

THE CHRISTIAN FRIGHT IS MORT ZUCKERMAN BLOWING IT?

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# MAKING MOTOWN MATTER

New CEO **Andre Harrell** wants to return the down-at-the-heels pop-music institution to its former glory. But is his brand of "ghetto glamour" more than just a good rap?

BY KIKI MASON



# When Good Kids Kill

*So four white kids, from good Brooklyn homes, allegedly bash in the head of a homeless Ecuadoran man who was using their park. Who cares?*

**M**ANUEL AUCAQUIZHPI WAS 40 WHEN HE DIED; HE had come to Brooklyn thirteen years ago from Ecuador. To the Italian kids who killed him, he was Mexican—neighborhood shorthand for anybody who speaks Spanish and looks like an immigrant. As in: "You Mexican, get the fuck out of the park."

Aucaquizhpi stayed put. "I'm not bothering you," he replied, according to Patricio, a kitchen worker also in Dyker Park on September 6, 1994. "That's when [the kids] got mad and got the bats," adds Patricio, who did not stick around. "*Los Italianos siempre nos acosan!*" he shrugs. "If I stayed to watch every time, I'd live in the park."

This week, four of the kids—Joseph Pennachio, Steven Ruiz, Anthony Scarpati, and John Tanico—appear in Brooklyn Supreme Court in the bludgeoning death of Aucaquizhpi. Fifteen to 17 at the time of the killing, they haven't enough stubble among them to coat a razor. Not one stands taller than feet four, or looks older than 12. Squirt defendants aren't new to race cases, but these kids lack the nasty swagger of their predecessors: Joey Fama of Bensonhurst, 1989; Jonny Lester of Howard Beach, 1986; and Anton McCray of the first Central Park-jogger rape, 1989. Perhaps these kids' high-priced lawyers—four of the city's toughest—clued them in to the advantages of looking like the altar boys they once were. "These are good, clean-cut kids from nice homes who got caught up in a terrible situation," insists R lawyer, Joe Benfante, once of the defense attorneys in the "Pizza Connection" heroin- and cocaine-dealing case.

The defendants were, indeed, raised by homemaker moms and blue-collar dads who sent them to Catholic schools. Scarpati's father loads trucks; Pennachio's dad works for the city; Tanico's is a postal employee; and Ruiz's helps run his in-laws' funeral home. But there are also uncles reputed to be soldiers in the Gambino crime family. Prosecutors have told the court that first cousins Ruiz and Pennachio are nephews of reputed family soldier Robert Scarpaci, and that Scarpati is the nephew of another, unnamed, Gambino associate. Casting the defendants as the wild spawn of mobbed-up families may be too easy, though. The uncles were not in the park that night, nor did

their nephews report back to them after Aucaquizhpi was killed; they returned to loving, two-parent homes.

Tanico initially told cops that he and his friends killed "the Mexican" because he had kicked their handball, but then Tanico said a lot of different things. "That stuff about the handball was bull," says Deputy District Attorney Michael Vecchione, "an excuse for these kids to do what they wanted to do anyway to people whom they considered scum."

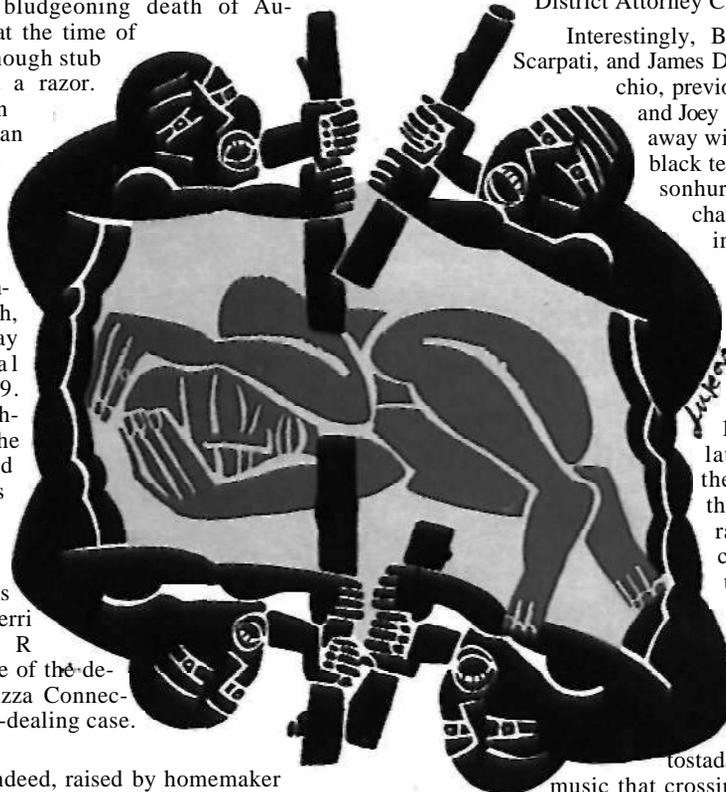
Pennachio struck first, according to prosecutors, dropping the alcoholic, unemployed factory worker with what Vecchione describes as an "upper-deck swing" to the back of his head with an aluminum bat. The rest closed in. Scarpati had the broken hockey stick. Ruiz and Tanico wielded the two-by-four and the aluminum rod. "Mindless hatred—that's the common link in Bensonhurst and Howard Beach and all these bias cases," says District Attorney Charles "Joe" Hynes.

Interestingly, Ben Brafman, who represents Scarpati, and James DiPietro, who represents Pennachio, previously represented James Patino and Joey "Babes" Serrano, who both got away without jail time in the killing of black teenager Yusuf Hawkins in Bensonhurst six years ago. Plenty has changed since then: For those so inclined, there are now more people to hate.

According to the Department of City Planning, the number of Mexicans in Bath Beach and Bensonhurst increased 423 percent from 1980 to 1990; the Asian population also quintupled during the same period. (Until 1990, there weren't enough Ecuadorans or other Latinos for the census to publish separate figures on them.) Though still a minority, the Hispanics use the parks a lot. There are so many Latinos playing soccer and volleyball, barbecuing cay (guinea pig), and picnicking on plantanos and tostadas against a backdrop of native

music that crossing into the grassy field behind the bocce-ball and basketball courts in Dyker Park is a little like crossing the border. Says Vecchione, "You or I might find it very festive—but some of the people who have always lived here don't like it." The fact that the income of whites living in nearby Bay Ridge now falls below both those of their black and Asian neighbors hasn't helped the "Mexicans" case either; they are perceived as one of the few groups left to look down on.

Patricio, 23, typifies the attitude of recent Latino immigrants to Brooklyn. A consummate wannabe American in his



Fila sneakers and red-white-and-blue T-shirt, he works as many hours as he can in the basement of a Bensonhurst catering hall and only wants to get home at night. The refrain following the Bensonhurst attacks—"No Justice, No Peace"—has given way here to "No Justice, No Problem." "We Ecuadorans are passive," Patricio asserts. "We don't come here looking for trouble; we come here looking for a better life."

The only Ecuadoran who attended the pretrial hearings was Walter Sinche, a 26-year-old electrician. "Had this happened to a guy from another community—to a Jew, or a black, or a gay guy, people would

movers here, far more culpable," DiPietro said. He also scoffed at prosecutors' claim that Ruiz threatened Muia shortly after his arrest, noting that prosecutors conceded they had no evidence of any other potential witnesses' being harassed.

Of course, many witnesses have simply disappeared of their own volition. Investigators are still seeking a white woman who was walking her dog the night of the murder and who pointed the suspects out to the cops, but who then vanished. Some Ecuadorans who were with Aucaquizhpi when the bats were pulled out have not been found. Whether they are more afraid of the mob or the INS is unclear.



From left Joseph Pennachio, Anthony Scarpati, and Steven Ruiz.

be marching in the streets," says Sinche, who dropped out of night school so he could canvas the park for witnesses, whom he personally delivered to investigators. The Ecuadoran Al Sharpton, Sinche pesters the Brooklyn District Attorney's office, the NYPD's Bias Unit, and the Mayor's Office of Immigrant Affairs regularly and acts as occasional interpreter for the media—not that they care.

Bias crimes don't rate anymore. Attacks this month on Mexicans and Asians in Sunset Park—which once would have inspired a week's coverage—were one-day stories, or even briefs. As for Aucaquizhpi's murder, it would not have made the papers at all had I not had a column then in one of the dailies. "How do I guarantee the actual trial gets covered?" Sinche asked.

It's too bad, because this is a great story (mob allegations, fancy lawyers, altar-boy defendants) with unceasing dramatic developments. First there was Tanico's September 1 betrayal of his childhood friends in exchange for a sweetheart deal, negotiated by lawyer Jack Litman (one and a third to four years in jail for manslaughter, as opposed to a possible 25 to life). Then a month later, Scarpati followed suit. "The D.A.'s given everybody deals except for Pennachio and Ruiz, because they got this vengeance for [their uncle] Bobby Scarpati, and they're taking it out on these two kids," charged Pennachio's lawyer, James DiPietro. He claims that not only Tanico but Robert Muia, another kid who was there that night, was granted immunity; Tanico and Muia both "pounded away" on Aucaquizhpi and "were the main

Ruiz and Pennachio, and by extension their lawyers, are in a pickle, having spent the past year sharing defense strategies with the state's star witnesses and their attorneys. Lawyers Benfante and DiPietro must discredit teens they portrayed a week or two ago as the greatest of kids—

easier in Tanico's case, since there were discrepancies in his confession; the defense also intends to portray him as the ringleader. "There are eyewitnesses who have Tanico hitting the deceased in the head with a pipe," says Benfante. He and DiPietro also hint at a self-defense argument. True, Aucaquizhpi was struck over and over again from behind; but DiPietro noted that he was carrying a chair before he was struck, and a kitchen knife was found near his body. Hey, it's a strategy. Benfante pitched in, gamely attempting to establish context. Unspecified "Mexicans," Benfante elaborated, "got liquored up and threw bottles at these young teenagers and made lewd remarks and grabbed at neighborhood girls" during the weeks preceding the murder.

Just for the record: Manuel Aucaquizhpi was born in the mountains of Ecuador, and is survived in America by his sister, Delia Maldonado. There was another brother here, but in 1993, Alejandro Aucaquizhpi—an unemployed dishwasher who also became homeless after losing his job—was found beaten to death beneath an underpass at 65th Street and Fourth Avenue. Not surprisingly, Delia, who has two baby boys and a husband to care for, wants to skip the trial, having buried two brothers in two years' time—both of whom lived and died on the ground. "I don't blame the family for not wanting to come," says Sinche. "I just hope that when the trial opens I won't be the only Ecuadoran in the courtroom. I don't want people to say that the Ecuadorans are poor and illegal and have nobody to fight for them, so they are easy to kill." TM