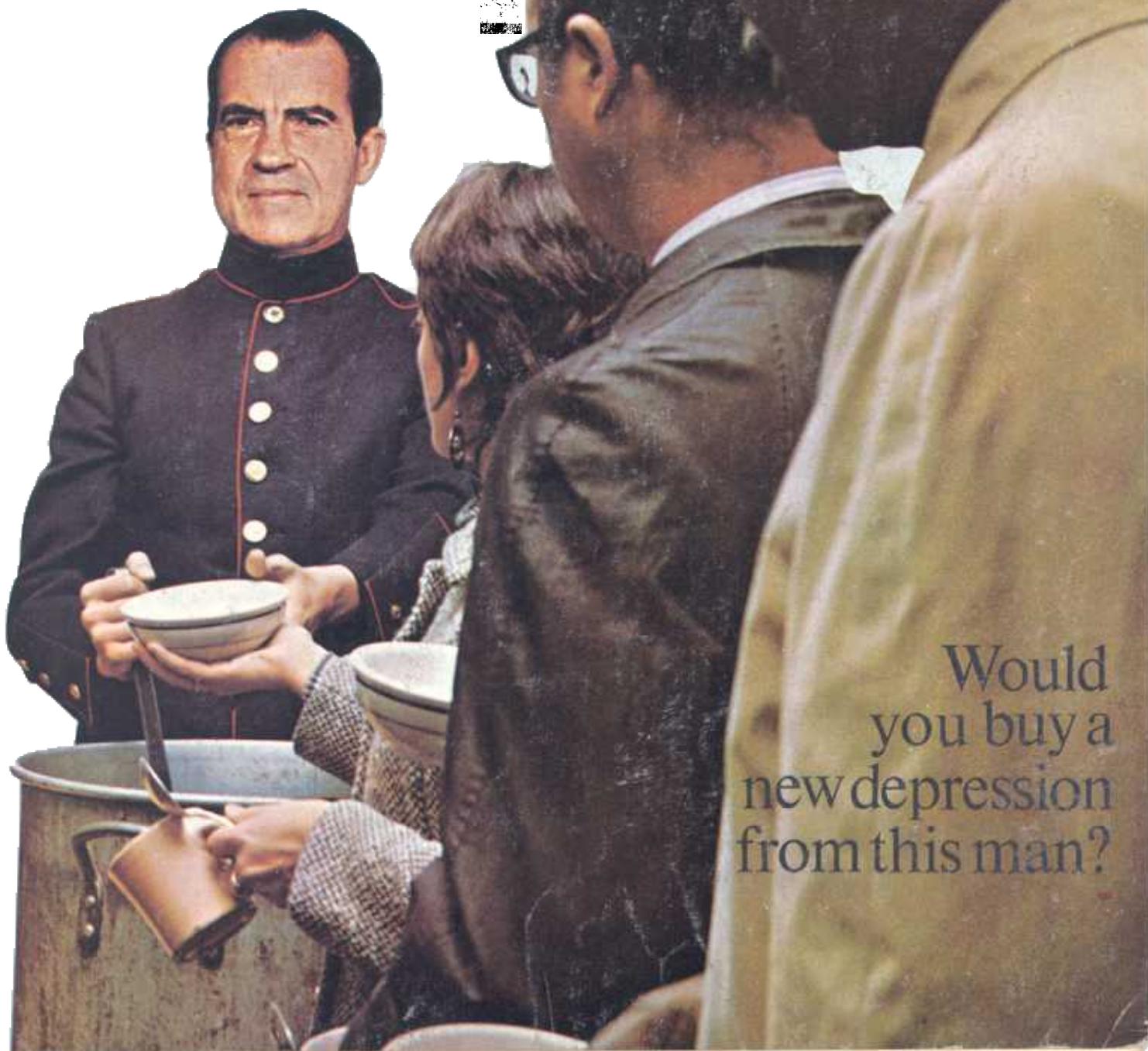


March 1971

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# Los Siete de la Raza

Bebe pointed the gun at McGoran but didn't fire. Then he, like the others, fled. As Bebe explained, "There's one cop dead, another injured. I'm standing there with the gun. I'm brown. Who's gonna believe me?"

**T**HE UPRISING IN EAST LOS ANGELES last August, during which a cop killed journalist Ruben Salazar, called national attention to the anger of chicanos in urban *barrios*. While the police riot and the death of Salazar were making front pages, a less-publicized murder trial in San Francisco was dramatizing the same chicano militancy and police brutality which clashed so violently in Los Angeles.

The trial of *Los Siete de la Raza*—the young men who became known as "the seven of the latin people"—was taking place because for once the tables had been turned: instead of cops gunning down brown people, as in Los Angeles, a cop himself had been killed. As the defense attorneys for Los Siete would point out, had the roles been reversed there would have been no trial—just a perfunctory inquest and another verdict of "justifiable homicide."

The trial of Los Siete began on May 1, 1969, on Alvarado Street in San Francisco's Mission District, when plainclothes officers Joseph Brodnik and Paul McGoran stopped a group of young latins on a burglary investigation. There was a fight, and a call for help. By the time police reinforcements arrived, Brodnik was dead, killed with McGoran's gun, and McGoran was injured. All the suspects had fled.

McGoran told other officers he thought the suspects were hiding nearby at 433 Alvarado in a second-floor flat rented by a family named Rios. The apartment was saturated with teargas and automatic weapons fire, wounding one of the Rios children, a 14-year-old girl. When the police discovered there were no fugitives inside, the search spread to other homes in the Mission. Flats were ransacked and hundreds of teenagers interrogated. Mrs. Rios was forced to point out friends of her son José, whom McGoran identified as one of the young men involved. The home of another suspect, Mario Martinez, was staked out, his 15-year-old brother threatened at gunpoint, and his mother told by a cop, "When we find them, we'll shoot them down like dogs."

**B**RODNIK WAS THE JUNIOR in the plainclothes "Mission Eleven" team. He and McGoran, his partner of three years, reduced daylight burglaries in a middle-class area near the Mission District by asking housewives to report all "suspicious persons" to police. Known among their peers for "dedication," Brodnik and McGoran piled up over 400 burglary arrests and two dozen bravery medals.

Like much of the Irish Catholic brass in the San Francisco Police Department, the two men had grown up in the Mission District in the 1930s and '40s, when it contained primarily Irish, Italian and German immigrants, most of them unquestioning believers in the American myths of free enterprise and social mobility. They attended Mission High and formed their political attitudes during the wartime years. Brodnik, an all-city basketball star, led Mission High to its first championship in 50 years. He married his high school sweetheart, settled down in a quiet neighborhood on the outskirts of the Mission, and became a cop in 1956. "He had a lot of friends on the force," said his wife; "it seemed like a good life."

But the Mission District was changing. In the 1950s and '60s, thousands of immigrants arrived from Central America, and whites hurried out to the suburbs. The Inner Mission became predominantly latin: a mixture of Central Americans, Mexicans and Puerto Ricans, with some Filipinos, Samoans and American Indians. In the surrounding areas, many European immigrants remained. Alvarado Street in 1969 was typical: among the eyewitnesses to the May 1st scene were Salvadorians, Mexicans, Poles, Yugoslavs and Irish.

Brodnik's wife Jessie often insisted they move to the suburbs. Brodnik resisted. McGoran lived in a suburb, though his job took him to the Mission every day. When his first marriage broke up in 1966, McGoran returned to home territory and began living with a waitress his partner had

by Marjorie Heins

introduced him to.

McGoran told his new girl friend, Thelma, that Brodnik was too soft: he should have been a preacher, not a cop. For his part, Brodnik thought McGoran too brutal and quick with his gun. These temperamental differences may have created personal friction, but they fitted Brodnik and McGoran perfectly for the good guy—bad guy roles they played (which police call the “Mutt and Jeff routine”). As McGoran later explained it: “Joe would always say, ‘Let’s give him a break,’ and we would discuss it in front of the arrested person, so that if he wanted to give us information and lead us on to bigger arrests, we would let him go.”

McGoran, who bitterly resented the influx of nonwhites in his district, liked to drive around, stopping young latins for “investigation.” One evening in 1967 he drove into the parking lot of a Mission Street hangout. Spotting a latin teenager—presumably under-age—drinking wine, he yelled, “Hey, punk, come over here.” The young man was Danilo Melendez, known to his friends as “Bebe.” A native of Honduras, Bebe grew up in the Mission during the ’50s—gang-war days—when blacks and latins were moving into the city, and a lot of whites were still around to fight them. Bebe had been smoking dope, drinking wine and trying to avoid police for as long as he could remember. He loved music and dancing, made up poetry, and talked smart: “I don’t see no punks here,” he answered McGoran.

“I mean *you*, greaser!” When Bebe—5’4” and 130 pounds—approached, McGoran—6’4” and 220 pounds—grabbed his wine bottle, emptied it, then punched Bebe in the mouth, leaving a scar that runs under his lip.

#### [THE BROTHERS]

**B**EBE MELENDEZ WAS ALSO one of the five latinos Brodnik and McGoran confronted on May 1, 1969. The other four were Gary Lescallett, José Rios, Gio Lopez and Mario Martinez. All but Lopez subsequently went on trial, along with two others who weren’t even at the scene.

Gary Lescallett, known as Pinky, was a veteran of fights with police; sometimes the cops would take off their badges before the slugging began. Pinky’s right little finger had been broken repeatedly in these and other casualties of barrio life—hence his nickname. Pinky had been arrested on more false charges than true ones: the only thing to do without money or legal help was to “cop a plea.” This led to stays at Youth Authority prisons—little duplicates of the infamous California Adult Authority system, with inmates segregated into black, brown and white, and the model for success the submissive prisoner who promises to pursue the mythical “steady job” in the outside world.

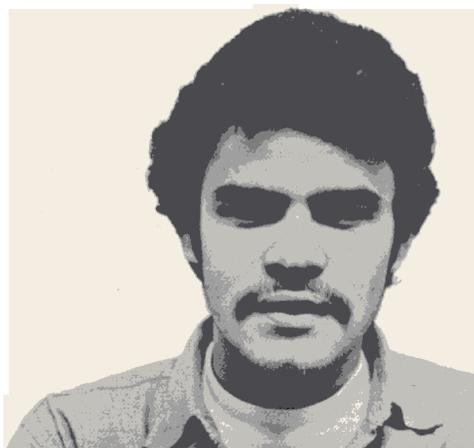
Pinky Lescallett and José Rios were old friends. They used to walk down Mission Street together in the flashy purples, greens and whites that signify status in the barrio. José had a tape deck and speakers in his Chevy—excellent for

riding around the Mission and getting stoned. His older brothers sometimes warned him about dope, but he considered them square. At the same time, José respected the hard-working values of his parents, and helped out with a janitorial job downtown. In May 1969, José was a high school senior, but far short of the credits necessary to graduate. He decided to drop high school and go straight to CSM—the two-year College of San Mateo (in a town 30 miles south of San Francisco)—where several hundred educationally crippled minority kids like himself were involved in a College Readiness Program.

Gio Lopez and Mario Martinez were both already in this program. Mario, who wanted to be a doctor, had been recruited into it after almost dropping out of high school with the usual combination of terrible grades and destructive counseling. Although he was quiet and reserved, Mario soon became the program’s most avid recruiter, bringing 50 brothers and sisters from the streets of the Mission into college. He insisted almost religiously that his people *must* have education—they’d been denied it much too long. In this, Mario was influenced by his father, a body and fender mechanic, whose main purpose in coming to the United States was to provide a college education for his children.

One of Mario’s recruits was his older brother Tony—bright, ambitious, popular with girls and much attracted to fine clothes. Tony had gone to San Francisco City College over the strenuous objections of his advisor and his soccer coach, both of whom insisted he wouldn’t make it and should be a carpenter instead. Tony’s program at City was difficult; he had no one to help him, and an evening busboy job cut down on studying time. In the summer of

1968, he began to participate with Mario in the Readiness Program tutoring sessions, and in the fall he transferred to the College of San Mateo.



Nelson Rodriguez

**A**T GENERAL HOSPITAL ON MAY 1, 1969, McGoran identified photos of possible suspects: Bebe Melendez, Gary Lescallett, José Rios, Mario Martinez and . . . Nelson Rodriguez, a familiar face to McGoran and, conveniently, the same height and weight as Gio Lopez. Nelson was, as he described himself, a directionless “fuck-up” before Mario recruited him for CSM in the fall of 1968. On May 1 he was in San Mateo County, driving around with another Readiness Program veteran, Ralph Ruiz, who would become an important figure in the group’s escape and in the later founding of the Defense Committee. Nelson returned to his girl friend’s apartment at 5:00 PM, and learned by phone from José that he was wanted for murder and that the police were going to shoot to kill.

The afternoon of May 1, Mario found his brother Tony at CSM. Tony’s blue Chevrolet, which Mario had been driving that morning, was still parked in front of 433 Alvarado, half-filled with stolen goods. This implicated Tony in the

murder, and in the burglary that had been committed early that morning. The brothers decided to stay together.

Gio Lopez left the group, and the others who had been there—Mario, Bebe, Pinky and José, along with Tony—were driven to a house in the Santa Cruz hills, about 100 miles south of San Francisco. Ralph Ruiz told them to hang tight while he sought legal advice. The next night he brought Nelson Rodriguez to join them. The six now waited impatiently for Ralph's return. But when the TV news said the police were on their trail, they got scared: the night of May 3, they left the house and began camping on the beach.

Ralph Ruiz had not returned because he had been arrested as a suspect. He told Jack Cleary, the homicide inspector in charge of the case, that on May 1 he picked up Nelson Rodriguez about 10:30 AM at "Sandy's" and was with Nelson all day in San Mateo. Ralph was released on the basis of this alibi; but he knew he was being followed and couldn't return to Santa Cruz. Meanwhile, Bebe Melendez called an organization he worked for, the Mission Rebels. Once a gang, the Rebels now collected several hundred thousand dollars a year in federal funds to operate counseling and job-training programs. The Rebels contacted a high-powered criminal lawyer, who agreed to arrange a surrender in which the fugitives would not be harmed. But wires got crossed and the six latin brothers, who had run out of money, thought nothing was being done. On May 6, they held up a swimmer, wolfed down his picnic lunch and took his Buick. The swimmer called police, and 20 minutes later the brothers were arrested. One of the policemen told them, "You're lucky the San Francisco police didn't get you."

#### [THE END OF THE DREAM]

**T**HE SAN FRANCISCO POLICE, for whom Los Siete showed such justified fear, were only the most visible reminder of the barrio's colonial status. The latin immigrants who came to San Francisco to escape the deprivations and indignities of colonialism found them again, more subtly, within the Mission.

They faced discrimination in jobs, which were hard to find anyway because industry was declining: San Francisco lost 9000 manufacturing jobs between 1953 and 1966. In the late '60s, according to federal surveys, up to 18 per cent of the Spanish-speaking men and 35 per cent of the youths in the Mission were unemployed. And these figures didn't include women, illegal immigrants, people who had never worked or had given up looking, and those who were *underemployed*. The median income for urban Spanish-speaking families in 1959 was less than \$3000.

The impotence was political as well as economic. In a city almost half minority by conservative estimates, there is only token minority representation on the 11-member Board of Supervisors: one middle-class black, and one Mexican-American—who responded to the Los Angeles uprising by

blaming it on white radicals, and said police-community relations in the Mission were fine.

The Mission Coalition, made up of over 100 civic, church and labor groups, seemed to promise a political voice. It had won the power to veto any urban renewal plans for the district. But the Coalition owed its existence in large part to foundation grants; ambitious foundation tramps and labor bosses eventually took control and bargained away the all-important veto power.

Oppression in the Mission also took cultural form. When Tony, Mario, Nelson and José entered their first San Francisco schools, they knew no English, and there was no instruction in Spanish while they were picking up the new language. Teachers called them "Mexican" instead of by their names. Even at San Mateo, Mario found his history professor making tasteless comments that Mexicans were lazy and stupid.

In junior and senior high, latinos, like blacks, are steered into endless shop courses on the basis of IQ tests geared toward white middle-class experience. At Mission High, the lowest-income school in the city, 87 per cent of the students are put in vocational "tracks" and only 5 per cent go to college—compared to 50 per cent for the city's richest school. The thousands of dropouts this system produces generally end up on the streets, where dope and crime are two major means of survival. By the time the Martinez brothers entered San Mateo, they had seen many of their old partners "OD" and others draw long prison terms.

#### [GETTING UPPITY]

The College Readiness Program at San Mateo was an attempt to repair this damage to

the community by emphasizing communal learning and cultural pride. It took high school dropouts and sent 90 per cent of them on to four-year college. Instead of competing, students tutored each other. In the Readiness Center they acted natural and used street language—to the consternation of white administrators in neighboring buildings. Intensive recruiting boosted the program's membership from 36 to 400 in three years. In the fall of 1968, the trustees, alarmed at this growth, drastically cut the work-study funds on which Readiness students subsisted. This cutback led to protests, and finally a strike, simultaneous with the Third World Liberation Front strike at San Francisco State.

The politics of the San Mateo and San Francisco State strikes were noticeably similar. At State, as at CSM, the strikers thought everybody was entitled to an education: one of their demands was open admission for all Third World people. The administration dismissed this as absurd. Both strikes were crushed by arrests and expulsions and the campuses were occupied by police. During the CSM strike, many leaders in the Readiness Program, among them Nelson Rodriguez and Ralph Ruiz, were expelled.



Gary "Pinky" Lescallett

Haggling with administrators—and battling the police—brought brothers like Tony, Mario, Nelson and Ralph to a new level of political awareness. They saw that as soon as the Readiness Program grew too big, it was suppressed: what they called “the system” could only absorb a token number of Third World people. They didn’t want to be alienated from their communities or to succeed only as individuals. Furthermore, the head of the program was told to channel more of his students into vocational courses: the purpose of the junior college was to train skilled workers, not professionals. And finally, the Readiness Program was not keeping the ghettos quiet by serving as an escape hatch for the most talented minority kids; instead, it was taking ordinary street youth and making them “uppity.”

Yet they needed education, so they decided they had to keep using “the Man’s” institutions until they controlled some of their own. The Martinez brothers remained at San Mateo—Tony as head of a brown students group which sponsored the school’s first “La Raza Week” in the spring of 1969. Nelson and Ralph transferred to San Francisco State.

Barrio people who had not been to college were also becoming politically aware. The farmworkers’ movement had aroused fighting spirit, and “Huelga” signs were common sights around Mission High. War on Poverty organizations had led to rising expectations; Bebe was introduced to the works of Che Guevara in a Mission Rebels class. But the Rebels had to please their bureaucratic benefactors: a program in which teenagers like Bebe were supposed to counsel their peers ended up having to hire counselors over 20, thus blunting much of its purpose. The original request for 60 counselors’ salaries was reduced to 20 on the advice of the Rebels’ adult board of directors. Compromises like those meant the Rebels could never improve job or school conditions for the majority of the kids; and brothers like Bebe became disillusioned.

In the spring of ’69, Mario, Tony, Nelson and Ralph spent a good deal of time in the Mission, talking politics and trying to interest street people in college. They became familiar faces to McGoran and Brodrik, who once told Ralph, “We know you guys want to overthrow the government, but you’re not going to do it while we’re around.”

[LOS SIETE AND SERVING THE PEOPLE]

**A**FTER THE ARREST, the brothers’ friends—mostly from San Mateo and San Francisco State—formed a defense committee and called it “Los Siete de la Raza” (seven, in case Gio got caught). A white director of the Mission Rebels offered to pay \$50,000 toward the lawyer’s fee if Los Siete kept politics out of the case. The new group didn’t like the Rebels’ offer, but at first it was all they had.

Soon they found a new source of strength, the Black Pan-

ther Party. Bobby Seale and others in the Panther leadership helped publicize the case and attract contributions. The Panthers’ “serve the people” ideology strongly influenced Los Siete, whose first community activity was a free breakfast-for-children program. Both *The Black Panther* and Los Siete’s paper, *Basta Ya!* (“Enough!”), emphasized the affinity between black and brown liberation movements. The Panthers’ chief counsel, Charles Garry, agreed to take Los Siete’s case.

Los Siete began a free medical clinic, the Centro de Salud, after a local strike of hospital workers. One of the strikers’ demands—which arbiters studiously ignored—was community control of health care. This the Centro de Salud promised, on a small scale. Two young doctors committed themselves to the clinic full-time, a dozen others part-time; a radical dentist and several pharmacists and technicians joined; and a staff of community people—among them dopers, ex-convicts, dropouts, welfare mothers and young radicals—undertook the day-to-day work. They built the clinic in a second-floor Inner Mission flat, and gathered medicine from the free samples with which drug companies inundate doctors. The clinic was open four nights a week. Training in translating medical histories, taking blood and doing simple tests was begun in the afternoons.

The clinic could not provide sophisticated medical services, but it could provide simple ones and help people through the bureaucratic maze if they had to go to the hospital. By emphasizing preventive medicine, Los Siete began to combat media propaganda which favor tortilla chips and Cokes. Out of the clinic grew the Mission Food Commission—60 families who buy large quantities of food cooperatively.

Los Siete opened La Raza Legal Defense in the spring of 1970 after a young latino died in the back of a paddy wagon. Police blamed barbiturates, but private autopsies showed the man was beaten to death. Los Siete organized a protest march after the funeral, a fund for the widow and baby, and a lawsuit against the city. Police responded by deluging Spanish radio stations with announcements that the man had died from drugs.

La Raza Legal Defense, working closely with about 30 lawyers, began to deal with everyday incidents of harassment, police brutality and legal railroading. The mostly young staff, some of them high school dropouts, learned the legwork of the legal profession by getting people out of jail on their own recognizance, interviewing clients, investigating arrests, and acting as translators and go-betweens for lawyers. Its most important function was to show people they did have rights and to help them gain control over their lives.

**W**HILE THE SMALL COMMITTEE to Defend Los Siete was evolving into a “serve the people” movement which touched the lives of hundreds of latin families, the police establishment set in motion the legal machinery by which it would exact revenge



Danilo “Bebe” Melendez

for Brodrik's death. Despite scant evidence against some of the brothers, all six were charged with the murder of Brodrik, attempted murder of McGoran, and burglary. The police were hoping to convict them under the felony murder rule, which states:

The unlawful killing of a human being . . . which occurs as a result of the commission of the crime of burglary . . . is murder in the first degree. . . . All persons who either directly and actively commit the act constituting such crime, or who . . . aid and abet in its commission . . . are guilty of murder in the first degree.

As counsel for Pinky and Bebe, who were most heavily involved in the death scene, Charles Garry chose, respectively, Richard Hodge, a young ex-DA who had helped him win acquittal for the Oakland Seven in early 1969; and Michael Kennedy, outspoken long-haired defender of Weathermen, Timothy Leary and countless draft resisters. Ralph Ruiz, who was one of the founders of Los Siete, convinced R. J. Engel, his own lawyer from his College of San Mateo days, to represent Nelson. (As for Gio Lopez, he didn't need a lawyer since he was never caught. He was arrested three times in other parts of the country, released before the fingerprint checks came through, and finally hijacked a plane to Cuba, where he now lives and works.)

Judge Joseph Karesh, a crusty Southerner, presided over 13 months of pre-trial hearings. The memory of his conduct in the notorious trial of policeman Michael O'Brien, accused of killing a black man, was still fresh. O'Brien's attorney had called black prosecution witnesses "hyenas living in a hellhole," and the one white witness "a traitor to his race." Karesh permitted this venomous drivel when, as one reporter remarked, "Any backwoods Mississippi judge would have told a defense attorney to tone it down." [See RAMPARTS, July 1969]

Karesh wanted to get out of the Los Siete case because he knew Garry was likely to hurl a lot of accusations at the police and create a scandal with which no politically ambitious judge wanted to be involved. Shortly after a pre-trial hearing in which Garry called Paul McGoran "a racist, a liar and a drunk," Karesh withdrew, citing as his excuse a passing reference to his handling of the O'Brien trial which Kennedy had made a few weeks back. The case was reassigned to Judge Laurence Mana, a conservative who, following the harsh sentences he gave strikers from San Francisco State, had been elevated from municipal to superior court by Governor Reagan eight months before.

[WITNESSES FOR THE PROSECUTION]

**W**HEN THE TRIAL BEGAN in late June 1970, Assistant District Attorney Thomas Norman announced he would prove Gary Lescallett fired two shots, killing Brodrik and attempting to kill

McGoran. This surprised the defense, which had learned through discovery motions that almost all the eyewitnesses who saw anybody with a gun said it was "a short boy," about 5'4", and Gary Lescallett was 6'1". But Norman had to accuse Lescallett because his star witness, Paul McGoran, had singled Lescallett out as the gunman, and without McGoran's testimony the DA would have no case.

McGoran looked aged and broken as he took the witness stand. Deep lines covered his face, and his mouth sagged grotesquely. He dropped 15 milligrams of valium a day, which he insisted was for a heart condition known as tachycardia in which the pulse speeds up to 180 beats per minute.

McGoran's story took half a day to relate: He and Brodrik stopped to investigate when they saw José Rios carrying a stereo from a blue Chevy into the basement at 429 Alvarado. DA Thomas Norman had already established that the property was stolen from an amply furnished home five miles away. McGoran said José and Bebe (and probably Tony) went upstairs for ID; only José returned. When Gary Lescallett tried to go upstairs, McGoran grabbed him and ". . . let me have it right in the mouth." McGoran remembered knocking Gary down; the next thing he knew, "more than one" assailant was on his back. He was beaten to the ground and kicked. He blacked out just as he heard Brodrik yell, "Look out, Paul, he's got your gun!"; then the shot. McGoran regained his sight and saw Lescallett, in the blue Chevy, point the gun at him and fire.

Despite three weeks of cross-examination, McGoran calmly stuck to his story that he was attacked and knocked down. Garry introduced the General Hospital records which said, "Was hit in the face . . . was not knocked down." McGoran denied he told



José Rios

the doctor this and said he didn't know how it got in the record.

R. J. Engel made some significant dents in McGoran's credibility. He asked, "Didn't your doctor tell you in June 1966 that you should quit the police force because you couldn't deal with situations under pressure? Didn't you request a transfer from the communications department because you couldn't handle the pressure?"

"I would say the pressures were pretty great. . . . I requested a change back to the Mission."

"Hasn't the doctor told you to take valium up to three a day for nervousness?"

"He prescribed it."

"Didn't he prescribe it for nervousness?"

"I don't know why. I thought it was for the heart."

"Well, it says here [on the bottle], 'As needed.' He must have told you what you need it for."

"I got the prescription."

"He must have told you what you needed it for." McGoran, cornered, was silent. Engel read from the medical record: "As necessary for nervousness."

McGoran was followed by eight eyewitnesses, who came

up with widely contradictory stories. The incident had happened so fast that none of them saw anything except a brief fight and gunfire. Their statements taken on May 1 were innocuous. Only after reading the papers and talking to police did some of them decide McGoran had been beaten to the ground. But even at the trial, important details of their testimony—number of people, identities, sequence of events—differed so radically that no sense could be made of the prosecution's case.

Mrs. Irene Jarzyna, a Polish immigrant, identified all six defendants "by the way they walk," then demonstrated the six supposedly distinctive walks she had seen. But when asked the next day to repeat the performance, she shrugged and said, "Not everybody walk every day the same."

David Caravantes, boy friend of one of Mrs. Jarzyna's daughters, told police on May 1 he didn't see who took the gun, but at the trial corroborated McGoran's story that it was Gary Lescallett. Caravantes denied being a police informer, but it later came out that between May 1 and the trial he got letters of recommendation to college from the police chief of a suburban town—and from DA Thomas Norman. One female witness who identified Nelson Rodriguez at the trial had previously identified José Rios, Bebe Melendez and Gio Lopez as the same man, and told R. J. Engel, "Don't worry; I can't identify your client."

Crime lab "experts" had mistakenly reported Nelson's fingerprints at the scene; this encouraged McGoran to identify Nelson before the grand jury. The officer responsible for this mistake testified it was due to "a dictating error." It was not corrected for ten months.

Another "expert witness" said he found Tony's prints on the blue Chevy's steering wheel, and added that a subsequent driver would have wiped them off. Charles Garry, who has studied fingerprints himself, said this was "heifer dust"—one of his many euphemisms for "bullshit."

By the end of his case, Norman was going to extremes. He flashed a disreputable-looking and clearly inadmissible photo of Ralph Ruiz before the jury to discredit the statement Ralph gave to Inspector Cleary, which had been admitted into evidence. He was hypocritically prim: in response to one of Mana's rulings, Garry whispered it was "a piece of shit." Norman jumped up, asking if that wasn't a "vulgarity" he'd just heard.

[PORTRAIT OF A PIG]

**W**HEN THE DEFENSE BEGAN in late September, most of the media stopped sending daily reporters, so the brothers' story was never reported to the public as more than a jumble of accusations against McGoran and generalizations about racism against brown people. Actually, for those who had been following the trial, the brothers' story came as an immense



Rudolfo "Tony" Martinez

relief after the confusion of the prosecution's case:

On May 1, 1969, Mario planned to take José, Bebe and Pinky to CSM to register for the summer session. He used Tony's car to pick up José. On the stand, Mario showed how he drove: with his left palm on the steering column, not touching the wheel itself, and thus leaving no prints.

At 433 Alvarado, Mario found José and Gio Lopez arguing. Gio had just put some stolen goods in the basement and José was insisting he move them. Mario reluctantly agreed to move the property to a location Gio said was on the way to San Mateo.

Pinky and Bebe, who had been waiting in the car, were recruited to help load the stuff. They had barely begun when Brodnik and McGoran drove up. As McGoran strode toward the sidewalk, he yelled, "Where'd you punks steal this shit?"

Brodnik asked who lived there, and when José volunteered, he was sent upstairs for ID. Mario and Gio followed (not Bebe and Tony, as McGoran had guessed). Mario and Gio never went downstairs again, and finally fled out the back door.

Meanwhile, McGoran told Bebe, "Get over here, punk," pointing to the stairs to 433. Bebe obeyed, remarking, "You smell like an Old Crow whiskey factory."

When José returned with the ID for Brodnik, McGoran snatched it out of his hand. Then he turned to Pinky: "Hey, greaser, your father's a grapepicker; I eat grapes. Whaddaya think of that?"

Pinky said, "I hope you choke on 'em."

"Cool it, Pinky," said José.

Pinky headed toward 433. "I'm going upstairs."

"Stay where you are, punk." McGoran patted his right hip, indicating the gun hidden inside

his pants.

"What're you gonna do, shoot me?"

"Why don't you make like a rabbit and see?"

Pinky jumped on a ledge in front of 433 Alvarado. McGoran followed, grabbing him near the throat. "Okay, you greasy bastard, now you're gonna get it! I'm gonna wash my hands on your back!"—McGoran's personal version of the term "wetback." Then he smashed Pinky's head against a pillar.

McGoran had the advantages of weight and reach; Pinky was younger and more sober. He smashed McGoran's jaw, drawing blood. McGoran hit back and sent him crumbling to the ground. Then McGoran pulled his gun and aimed it at Pinky. Bebe jumped up and grabbed McGoran's arm. As they struggled, Brodnik ran to separate them, yelling, "No, Paul, not your gun!" The gun fired; Brodnik went backwards, then collapsed. Bebe twisted McGoran's arm, then with his free hand caught the barrel of the .41 magnum and whipped it away.

Bebe pointed the gun at McGoran but didn't fire. Then he, like the others, fled. As Bebe explained, "There's one cop dead, another one injured. I'm standing there with the gun.

I'm brown. Who's gonna believe me?"

[WITNESSES FOR THE DEFENSE]

**K**ATHY O'ROURKE WAS ONE of the young whites who tutored in the College Readiness Program. She testified that on May 1 she tutored Tony Martinez from 8:30 to 11:30 AM. On cross-examination, Norman hammered at the fact that Kathy had not told police Tony's alibi. Why? "I told her not to!" Garry thundered; and later, when Norman asked if Kathy didn't think it would have helped to tell police, Kennedy objected: "That assumes facts not in evidence, namely, that the police are interested in justice." Later a secretary testified she saw Tony and Kathy that morning.

Sandy Domdoma and Donald Wilson testified for Nelson. Sandy said she saw him that morning at 8:00 AM in her apartment before she left for work. When she returned at 5:00, Nelson was panicky, having just heard the news from José. On cross-examination Norman was snide: "Did you sleep in the same bedroom with Nelson?" and so on. Wilson testified he was at Sandy's apartment with Nelson until 10:30 that morning—about eight minutes after Brodrik was shot.

The defense now entered the most explosive part of its case. The brothers said McGoran was not only the aggressor but the killer. To convince the jury of this, the defense had to show who McGoran really was, or, in legal parlance, show "prior acts of violence by the alleged victim of an assault."

Seven witnesses testified to McGoran's violence. An 18-year-old girl described an incident in which McGoran, very drunk, called her a "tramp" and her Puerto Rican boy friend a "goddam nigger," then, without provocation, pointed a rifle into her belly, saying, "I'm a police officer. You kids today have no respect for authority."

A young longhair, 5'4" and 120 pounds, testified McGoran brutally pounded his head against a car roof, then waved his gun at the crowd which had gathered, shouting, "Anyone interfere and I'll shoot!" McGoran was arrested for assault and battery, but the trial ended in a hung jury. A bearded student and his 90-pound girl friend testified McGoran attacked them both and accused them of breaking into a parked car for which the girl then produced registration papers. McGoran had the student arrested anyway; the charges were dropped.

This accumulation of detail not only established McGoran's own viciousness, but that of the whole police establishment in protecting him. Numerous indications of a frame-up—like Norman's letter of recommendation which encouraged prosecution witness Caravantes to change his story, or the "mistaken" identification of Nelson's fingerprints—kept cropping up. Complaint letters which witnesses said they'd written were never "found" in police files. Inspector Cleary had Ralph Ruiz's statement—which named

Sandy Domdoma and Donald Wilson as Nelson's alibi—yet he never interviewed either of them. Quite by accident the defense turned up a police report of the incident which had never been volunteered despite numerous discovery motions—and the reason became clear: this document, written for McGoran's bravery award, said only *four* suspects were on the street when Brodrik and McGoran approached, and the prosecution was now claiming six.

The defense also produced a medical report describing an injury in the web area between McGoran's right thumb and trigger finger. Such an injury would result if McGoran had the gun wrenched violently from his hand—as Bebe testified. McGoran, of course, denied ever drawing his gun. He also "failed to recall" most of the incidents character witnesses described. His second ex-wife, Thelma, testified that her husband often boasted he could lie on the stand without anybody detecting it.

**T**HE PROSECUTION CAN'T understand why these defendants fled," Charles Garry said in his characteristically emotional summation. "He can't understand why Tony Martinez, when he is not involved in any way, will remain silent and not give his alibi. Is it because he knew Nelson Rodriguez had given his alibi and they didn't even bother seeing any of the persons named?"

"Tony Martinez told you he came to the rescue of his brother because he knew that his brother was in danger. Is that wrong? Or are we so individualistic that we are not interested in our fellow man, much less our own blood brother?"

"There is no evidence against Danilo Melendez . . . McGoran said he [Danilo] went upstairs.

Yet what does he do? Does he hide behind a cloak of safety? No. He gets up on the witness stand and tells you what happened.

"Unless you understand this brotherhood, you will not understand why Danilo would forsake his position of safety. You will not understand why Tony would go with his brother when he was not involved. You will not understand why Mario would give up some of his classes in order to bring new students into the movement at San Mateo.

"Unless you understand this brotherhood, this cementing of solidarity among people who have been discriminated against, you will not understand the flight. You will not understand how the brothers became concerned when Nelson's name was mentioned on tv the first day, how they wanted to protect him and embrace him."

Kennedy added, "Bebe Melendez doesn't like cops. But that doesn't mean he's a murderer. He had the greatest opportunity to kill a cop any young man ever had [after he took McGoran's gun]. He resisted the temptation." Kennedy called Norman "a hack," and said he hoped some day to prosecute McGoran at "a people's tribunal."

The jury was less convinced by the eloquence of Garry

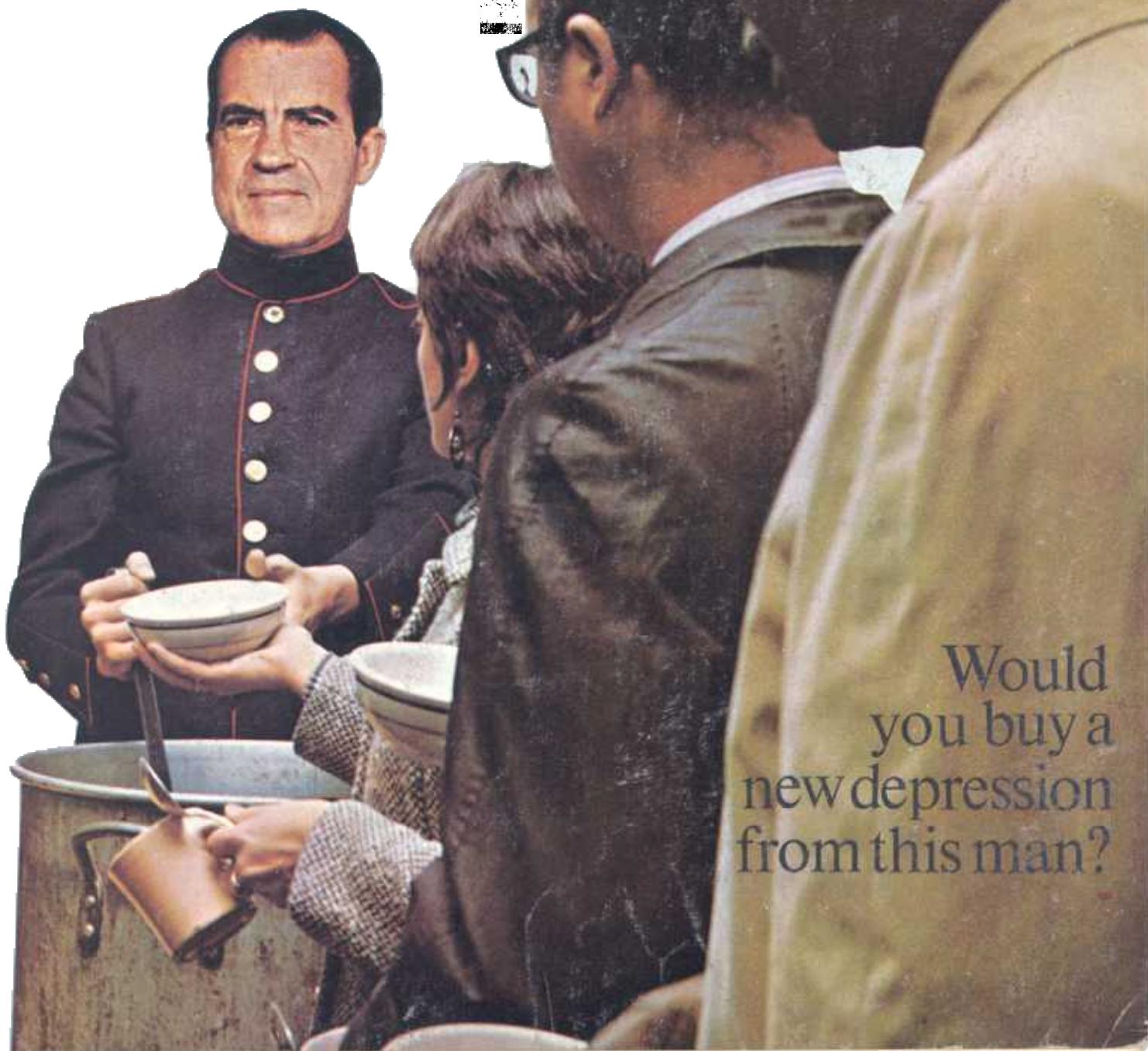


José Mario Martinez

March 1971

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