and revoke his immunity. Only one member from the PRD and one member from the Workers Party (PT) voted against the initiative. Godoy's defense attorney accepted the verdict; Godoy could not be found. In his statement, PRD Chamber leader Alejandro Encinas asked Godoy to cooperate with the authorities. He also underscored that anyone involved in illicit activity should be brought to justice, regardless of political party affiliation.

Comment: Is Godoy the Rule or a Token Exception

8. (SBU) Uncommon in Mexico's history, the "desafuero" (lifting immunity) has only been used eight times before. With increasing public attention on politicians with narco ties and the rising rate of violence from the drug war, federal deputies chose to come down on one of their own instead of maintaining his status protected from the mundacity of criminal prosecution. Furthermore, during this Congressional session, the Chamber's Justice Committee passed a bill, which is pending a full floor vote, that would increase penalties against politicians who are found to be using drug money to finance their campaigns. While these seem to be steps in the right direction, it remains to be seen whether the judicial system can effectively find, prosecute and sentence Godoy (who is currently at large). Furthermore, it remains to be seen if this will be a singular case or will it reflect a larger trend of holding public servants accountable for their involvement with TCOs. What does appear clear is that the PRD will bear the brunt of the political fallout from this case. End Comment.

PASCUAL