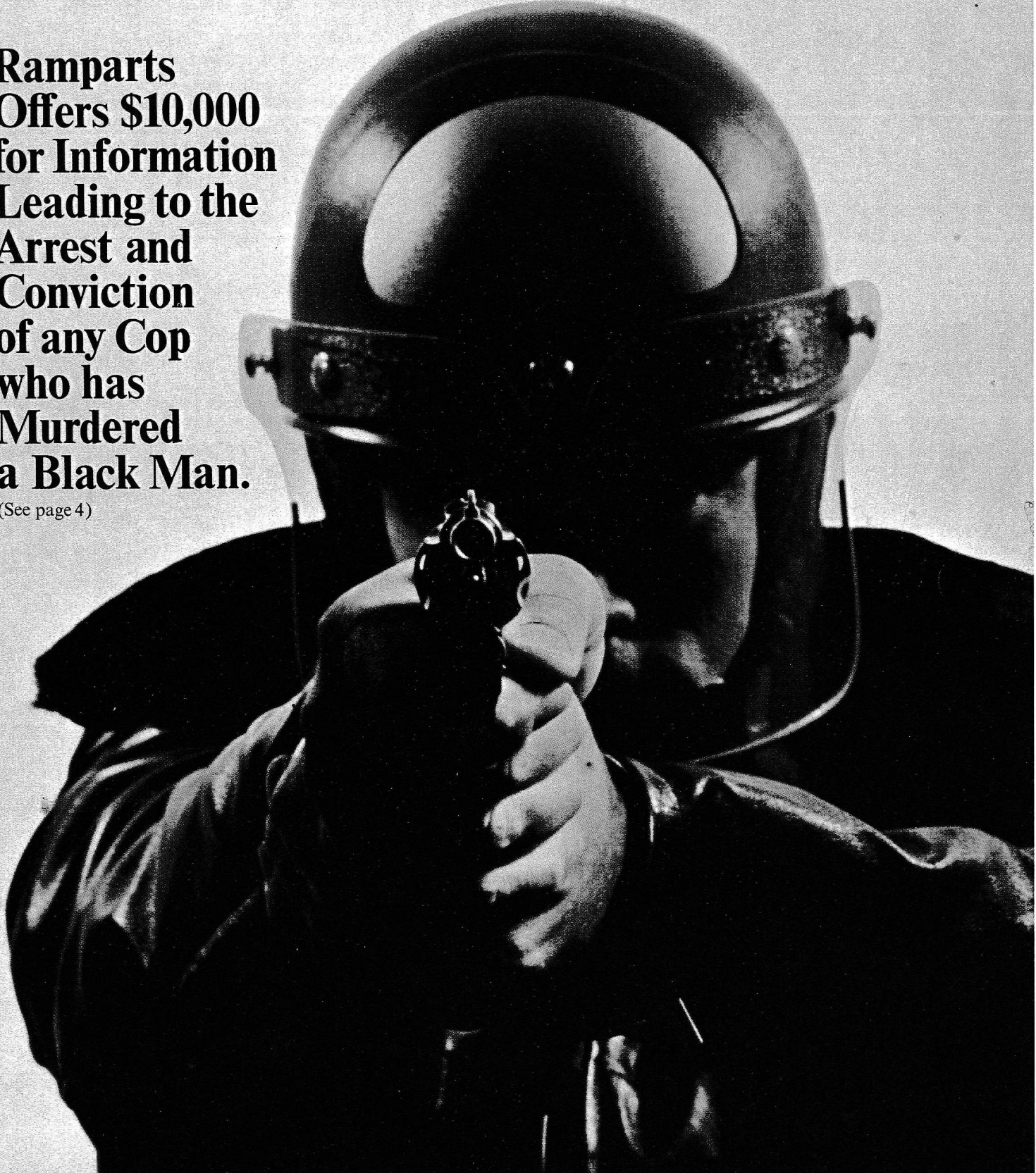


July 1969 Susan Sontag: An 18,000 Word Report from Sweden 75¢

Ramparts

**Ramparts
Offers \$10,000
for Information
Leading to the
Arrest and
Conviction
of any Cop
who has
Murdered
a Black Man.**

(See page 4)



Officer O'Brien: "I want to kill a nigger so goddamned bad I can taste it!" He killed George Baskett.

THE SCENE: *San Francisco. Its climate is moderate; tempers do not flare; passions are not abraded by the heat. It is renowned for an easy-going, live-and-let-live attitude. It prides itself on its cultural diversity.*

MICHAEL O'BRIEN WAS RETURNING with some friends from a Sunday outing at Lake Berryessa. The double date had not gone well: O'Brien had been drinking and was in an unpleasant mood. At one point, he made his date get out of the car with him and told her to "be a little more affectionate" or walk home. She calmed him down a little, though, and they got back into the car.

On the way across the San Francisco-Oakland Bay Bridge, he suddenly brandished a .38 revolver. After a minute he put the gun away, and a few minutes later they were at Brush Place.

You'd have to be a pretty determined San Franciscan to know where Brush Place is. About two and a half blocks from the ugly new Hall of Justice, there's a little dead-end alley off Folsom Street called Hallam Street. Off that alley there's an even smaller alley, also a dead end. That's Brush Place. O'Brien kept his boat in one of the garages in Brush Place that are rented out for that purpose.

Carl Hawkins, a mild-mannered black streetcar motorman, seems to have scraped O'Brien's boat trailer with his car. Hawkins immediately stopped and got out.

This is how all the witnesses who were not police described what happened next:

One thing quickly led to another. O'Brien yelled at Hawkins, "If you scrape my car, I'll shoot you!" People in the neighborhood, many of them black, came out or looked out their windows to see what was happening. Suddenly O'Brien pulled out his .38 and shouted, "Get your heads back in, niggers, or I'll kill all of you. I'll blow your heads off." Hawkins' wife went inside to phone the police; Mike's companion, Willis Garriott, went out toward Folsom Street on the same errand.

As Garriott returned with Special Patrol Officer Raymond Adkins (a private policeman, but one with a uniform and a gun), there was the sound of a shot and confusion in the street; O'Brien had three black men at gunpoint, their hands against the wall at the end of the alley. O'Brien was getting nastier by the minute; according to witnesses, he said, "I want to kill a nigger—I want to kill a nigger so goddamned bad I can taste it!"

A black truck driver and neighbor of Hawkins, George Baskett—five inches shorter than O'Brien and 75 pounds lighter—picked up a slat out of a chair back, a thin piece of wood about 23 inches long and about an inch and a half wide,

and tried to knock the gun away from O'Brien. Garriott and the special cop had their guns out by now and watched as O'Brien growled, "Drop the stick, drop it, goddammit." He counted in a rapid cadence, "One . . . two . . . three. . . ." There was a sharp crack. The bullet ripped through Baskett's chest, severing a major artery. As Baskett lay moaning and dying in the street, O'Brien approached him. "Shut up, dammit," he growled, "shut up." He kicked at Baskett's side, turning his victim over on his back. Baskett's pregnant wife ran out toward her husband. "Get out of here, you black bitch," O'Brien shouted, forcing her down the street. Then he looked up at the black faces peering down from the windows above him. "Get your heads back in niggers," he shouted, "before I blow them off." Within minutes, Baskett, twenty-eight years old and the father of five children, was dead. Michael O'Brien had killed his nigger.

The police came, including San Francisco's head-cracking Tactical Squad. They immediately began questioning "suspects." They arrested Mr. and Mrs. Carl Hawkins, Mrs. Hawkins' son Richard Dickerson, and Otis Baskett, on charges of conspiracy, assault to commit murder, and assault with a deadly weapon. Then they helped the dazed O'Brien out of the alley and away from the angry crowd.

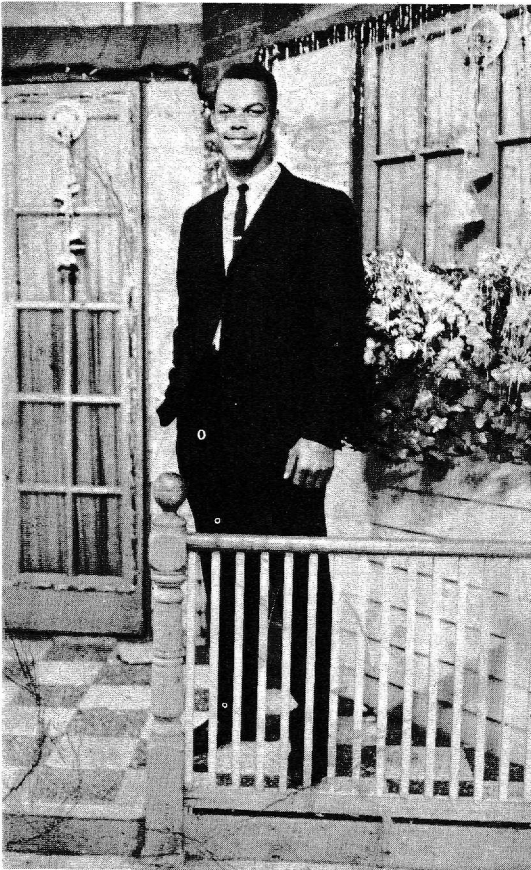
O'BRIEN OF COURSE WAS WHITE. And although he had never said so to anybody in Brush Place, that night or at any other time, Michael O'Brien was a cop.

"If he had only identified himself as a policeman," recalled the soft-spoken Carl Hawkins, a man of fifty, "this whole business would never have happened." And then—not apparently conscious himself of the ironic significance with which his words illuminated the growing chasm between law and people in the country as a whole—"People around here have a lot of respect for a police officer."

Within four hours of the shooting of George Baskett in Brush Place, the official police investigation of the incident had been conducted and concluded. The two officers who submitted the report admitted in court that it had been rewritten three times on the orders of their superior, Lieutenant Daniel Mahoney, who had specifically ordered them not to mention any witnesses other than the policemen present. The report concluded that the killing of Baskett was "justifiable homicide." It was only *after* reaching this conclusion that the police questioned the arrested blacks, who for three hours had been kept handcuffed in the paddy wagon outside the Hall of Justice. Early Monday morning, Chief Thomas Cahill told reporters that the whole affair was a "sad situation," but

By Art Goldberg and Gene Marine

[Dramatis Personae]



George Baskett, deceased

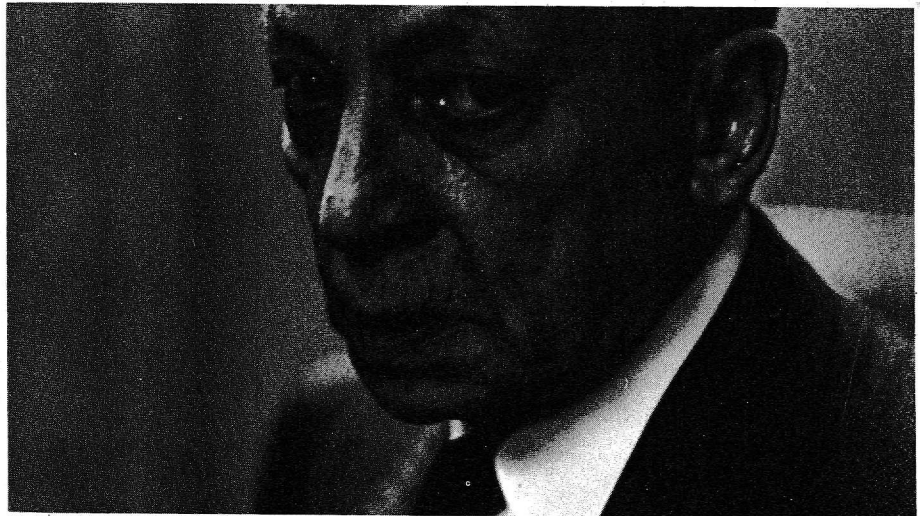


George Baskett's widow, Charmaine, with their children

Shames

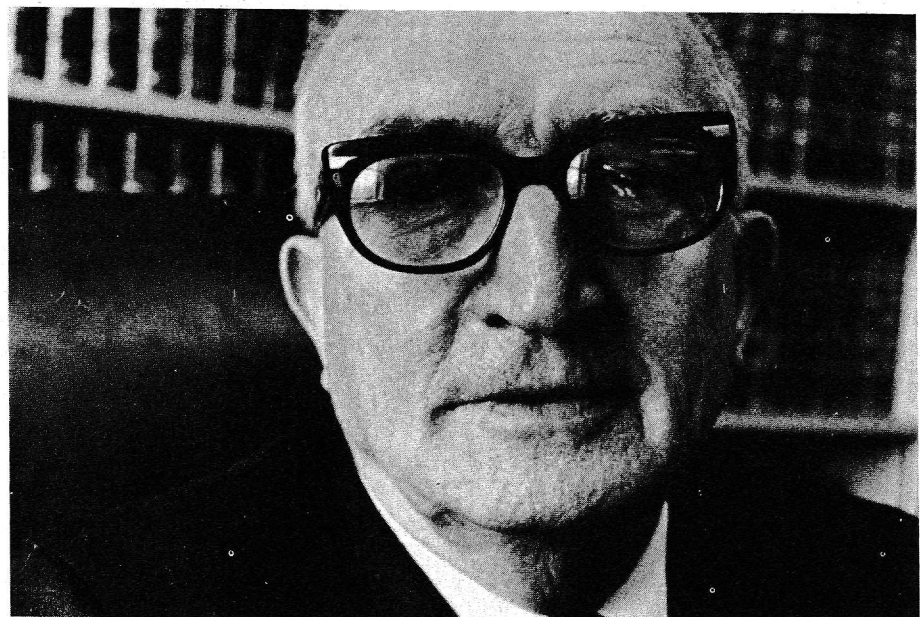


Michael O'Brien, the killer



Defense attorney, Jake Ehrlich

Brown



Judge Joseph Karesh

Shames

"a man has a right to defend himself." He termed the shooting "accidental" and informed them that his own private investigation was closed.

But it was soon clear that sweeping the "accident" under the rug was not going to be quite so easy. Word had spread fast, and an aroused black community was soon denouncing Cahill's expeditious review of the case as a police department "whitewash." On top of this came some exceptional newspaper reporting by two local journalists, Birney Jarvis and Charles Raudebaugh. The police story stank. They knew it and they said so—on the front pages of the San Francisco Chronicle.

By October 1, Cahill was forced to announce a reopening of the investigation. On October 9, Michael O'Brien was arrested and formally charged with murder.

In these times of popular backlash against "coddling" of accused criminals, it is instructive to note what kind of support is available to a rank-and-file policeman with no "connections" who has killed a black citizen. First, of course, there are his comrades-in-arms, who came through with two crucial commodities: money and testimony.

The accused O'Brien had other help. He did not, for instance, have to resort to the public defender or to penny ante private counsel. The earliest moves in his case were handled by prominent San Francisco attorney Edward Dullea. Dullea's brother is president of the prestigious Catholic University of San Francisco, whose law school has given the city a large proportion of its judges (including Judge Karesh, who ended up trying the case). The father of the Dullea brothers was a former San Francisco chief of police.

But Dullea was soon replaced on the case by his even more prominent partner—through whom still other lines of influential support became available to the humble cop—the fire-eating, legendary trial lawyer, Jake Ehrlich.

[THE LEGEND OF SAM BENEDICT]

JAKE EHRLICH IS THE Best Criminal Lawyer in San Francisco. That doesn't mean that he is the best criminal lawyer in San Francisco; it means that that's his local title, though it rests mostly on past laurels—he doesn't have to work much any more. His reputation rests on the fact that, while he has occasionally compromised on conviction for manslaughter, he has never had a client convicted of murder—and he's handled over 50 murder cases.

The reason he doesn't have to work is that he's a member—possibly even a charter member—of the San Francisco Establishment.

This has brought him into contact, and ultimately into friendship, with financier Louis Lurie, who juggles local hotels as a hobby. According to Ehrlich, Lurie is "the owner of more real estate than the Department of the Interior." For a couple of generations or so, Jake has been putting a buck wherever Lurie puts ten, and that's been a painless way to amass a sizable bundle.

Jake is a liberal. He took on Senator McClellan when he criticized use of the Fifth Amendment. He defended poets Allen Ginsberg and Lawrence Ferlinghetti against obscenity charges concerning "Howl." He did a lot of other things that might have led someone to think that his life would make a great movie.

It never did, but it did make a television series, starring Edmond O'Brien. They called it "Sam Benedict," because the incipiently portly actor could hardly play tiny, skinny Jake; besides, Eddie would have had to play a lawyer who by now is over seventy.

Ehrlich is also, now and for some time past, the attorney for the Police Officers' Association—a voluntary organization which, when you become a cop, you join if you're white and stay away from if you aren't.

One of the things that Ehrlich has going for him is that any jury that could conceivably be put together in San Francisco is going to be in awe just because it's the nearly legendary Jake Ehrlich before the bench. He's not only Sam Benedict; he's Perry Mason, Judd, and the Defenders, all at once.

Another thing about Jake is that he will use whatever will win; if racism will win, he'll use that. And so he did. He played it like a fiddle.

Although almost everyone had assumed that murder is unbailable in California, a municipal judge released O'Brien after he was booked. Black leaders were furious, and the noise was so loud for a day or so that a second municipal judge overruled his colleague and ordered O'Brien back to jail.

Then Ehrlich moved in, going up to Superior Court where he obtained a ruling granting \$25,000 bail. "This man is not going to run," the judge explained.

Half the bail came from a bail bondsman. The other half was put up by Louis Lurie. "If this is a murder case," Ehrlich's friend told a reporter, "I'm the Pope of Rome."

He's not; and Michael O'Brien never was, and never will be, tried for the murder of George Baskett.

The Grand Jury members, as always, were prosperous middle-class, predominantly white, and predominantly male. They meet in closed session and the district attorney tells them pretty much what he wants them to know.

After hearing witnesses, the Grand Jury deliberated for 15 minutes and indicted Michael O'Brien—not for murder, but for manslaughter.

The foreman said that, in the light of the testimony, there wasn't that much difference between murder and manslaughter in this case. (Huey Newton, who was ultimately convicted of manslaughter, was indicted for first degree murder by the Alameda County Grand Jury across the bay, without benefit of eyewitness testimony or a murder weapon.)

The city's black leaders hit the roof. A blistering statement was issued charging that law enforcement agencies had "connived and conspired to thwart justice."

Jake Ehrlich, on the other hand, had the grace to concede that manslaughter is a better rap than murder, though he still insisted it was justifiable homicide. "But this is one of those political footballs," he went on. "Everyone wants to be heard, and all they're doing is creating class feelings."

O'Brien's bail was reduced to \$3125.

[THE JUDGE]

SUPERIOR COURT JUDGE JOSEPH KARESH grew up in South Carolina, but that does not make him a bigot. In fact, he is proud of the fact that his father, a rabbi, taught Hebrew to the local black ministers. Like Jake Ehrlich and Mayor Joseph Alioto, Karesh is a liberal. When a proba-

tion officer was fired for having a beard, Karesh ordered him rehired with back pay. He ruled that the city could have topless joints and ordered the police to allow performances of Michael McClure's play, "The Beard."

He has, however, a couple of minor hang-ups. He doesn't like student dissidents, he loves cops, and he appears to have a somewhat racist way of not being a bigot.

One local attorney recalls, "In many previous dealings I had with Karesh, he seemed to have a very strong block against perceiving that any policeman could be guilty of any misconduct. One sure way to arouse his anger would be to suggest that the police were guilty of any impropriety. It would sort of destroy his world if he thought O'Brien really called those people 'niggers' or shot to kill."

And a local reporter notes that, "... in his chambers he'd cut up prosecution witnesses, and talk about how the blacks are getting away with everything, how juries are afraid to convict them, how they are arrested one day and walk away free the next day."

[THE BLACK-WHITE ENTANGLEMENT]

ON JANUARY 13, 1969, IN THE SUPERIOR COURT of California, Joseph Karesh presiding, Michael O'Brien went on trial for manslaughter in the death of George Baskett.

Two days later George Baskett's sixth child was born.

It took only one day to choose a jury. Ehrlich used two peremptory challenges; one eliminated airlines supervisor George A. Buckner Jr., the only black called. No "personal reflection," said Ehrlich.

Similarly, *any* lawyer can insure an all white jury by use of his allotment of peremptory challenges, which the judge cannot review.

Ehrlich made it quite clear, when questioning jurors, what the trial was going to be about. A key issue, he said, would be "this black-white entanglement." Judge Karesh found nothing to criticize in that formulation.

Attention on the second day focused on Elizabeth Hawkins, a tall, striking woman who said flatly that she had watched Michael O'Brien deliberately murder George Baskett. The next day, Ehrlich moved in, contempt dripping from his tiny frame. He accused Mrs. Hawkins of having lied outright on three occasions.

But she refused to be Ehrlich's pigeon. After she insisted again that she had seen O'Brien kick the dying Baskett:

Ehrlich: "What kind of shoes did O'Brien have on?"

Mrs. Hawkins: "Sneakers, I think."

Ehrlich: "Then he couldn't have hurt Baskett much if he kicked him, could he?"

Mrs. Hawkins: "I have no idea—I have never been shot and then kicked."

Carl Hawkins followed his wife to the stand and corroborated her story, with additional details. During the early part of the incident, he said, his stepson, Richard Dickerson, had arrived and asked a neighbor, Mrs. Anne Thomas, what was going on.

"Your father's having trouble with the white man," she replied.

That, she testified, angered O'Brien further. "Shut up, you goddamn nigger bitch!" he yelled.

Mrs. Thomas promptly yelled back, "Ask God why he made me a nigger bitch and made you a honky."

Baskett had picked up a stick and tried to use it to knock the pistol from O'Brien's hand, but O'Brien ordered him to drop it and began to count.

"O'Brien," Hawkins testified, "extended his arm, braced his right arm with his left hand to steady the pistol, and fired one shot. I saw the flash of the gun."

Otis Baskett, the dead man's brother, appeared and told the same story.

Ehrlich tore into him, shouting that he was a "professional liar." Assistant District Attorney Walter Giubbini, who prosecuted the case, called the use of the phrase "disgusting." Karesh, however, let Ehrlich rant.

But the next witness—Special Officer Adkins—had seen none of this at all. What *he* had seen was a silent confrontation, no words at all, in which Baskett was beating O'Brien on the head. "O'Brien stumbled backwards, kind of shaking his head. Mr. Baskett was preparing to strike him again when the gun discharged." Later he said that O'Brien was "tensing up, trying to regain his balance," but that he was off balance and "back-pedaling," leaning backward with his gun "straight out in his hand," when it went off.

On redirect examination Adkins admitted to consulting with Ehrlich about a week after the shooting. The police department had been "harassing" him to talk to the district attorney, he explained. Ehrlich interrupted to say that he had advised Adkins only to tell the truth.

Dickerson's turn came next, and his story varied from that of the other black witnesses only in the quotation from O'Brien, which he remembered as, "Drop it—drop it, goddamn it, nigger, I'll kill you." Then the count.

The score, by witnesses, was: four who matched each other almost exactly, one who differed. Up to this point memory divided along racial lines.

[THE TRAITOR TO HIS RACE]

DAVID ANDERSON, THE EIGHTEEN-YEAR-OLD son of an elementary school principal, testified that he was listening to a rock record "when I heard shots and a big commotion." He went up on his roof, which commanded an excellent view of Brush Place, to see what was going on, and he told the court what he saw.

David Anderson is not only white, he's "clean": his father's professional job is in San Leandro, just south of Oakland across the bay, and the family lives in the pristine suburb of Castro Valley. Anderson had taken his apartment while going to college.

From the roof, he said, he saw three black men spread-eagled against the wall and a white man with a gun; he identified the white man as O'Brien. Then, Anderson went on, a fourth black picked up a stick and swung it, hitting O'Brien either in the left side or on the left elbow. As Baskett backed away, crouching, O'Brien deliberately shot him.

Shortly thereafter, he went on, O'Brien held his gun on one of the men leaning against the wall, and deliberately kicked him in the seat of the pants. "Just give me an excuse—just give me a reason and I'll shoot you!" O'Brien was quoted as shouting. Then O'Brien moved back and yelled at the people looking out of the apartments to get their heads back in.

Ehrlich was faced with a calm and believable young witness, and one who was white—apparently beyond the reach of simple racism. But he knew his judge, and he knew his jurors. The key lay in Anderson's attendance at San Francisco State College, and the possibility of making the young man appear a traitor to his race.

Ehrlich immediately asked whether Anderson was participating in the strike there; Anderson answered that he was. There followed a barrage of questions about Black Panthers, hair, SDS, prejudice, and a number of other subjects, none of which were particularly relevant, though they seemed to fascinate the judge, and Giubbini gave up trying to stem the flow.

What Anderson actually said was fairly mild. He is not a member of Students for a Democratic Society, though he is in sympathy with some of its aims (which no one asked about). He thinks students and teachers have a right to strike. He hopes the strike will help to end institutional racism.

But this alone doesn't convey the effect. Ehrlich met Giubbini's objection to the whole line of questioning by saying that he was trying to prove bias, because "these people who are part of SDS think every white policeman is a pig." He asked Anderson: "If there is any feeling between white man and black man, you are standing against the white man?"

Ehrlich kept Anderson on the stand for two more days, hammering at left-wing associations that weren't there and ideas that Anderson refused to agree with. He demanded that Anderson show his draft card and pretended surprise when Anderson produced one.

Having raised the specter of SDS, the bombastic attorney made another try, this time with the Black Panthers. He asked whether Anderson knew Richard E. Brown, a Panther who had given a lower apartment in the same building as his address when arrested five times between March and November, 1968. Anderson said he didn't know Brown, but that he had moved into the building in September and that no blacks lived there.

Finally, Ehrlich said that he "had been informed" that a police report, dated the night after the shooting, involved Anderson's apartment, and that the report said a black youth was living with Anderson and his white roommate, David Dixon, and that the apartment was decorated with "Free Huey," "Black Revolution" and Che Guevara posters. Anderson merely noted that his apartment is decorated with travel posters, not revolutionary posters, and that he and Dixon have no other roommate.

BY A STRANGE COINCIDENCE, the Tactical Squad was called out in the area of Rodgers Street "to protect fire engines against possible sniper fire" on the night following the Brush Place shooting. And a couple of the boys just happened to bust into the front of, and out the back of, 35 Rodgers Street, where that stupid white punk lived who had backed up the black people's story about what happened the night before.

When they busted in, one Tac Squad member testified, he saw somebody else going out the back; he trained his pistol on the man and told him to stop—then discovered that it was Richard Brown, who cried out, "We live here, we live here."

The cops were there, of course, without a warrant, without any cause to break into the apartment, and without permission. They didn't even call out that they were police.

John Coate is white, but he has long hair and is obviously

another traitor to his race. Coate, it seems, was visiting David Anderson on the night of September 30, when the Tac Squad came, and he said there was no black man there and no revolutionary posters on the walls. Ehrlich decided Coate was biased against the police, too, and started on the same bit with questions about State; Coate replied that he believes in nonviolence and is opposed to both police and student violence on the campus. Anderson, he said, is "a rather conscientious person who cares about the world in which he lives."

And the jury apparently just plain didn't hear Anderson's father, the school principal, because he was there that night too, and while he left before the cops came, he left Coate and Anderson and Dixon alone. He also described the posters on the wall. He could describe them, he said, because he had provided them—they were travel posters.

At one point during the testimony, Ehrlich found reason to thunder an accusation which, in its wording, effectively let the jury know which side Anderson was supposed to be on. "This is a white and black fight," Ehrlich shouted. "This man Anderson is an unmitigated liar. Any man who would sit there and lie a man's life away is not entitled to a fair trial—he should be taken out and shot."

For this bit of legal theory from the city's foremost criminal attorney, the judge had not a word of rebuke.

But that wasn't Ehrlich's most extravagant shot for the day. He made his position, his tactics and his opinion of the judge all very clear just a short time later, when a Tac Squad officer said that he believed Richard Brown was in the courtroom.

Ehrlich strode to the railing separating the spectators from the front of the court, leaned over, and bellowed, "What's your name? Stand up, boy!"

There were some audible gasps in the courtroom, but Ehrlich ignored them. The black youth, after a brief but obvious struggle for control, said quietly, "My name is not 'boy.' My name is Richard Brown."

Ehrlich walked back to the counsel table, threw himself into the chair, and said, "Why don't you lock him up?" That's a little obscure, but that's what he said.

Judge Karesh leaned solicitously forward and said, "I'm sure you didn't mean to offend anybody, Mr. Ehrlich."

Jake took the cue and leaped up again. Facing the jury, he thundered, "Some black people seem to think it disgraceful to be called 'boy.' My grandfather and father called me that. What's wrong with it? I don't understand this childish, infantile feeling. I have defended these people many times without fee. I have no hatred for these people, no feeling for them at all. But I won't take any backtalk out of them, either!"

Karesh finally decided that maybe it was time for the jury to leave. When they were gone, he repeated to Ehrlich, "I did not mean to imply earlier that you meant any offense to anyone."

[O'BRIEN'S TESTIMONY]

MICHAEL O'BRIEN TOLD HIS OWN STORY earnestly and well. He'd had a few nips of the Red Mountain burgundy, it was true, but he wasn't drunk at all. He would never do a thing like threatening a girl with a long walk home—he was only a little put out because she had turned moody and was spoiling his "fun day."

When Baskett attacked him with a stick, he said, he tried to shoot him "between the knee and the thigh, but the gun clicked and didn't go off," so he thought it was empty.

"Here's this man with a club," O'Brien explained. "He made a real lunge at me. I backed away but he caught me across the right side of the head. I fell backward and hit the ground. As I'm falling backward the gun discharged."

The stick, he said, looked bigger in the alley.

And, when they told him in the police station that Baskett was dead, he said, "I couldn't talk any more. I was crying."

He also said that his "Gas Huey" tie clip (which he wore in the Hunter's Point ghetto during Huey Newton's trial) was only a gag. It didn't have anything to do with gassing Huey.

O'Brien was convincing, and the jury probably didn't pay all that much attention to the one serious use of physical evidence by Giubbini, who asked O'Brien to demonstrate what had happened.

When he demonstrated, his gun arm—inevitably—moved upward. Giubbini quietly pointed out that 1) the bullet that killed Baskett traveled *downward*, and 2) there were no powder burns on Baskett's clothes, as there would have had to have been according to O'Brien's reenactment. (A .38 police revolver will spray powder into clothing three feet away. It's hard to hit a guy over the head with a 23-inch stick from more than three feet away.)

Giubbini got in a description of another episode in O'Brien's life—when on a drinking spree at a Broadway topless joint called Pierre's, he took off after a topless waitress and chased her into her dressing room, waving his .38 all the way. O'Brien tried to say that it was a water pistol, then backtracked when Giubbini seemed to know what he was talking about. But after hearing it all, Karesh decided it was irrelevant and ruled the whole thing inadmissible.

The rest of the witnesses all supported the prosecution in one way or another, and several demonstrated that there was a conscious attempt to alter evidence in O'Brien's favor. But by then the jury had the message: black people lie; white people tell the truth, unless they're traitors to their race and belong to SDS and fraternize with Black Panthers, in which case they lie about that too.

Finally, nobody listened when Giubbini—who had started out in mild-mannered enough fashion, but who got increasingly incensed as he watched the Ehrlich-Karesh racism tandem—blasted the police department for the errors and omissions in its reports and investigations, and said that the original report (written without any black witnesses having been questioned) showed "some effort to . . . reflect what the lieutenant thought it should reflect, not what the facts were. . . We're talking," he told the jury, "about credibility in this case. We have to keep our eyes open."

But he was the only one talking about credibility. The others were talking about niggers.

[HYENAS]

JAKE EHRLICH SPENT SIX DAYS on his summation. Not preparing it—*giving* it. It was the longest defense summation in the history of San Francisco criminal law. It was also the most vicious, bigoted, nauseating, low and piggish performance any local courtroom has ever seen. Con-

trary to press suggestions, it was not racist; it was nothing that subtle. It is a disgrace to the Bar that the Bar Association did not meet the next day with censure and possible disbarment in mind; it is a disgrace to the bench that Joseph Karesh was not hounded out of his robes—and out of town as well—for letting it happen. Any Mississippi backwoods judge in the past ten years would have told an attorney making the same speech to tone it down.

Ehrlich started things off by referring to Brush Place as "a hellhole, with 200 hyenas in there."

He slashed at Alioto for "ordering" the trial because the mayor is "looking for the minority vote."

Banging on a lectern with the stick used by Baskett, he shouted, "Mike didn't do what I would have done. I would have shot him then and there. But he backed away, remembering his policeman's training."

Mrs. Hawkins, he shouted, "should be in jail for perjury. The blood of Baskett is on her hands. I don't know how she can sleep at night."

He repeatedly returned to racism, and told the jury that the residents of Brush Place had manufactured "a false facade of lies, chicanery and trickery," and that Giubbini had "patched up all these stories to make them fit one mold." The "litany of lies" was to be expected, however: "You must realize we're dealing here with people of little or no moral honesty or integrity."

Carl Hawkins, in Ehrlich's peroration, became "Mr. Holier than Thou," "Old Mr. Prayer Meeting" and, most often, "The Deacon," after Ehrlich said that Hawkins reminded him of "the old prayer meetings down home." Hawkins "manufactured" the story of O'Brien kicking Baskett, Ehrlich said, and was in any case "a sanctimonious little liar."

In the middle of the attack on Hawkins, Ehrlich suddenly said, "I'd better stick to the record; otherwise, I'll be accused . . . of being a racist or something."

"These people," Ehrlich told the jury, apparently relishing the hated phrase, "would have killed . . . O'Brien, and they would have killed you, too, if you'd been there. They have absolutely no respect for an oath, the truth or for common decency. They would just as soon sacrifice you as they did this boy here."

Otis Baskett, whom Ehrlich accused of "bobbing, weaving and double-talking," became "that big phony." And what David Anderson became was something else again.

"This boy is a member of SDS and hates police as sure as I'm standing here. He hates them and would shoot them if he had a chance. . . . [He] is a vicious young punk who wants to destroy our government . . . our homes, our children, 200 years of American democracy and the flag and all that stands for."

But it wasn't America that Ehrlich wanted the jury to see Anderson as betraying; that was incidental.

"I can realize our black brethren sticking together," the tiny lawyer intoned. "They do things I don't approve of, but I can understand. What I can't understand is Anderson coming apparently from a good home and selling his soul to prove his hatred for a policeman, what he calls a pig." (Anderson testified that he never uses the term "pig.")

Ehrlich called one or another witness "liar," "punk," "knucklehead," "little fool," "perjurer," "killer." He charged that Giubbini had deliberately implied that all 19 policemen

who testified were liars and had "manufactured evidence," and he added, "This breaks my heart when I see it."

Finally, he wound up with an almost tearful plea for poor victimized Mike O'Brien, begging, "Don't sacrifice this boy on the altar of chicanery to get a few lousy, dirty votes. If you don't find O'Brien not guilty, there is only one answer—the Golden Gate Bridge." He didn't say for whom.

Unaccountably, Ehrlich and Giubbini seem to have made an agreement in advance not to interrupt each other's closing statements—and Giubbini is a gentleman, though it must have taken considerable effort.

For Judge Karesh, there is not even that excuse. He sought to interrupt Ehrlich only when Ehrlich launched into a tirade against the Chronicle, and then only on the grounds that the jury had been instructed to avoid or ignore all mention of communications media during the trial!

One lawyer who was there put his opinion graphically: "Any judge with any balls would have cut Ehrlich off right away. A member of the Bar is not allowed to make racist remarks." A reporter who was at many of the trial sessions said that Karesh's role in the entire trial was vital: "The judge practically turned into a defense attorney" (the same reporter also called Ehrlich "a racist of the Bilbo type" and said that "at times, the word 'nigger' slipped out of his mouth accidentally").

The jury reported itself deadlocked, ten to two (for acquittal, it turned out), but the judge sent them back. The jury asked for instruction as to whether they should give weight to O'Brien's police training—whether, in effect, they should expect more restraint from him than from an ordinary twenty-seven-year-old kid with a gun and a jug of Red Mountain. The judge refused to give such an instruction (Giubbini wanted it, Ehrlich didn't); shortly thereafter the jury acquitted Michael O'Brien.

[HOW IT HAPPENED HERE]

"For two or three years there was wonderful rapport between the blacks and the police department. The police weren't shooting at people, and they weren't getting shot at."

—FORMER S.F. POLICE LIEUTENANT DAN ANDREOTTI

AFTER O'BRIEN WAS INDICTED, Reverend Hamilton Boswell said, "We hope you white folk mean business when you say law and order and equality for *all*." But the O'Brien incident and the trial reveal instead a case study of the distortions of justice that are produced by a pervasive crisis of authority in American cities: the growing independent power of the police, who are so determined to "protect their own" and so virulent in their racism that they assert a virtual license to kill; and the politicians and the legal system that go along, essentially granting that license. To understand the way the O'Brien case played itself out, one must see how the conditions that set the stage for it came about.

Thomas Cahill was lifted to the top echelon of the S.F. Police Department on a wave of reform that shook the department up in the mid-1950's. He was noted then for the integrity he had shown working in Senator Estes Kefauver's famous crime investigation in 1950-1951. And he was remembered even better for the case of Inez Burns, an abortionist who had offered him and his partner a quarter-million-dollar

payoff. They turned it down. The partner was named chief in February 1956, and Cahill succeeded him when he died in September, 1958.

As the 1960's began, Chief Cahill started to feel the pressure of the rising consciousness of the civil rights movement fused with the insistence of its leaders that something be done to make the police more sensitive to the needs of the black community. In 1962, without much personal enthusiasm, he established the police Community Relations Unit (CRU). To head up the new program he chose Lieutenant Dante (Dan) Andreotti, a native San Franciscan and a man who had spent 21 years on the police force. Andreotti was directed by Cahill to go out into the community and "teach respect for law and order." For this task he was given one assistant. "I was naive," Andreotti now recalls.

Andreotti started out by holding meetings and giving speeches. But he found that that approach didn't work, so he started bucking for more men (he ultimately got 15) and set them not to talking, but to listening—and helping. "To be effective, we had to address ourselves to social problems that could lead to police problems. We had to be involved, get around, know what the order of the community was. We practically lived in the neighborhoods."

CRU men went along on job interviews with men who had minor police records, explaining to employers the meaning of the records and persuading them not to bar applicants from jobs. The policeman could indicate which offenses were minor, or where there were extenuating circumstances. In one case, a young man was under the impression he had been convicted of rape, which made finding a good job almost impossible. In checking his record, the community relations officer found out that the individual had been *arrested* and charged with rape, but that the charges were later dismissed. Andreotti's men would sometimes make court appearances for defendants, urging judges to parole people who could be found jobs. They would also try to have the arrest records of juveniles expunged or permanently closed. The CRU also raised money for things like a recreation center and for clothing for job applicants.

The CRU worked with blacks, Latinos; Orientals and, eventually, the hippies of the Haight-Ashbury. Not only "community leaders" but the "brothers on the block" came to welcome them as friends.

Inside the department, however, things were not going as well. Cahill continued to defend CRU against outside criticism, but privately his support turned lukewarm and then cool. Many observers claim that the chief was responding to pressures from below. One says flatly: "Chief Cahill doesn't run the department. The Police Officers Association does." And most of the police force hated the CRU.

Lieutenant Andreotti had little trouble personally, but his staff caught hell—"commie-relations department" and "nigger-lovers" were the most common terms. Andreotti's troubles came on another level, with the station captains and with "downtown." There were four black officers in the unit and when Andreotti asked for more blacks, Cahill refused, saying there were too many in the unit already. A neighborhood community relations committee held a Christmas party, and Andreotti invited the entire force; not one cop showed up.

Andreotti is quick to point out that it wasn't just his fellow cops. The mayor never came to a community relations

meeting. A form letter to 4500 members of a merchants' association, regarding summer jobs for blacks, got no jobs, summer or otherwise; the same plea on TV brought only hate mail.

In September of 1966, a San Francisco policeman shot and killed an unarmed fifteen-year-old black, Matthew Johnson, who was running from a stolen car. A wave of anger swept through the Hunter's Point ghetto and the surrounding area. The cops and National Guardsmen, riot-alerted that year, swept along outer Third Street, the neighborhood's principal artery, turning a minor disturbance into a "riot." There was a lot of shooting—almost all of it by cops at unarmed people—but no one was killed except Johnson.

It would undoubtedly have been far worse had it not been for the CRU people who rushed to the scene and the "cool it" work of several groups of young people with whom the mayor's office had been maintaining contact (one youth had just succeeded in calming and turning back an angry group of blacks when a police bullet hit him in the back). Still, to the nation's press it was a "riot," and Big Red Cahill was furious. "I'll know how to handle this situation the next time," he stormed to Andreotti. "After all I did for those people! I was the only police chief in the country without a riot! They spoiled my record!"

IN AUGUST 1967, ANDREOTTI RETIRED from the police department after 27 years of service. He retired because he felt the community relations program was being undermined, and because he felt he could no longer be effective in a "general white-racist atmosphere." Andreotti now works for the Community Relations Service of the U.S. Department of Justice. Thinking back to the John Birch Society literature he saw on some station house bulletin boards in San Francisco, and the big picture of the Imperial Wizard of the Ku Klux Klan labeled "Our Hero" which he observed in at least one precinct, he now says, "Our war was with the police department."

Andreotti's own experience convinced him that "the majority of police opposed the concepts of equal opportunity in housing, education and employment long before civil disorders and violence struck our cities." When these disorders did erupt, as in the Hunter's Point incident of 1966, the police response was to use the occasion as an excuse to expand their forces. Thus in the wake of the police killing of Matthew Johnson, Cahill persuaded then San Francisco Mayor John Shelley to allow the creation of a Tactical Squad, an "elite" group of troubleshooters with training in judo and karate—but not in community relations.

Another good index of the change in priorities in the police department is provided by Los Angeles' recently resigned police chief, Tom Reddin, who says Cahill told him that "a few years ago, 95 per cent of our intelligence work used to go towards combatting organized crime. Now, 95 per cent of our intelligence work is in civil rights and riots." No wonder J. Edgar Hoover thinks that "Tom Cahill is one of the finest police chiefs in this country."

Cahill would never admit it, but he probably owes his job and whatever prestige he has to Dan Andreotti. Andreotti made Cahill and the SFPD nationally known for "community relations" work. A President's commission praised the department for opening "new communication channels with community segments never before considered 'reachable.'" Cahill

was rewarded with a vice presidency in the International Association of Chiefs of Police (IACP), which is one of those outfits in which the various officers all move up one notch each year. This past September, the same month in which George Baskett was shot, Cahill moved to the presidency of the organization.

Even his vice presidency in the IACP might not have saved Cahill's job back in 1963-64, when John Shelley was elected mayor of San Francisco and wanted to replace Cahill. Cahill, who needed four more years to be eligible for a police chief's pension, asked Andreotti to go to black community leaders and seek their support for his efforts to stay on as chief. "For two or three years there was wonderful rapport between the blacks and the police department," Andreotti said. "The police weren't shooting at people, and they weren't getting shot at. Cahill was going along with the liberal, even the radical ideas the Community Relations Unit came up with. I went to the black leaders and told them the chief was learning more about race relations every day. They went along with Cahill. As soon as Cahill got his 25 years in, in 1967, he began to emasculate the police Community Relations Unit. We were taken."

[WHO POLICES THE POLICE?]

JOSEPH ALIOTO IS A CLASSIC BIG CITY MAYOR in the liberal Democratic tradition. (The Christian Science Monitor has referred to him as "Lindsay West.") He sticks firm with the regulars and went to Chicago to second Hubert Humphrey's nomination at the convention last year. Alioto relies on the liberal political base of ethnic consensus, and is therefore profoundly threatened by being held accountable for gratuitous, racially provocative police violence. Yet here, as in other American cities caught in a rising spiral of urban violence, the liberal politicians have increasingly lost control over the police, who have emerged as a formidable, vindictive and independent political power. This was made clear in New York when the police dealt a crushing blow to the review board proposal backed by political leaders from Lindsay to Jacob Javits and Bobby Kennedy, defeating it by two to one in a city-wide referendum campaign heavy with racism. For Alioto, the aggressive power of the police has made it increasingly difficult to pull together the team of ethnic constituencies that he hopes to ride to the governorship and beyond.

Two things of importance happened in the San Francisco Police Department during 1967, the year of Alioto's election. Dante Andreotti quit. And a few days after the election, Chief Cahill signed his General Order 105, creating the Tac Squad in its present Mace-carrying, paramilitary form as the department's super-bullies.

Actually, it was the liberal Alioto who gave the green light to the new special forces. As a member of Alioto's family explained it afterwards to one reporter: "When my uncle got elected last November he thought he needed to take advantage of the contacts he had built up within the department over the years. He knew he could cause a split in the 'Irish Mafia' that controlled the cops because he had several good friends, from college and all, who were on his side, but what he had to do was create a public climate within the department that would be favorable to him. So he gave the go-ahead to Cahill both to stay on as chief, and to remake

the Tactical Squad into the kind of a thing the other cops would really dig. This would not only give him good entrée to the cops but would solidify the Republicans and right-wingers in the city behind him as mayor." It wasn't until a city-wide newspaper strike began in January 1968, that the squad got its real chance to practice.

The first opportunity was a demonstration outside the Fairmont Hotel, on top of Nob Hill, on the occasion of a speech inside the hotel by then Secretary of State Dean Rusk. Demonstrators threw bags of blood at the hotel and some of them were prepared to be arrested. But no one was ready for the club-swinging, head-cracking police riot that followed.

We shall forego description; you have read such descriptions before. Let us merely say that this was a bad one, and there are several lawsuits pending from that night.

Alioto, who had only television to contend with, said that he didn't believe there was any police brutality and characterized the demonstrators as "neofascist storm troopers."

The abandoned behavior of the Tac Squad was a clear projection of the mayor's political strategy with the police: to consolidate his base by winning them over (from Cahill) with a free hand and a blanket endorsement.

A few weeks later the Tac Squad struck again, this time in the Haight-Ashbury, where they simply ran a "sweep" of Haight Street and beat the hell out of everybody in sight, young or old, male or female, hippie or straight, including a few undercover cops and a couple of reporters.

Alioto was again quick to defend the marauding forces against irresponsible charges of police brutality. Having resolved to replace Cahill, he was getting ready to make his move. In August, the mayor had Terry Francois, a black member of the Board of Supervisors who is a close political ally of his, float a trial balloon. With Alioto out of town for a speech, Francois, acting mayor for the period, publicly stated that Tom Cahill should be replaced. The outcry from San Francisco's prominent and politically powerful business interests was strong enough for Alioto to hear all the way in New York, where he was speaking. On top of that, about 15 top men in the police department, all Cahill appointees, threatened to quit. (Patronage is a prime source of the police chief's power. All inspectors, and the commanding officers of stations, units and bureaus in the San Francisco Police Department serve by the appointment of the chief.)

The rank and file Police Officers Association was also unhappy and made its views known. What the thoughts of the Catholic Archdiocese of San Francisco were on the matter is not known, but since that body is thought to have a veto power over who actually heads the police department, it is assumed that Alioto heard plenty. In any case, his trial balloon collapsed, and no more criticism of Cahill was heard from City Hall.

So by late September 1968, when Patrolman O'Brien and George Baskett squared off—gun to wooden stick—in Brush Place, Cahill was firmly in command of the police and the police were beyond mayoral reproach. When two Tac Squad officers went berserk in San Francisco's Mission District earlier in the month, and a commission of inquiry was called, it was Alioto who made certain that the commission did not lay the ground for a police review board. No one could have been more satisfied by the mayor's performance than Cahill, who two years earlier, in a tirade before the San

Francisco Press Club, proclaimed: "The day this town has a police review board, I'll quit. The police department can investigate any charges of malpractice against a policeman."

[AFTERMATH]

MICHAEL O'BRIEN WAS FREED ON MARCH 20. On March 30, Patrolman Gerald Roberts, with his gun drawn, chased Alvert Joe Linthcome into a record shop, erroneously suspecting him of stealing a car. Linthcome's younger sister, who was standing outside the store, screamed at Roberts, "Don't shoot him, please, don't shoot him."

Linthcome, black, nineteen, and unarmed, turned around and put his elbows on the counter behind him. Roberts stepped into the doorway and killed him. The police, and ultimately the coroner, said it was justifiable homicide. Patrolman Roberts said, "I thought he had a gun."

John L. Brennan, attorney for the Linthcome family, has been denied permission to see the police report on the case. Elmo E. Ferrari, president of the civilian Police Commission, told him: "I'm sure Chief Cahill will give you all the documents he thinks you should have. . . . We'll leave this in the chief's good hands."

The polarization deepens at all levels. The mayor courts the backlash by spewing hysteria about the Black Panthers: he informs a Presbyterian group that the Panthers' ten-point program calls for "robbing and raping." The police raid the Panther office in force, on the pretext of a sound permit violation, sparking a near riot in the angry neighborhood that is quelled, according to reporters, only by the Panthers themselves. The mayor is not impressed: "The young men who did react so quickly and so well were probably mistaken for Panthers."

A group called Officers for Justice is formed representing nearly all of the city's 78 black policemen—the highest ranking blacks are two sergeants, the total police force is 1800—as an alternative to the white Police Officers Association. The new group cheers Reverend Cecil Williams when he calls the POA "the most racist organization we have in San Francisco." The businessmen's Downtown Association on the other hand cosponsors with the POA a testimonial dinner for O'Brien's attorney, Jake Ehrlich.

One black policeman, Robert Jeffrey, on the force for more than four years, resigned four days after George Baskett was killed, saying, ". . . I can no longer be the recipient of this hatred and outright prejudice. . . . I can no longer go forth into the community and tell the people of the ghetto areas that everything is all right if we just wait a little longer."

A few years ago in the South, blacks refusing any longer to wait and trust in the white man's justice to protect them, armed and organized themselves into the Deacons for Defense. Northern liberals, convinced that no other channel of justice existed for the black man in the South, reluctantly accepted this. Now they must face the fact that if the liberal cities of the North are going to practice Mississippi justice, a similar response from northern blacks may have to be accepted as well.

Gene Marine, coauthor of this article, is the author of America the Raped (Simon & Schuster) and The Black Panthers, soon to be published by New American Library.
