

# GANGED-UP: THE CASE OF MIGUEL GUTIERREZ

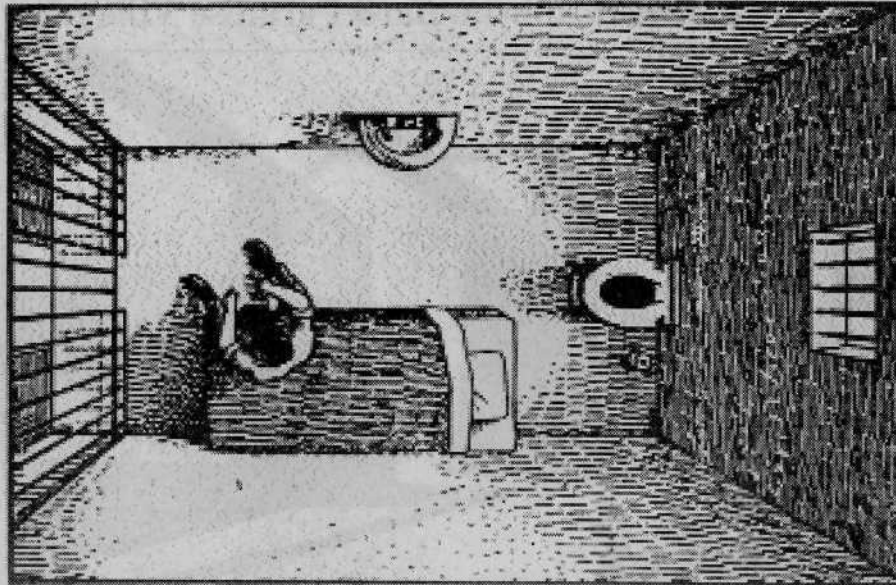
by Becky Johnson

A stream of mostly Latino family members, friends, neighbors, and members of Holy Cross Church filled the courtroom of Judge Robert Atack for the sentencing hearing of Miguel "Michael" Gutierrez on August 31. It was their only chance to show support for the 24-year-old man many of them had known his whole life.

Judge Atack began the hearing on a harsh note. "This is not a social club!" Atack shouted. "If you can't be quiet, I'll have you removed." Nearly 50 supporters of Michael Gutierrez had shown up with 54 letters of support and a petition signed by 400 people, all asking for clemency for Michael, a man who had grown up in the Beach Flats area of Santa Cruz.

Michael had never been arrested before he was incarcerated in November, 1997. He was a student at Cabrillo College where he studied math, computer science, and English. He had been a major force in the life of his 11-year-old sister, helped with her homework, and taken her to and from school. He is also a talented artist.

His mother, Maria Gutierrez, had built a dynasty in Beach Flats through her social work and received commendations from the City of Santa Cruz for her community-building efforts and her leadership. Lifetime members of Holy Cross Church, the Gutierrez family exerted a moral force in the lives of their family and neighborhood, preventing young people from turn-



*Michael had never been arrested before he was jailed after the fight at the party. He was an artist, a student at Cabrillo College, and a major force in the life of his 11-year-old sister. Now Michael is an inmate at San Quentin State Prison.*

ing towards drugs, gangs or violence.

"They accused Michael of being a member of the Norteños," said Maria Gutierrez. "That just shows their ignorance. If Michael had been a gang member, because of where my family came from in Mexico, he could only have been a Sureño."

On October 5, 1997, Michael went to a party in an area of Santa Cruz known as Beach Hill. When he arrived, he immediately noticed that most of the party-goers

were highly intoxicated. He didn't recognize very many people. Michael, who is over 6 feet tall and weighs 240 pounds, had also been drinking beer. He drank two or three beers earlier in the day, but did not have anything to drink at the party.

A fight broke out, and Michael stepped in between in an attempt to break it up. "The next thing he knew is that three or four guys were on top of him," said his sister, Claudia Gutierrez, the family spokesperson. "It was him against everyone." According to Claudia, Michael struggled to break free as he was assailed by three or four white men. "He was able to break free and he went down the driveway near a parked car, where they came at him again. He cowered down, and was shielding his head from the blows when he looked down on the ground and saw

something silver and shiny. He picked it up. It was a golf club."

Michael swung the golf club around over his head. His attackers backed off. One lunged forward and grabbed at the club. A tug-of-war ensued. Michael's friend called out, "Michael, let's go! I've got the car here." Michael grabbed his jacket, got into the car, and the last thing he did was throw the golf club into the bushes. It was never recovered.

Michael and his friend then went to get some fast food for dinner. Later that evening they went to another party, an act the judge held great contempt for, symbolizing a lack of remorse. But it was not until October 31 that Michael learned anyone had been injured. Forty-five days after the incident, he was arrested for three counts of attempted murder.

The Santa Cruz Police arrived at the party after Michael and his friend had left, a neighbor had placed a call about a disturbance. They received little cooperation from the witnesses but discovered a 15-year-old white boy who was bleeding from his head. Once taken to Dominican Hospital for his injuries, it was determined the youth's blood alcohol level was over twice the limit for adults. He did not remember how he had been injured.

Questioned at the August 31st clemency hearing, the young man told how he is enrolled in a special school at Stanford. "As the result of your injuries?" the judge asked. But even when the boy did not affirm Judge Atack's question, Atack seemed persuaded it was so anyway.

Two speakers from the community spoke on Michael's behalf. Simba Kenyatta, a black community leader, eloquently argued that incarceration would serve no positive purpose at all. He showed that Michael had expressed

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