

# Underage Mexican drug mules are in for a shock in one Arizona county

By NIGEL DUARA MAY 03, 2016 | 3:00 AM | BISBEE, ARIZ.



Mario Nieblas, who turned 17 in jail, could be sentenced to three years in adult prison if convicted of smuggling marijuana from Mexico into the U.S. Above, he appears in court in Cochise County, Ariz., on April 28. (Nigel Duara / Los Angeles Times)

Mario Nieblas shuffled into the courtroom in ankle chains and mismatched jail scrubs: green-and-white pants worn by juvenile inmates, red-and-white top worn by adults.

He was arrested on suspicion of smuggling nearly 90 pounds of marijuana from his native Mexico in March and turned 17 in a holding cell.

Now he was in court trying to avoid being sent to an adult prison.

"Mario will be housed and that's it," his lawyer, Xochitl Orozco, told the judge. "They are giving up on this individual before he started."

The prosecution is part of a new strategy by Cochise County to deter drug cartels from their longtime practice of using children as drug mules.

Since they launched the effort — known as Operation Immediate Consequences — last May, county prosecutors have charged 51 juveniles as adults with drug trafficking, offering them 18 months in an adult prison in exchange for a guilty plea. The youngest was 14.

All but Nieblas and one other accepted the deal, at least in some cases without legal representation.

Not long ago, underage drug mules caught by federal authorities were rarely prosecuted in Cochise County. Prosecutors stopped accepting such cases in 1973 under the premise that the county did not have the resources to handle them. The same was — and still is — true in other Arizona counties.



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Not surprising, that made children ideal drug mules.

It was a crime with few consequences. The U.S. Border Patrol would confiscate the drugs and send the teens back to Mexico — only to see them again weeks or even days later.

The new policy has been a shock to the teenagers who get caught, according to Cochise County Atty. Brian McIntyre.

"Just turn me loose, get it over with," he said they tell the border agents, who then deliver the bad news: They are being

turned over to the county sheriff's office for prosecution.

"Then, frankly, the tears start coming," McIntyre said.

Charging them as adults ensures that the county can detain them. Juveniles charged with drug trafficking are often put on probation and released.

County authorities would not say how many of the underage suspects were provided with public defenders.

Nieblas originally accepted the county's plea bargain offer — without the benefit of a lawyer.

He acknowledged using a seat belt to rappel over the border wall from Agua Prieta, Mexico, into a remote corner of Douglas, Ariz., with another young smuggler. From there, he said, he ran to help collect two burlap bags of marijuana that had been hurled over the wall. The plan was to deliver them to a waiting car.

But after he was assigned an attorney, Nieblas rescinded his plea and decided to fight to have the case sent to a juvenile court.

If he loses that bid, he could be sentenced to as many as three years in adult prison — double the sentence in the plea agreement.



The Arizona border with Mexico near Douglas, Ariz. (Ricardo Arduengo / Associated Press)

If the judge sends the case to juvenile court, Nieblas would have the opportunity to learn English, take high school courses and possibly be allowed to live in the U.S. someday.

In court on Thursday, his attorney said Nieblas' rights had been violated in the initial plea deal. "They are taking this boy, treating him as an adult, having him sign papers without a lawyer present when he is an underage, unsophisticated Mexican citizen," Orozco told the judge.

She went on to argue that Nieblas did not understand the consequences of his lawbreaking and deserved a chance at rehabilitation in the juvenile system.

In Agua Prieta, he worked at a factory making timing belts for vehicles for \$47 a week — earnings that helped support his mother and her nine other children. The drug run paid \$400.

"When it takes an entire week just to earn \$47, \$400 is a much different consideration for someone whose brain is not fully developed yet," Orozco argued.

Thomas Bennett, an assistant county attorney, said that if Nieblas had been addicted to drugs or alcohol or had some other treatable condition, the case could be handled in the juvenile system.

But the system, Bennett argued, has nothing to offer for Nieblas' condition.

"He's poor," Bennett said. "He's desperate."

Nieblas, a middle-school dropout with acne-pocked cheeks, hunched in his chair as an interpreter explained the proceedings to him.

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Superior Court Judge Wallace Hoggatt said he would deliver a written opinion soon.

The courtroom gallery was packed with 30 Arizona high school students there on a field trip. The judge wanted them to witness the proceedings, if only to understand the consequences of running drugs.

Some of the students contended that Nieblas was old enough to understand the consequences of his actions, even as they expressed sympathy for him.

"He was trying to help his family out," said Kimberly Collazo, 16. "But honestly, a lot of us are more intelligent than people want to classify us as. We know what we're doing, even at a young age."

"The fact that he's a minor and he's not documented as a U.S. citizen, he won't be educated," said Jalia Wilson, 17. "All he's going to know is jail life."

Ethan Robbins, 18, said prosecuting Nieblas as an adult was overkill.

"It's obvious the person involved in this case is in a bad situation to start off with and made a bad decision," he said. "If he went to a juvenile court, he'd still get the punishment he deserves."

"If he was about to turn 18, it'd be one thing. But he just turned 17 in jail."

Although the vast majority of juveniles charged under the new program are Mexican, that is not always the case. In February, prosecutors charged two star players on a local high school baseball team. That prompted angry calls from parents, McIntyre said.

Both cases are pending, as neither boy has entered a plea.

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