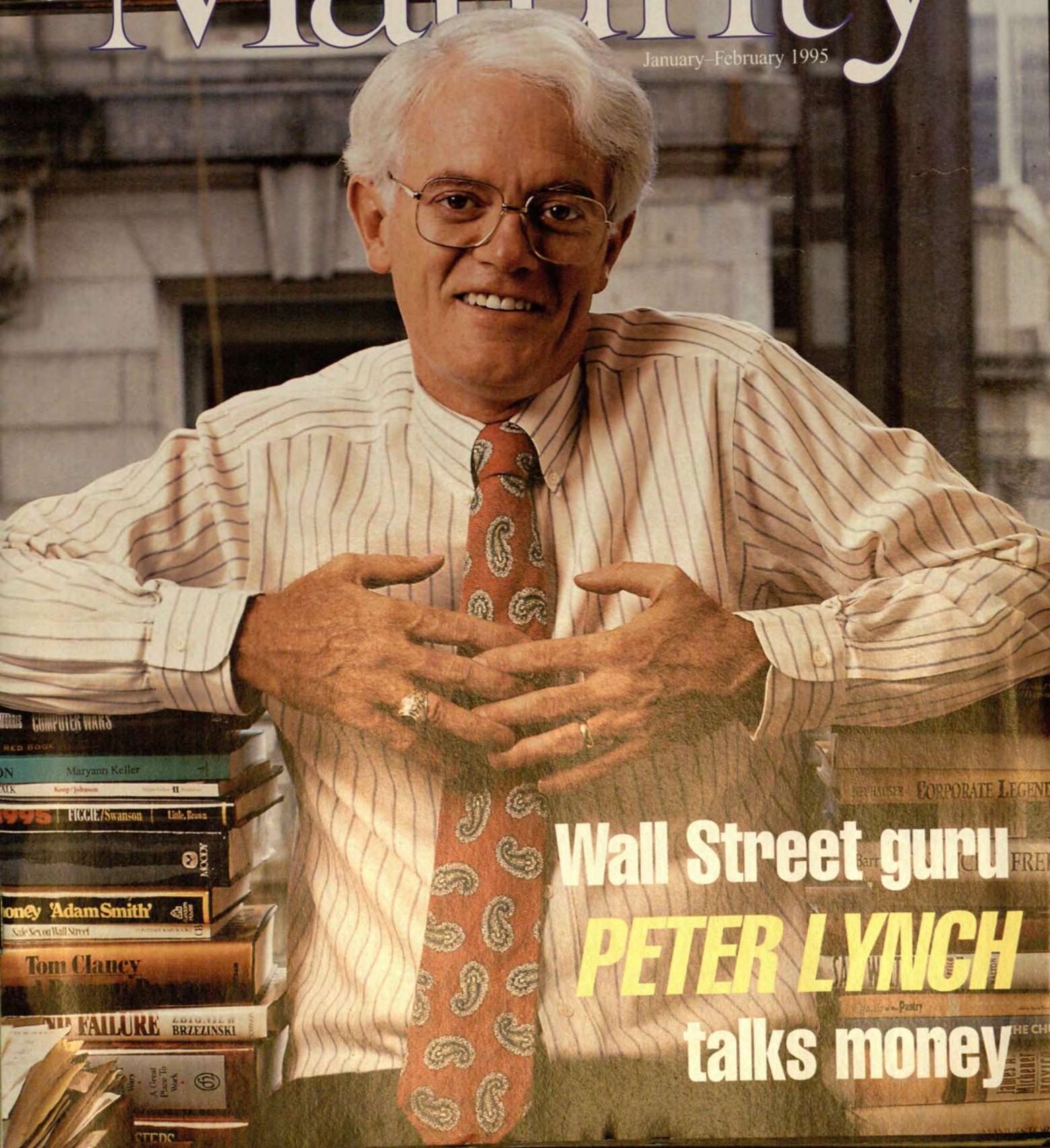


How to end your pain . . Special crime report . . Hottest chili recipes

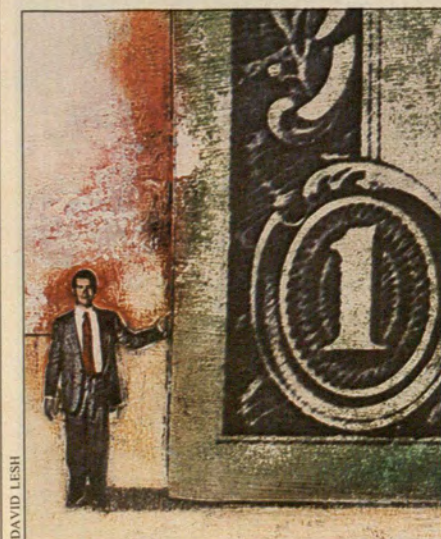
AARP Modern Maturity

January-February 1995



Wall Street guru
PETER LYNCH
talks money

Modern Maturity



DAVID LISH



TONY O'BRIEN



DANIEL S. BROWN

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MM REPORT

Five Points, in a seedy South Valley section of Albuquerque, New Mexico, is a convergence of five streets, littered parking lots, and shopping centers half boarded up. A still, deserted place at 5:40 A.M. on a dark, 20-degree Sunday morning, January 9, 1994.

A man in his 60s enters one of the lots on his morning exercise walk, heading south. A Buick Riviera recently stolen by its two teen occupants cruises slowly along Five Points Road, also heading south. The car circles the lone figure.

PHOTOS: TONY O'BRIEN, HILLERMAN

BY KEN ENGLADE AND TONY HILLERMAN

PHOTOS BY TONY O'BRIEN

A TRUE CRIME STORY

A TRAGIC MOMENT IN NEW MEXICO:

REFLECTIONS ON A NATION GRIPPED BY VIOLENCE



NANCY NEARY,
ASSISTANT DISTRICT
ATTORNEY, SAYS OF

TORRES: 'EMPATHY

police baton in his hand. IS NOT A CONCEPT

Kern took off running. But workmen had been repaving the parking lot and planting trees there, and sand and gravel covered the pavement. Kern slipped and almost tumbled to the ground. Before he could regain his balance the attacker was all over him.

He felt one sharp blow bounce off his skull, two thud against his arm. He tried to outrun his assailant but

THIS KID HAS
WITHIN HIMSELF.'

couldn't. The baton cracked him two more times on the head. Despite Kern's thick cap and heavy jacket, the blows "took the hide off my arm and broke the skin on my head. I told myself, 'If I go down, I'm in bad shape.'"

Not able to get away, still being pummeled and honestly fearing for his life, Kern finally yanked the pistol from his pocket. "I put it against him

and pulled the trigger."

The effect was instantaneous. The attacker cried out and threw up his arms, staggered backward, then ran back to the car. Tires screaming, the car spun around and sped away.

Kern stood there, dazed, and said a silent prayer. If it hadn't been for the wool cap's cushioning effect, he probably would have been knocked unconscious or his brains might have been leaking onto the sidewalk. Staggering to a pay phone, he dialed 911.

A lot of people think ironing is women's work, but it always gave Eddie Torres considerable pleasure. While his friends may have laughed if they had seen him hunched over the ironing board on the night of January 8 in the small trailer he shared with his mother, Torres wasn't worried about his macho image. Holding up his party shirt to inspect, he smiled in self-congratulation. A *cholo* (street-wise young Latino male) had to be respected. Looking sharp definitely earned him respect.

Torres was really pumped up for the party he was going to that night. Throwing it was an "older" woman (she was 25, he 16) he had met shortly after arriving in New Mexico two months before.

The party was everything he'd hoped for—good music, good booze, good dope. Then something happened that would change Eddie Torres's already grim life for the worse. "I was talking with the girl when somebody told me to chill out with her and swung me around," he said. Torres was more surprised than hurt. That would've never happened in the Los Angeles suburb where he'd grown up. Known by his fellow cholos there as "Crook," he had a reputation as someone to be reckoned with. His gang, East Side Paramount, was one of the largest and most violent in all of Los Angeles County, and its name was tattooed across the back of his neck and shoulders in inch-tall letters.

"I hit him, and they took him to the

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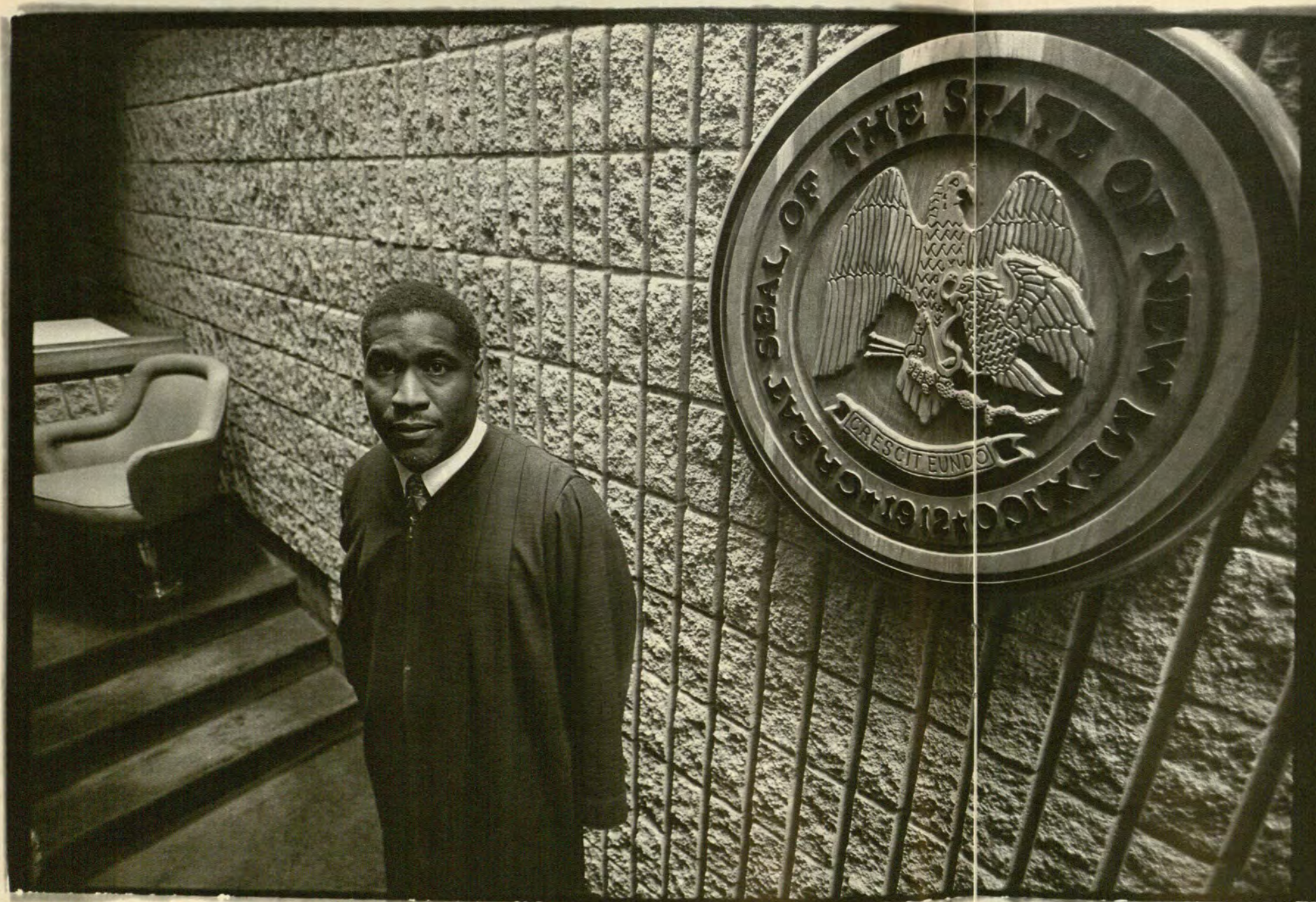
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bathroom. A few minutes later the girl told me to leave." Drunk and upset, he stormed outside with two homeboys: one called "Gino," and Kevin Baca, 17, whom he'd met a month before.

Torres wandered into a nearby parking lot—and his eyes locked onto a solitary Buick Riviera. Quicker than most people can adjust the rear-view mirror, Torres broke in, hot-wired it, and had the Riviera quietly rolling down the street.

Baca dropped Gino off at his home and Torres followed Baca's car to Baca's house. Then Baca jumped behind the wheel of the Buick and the

pair went looking for some action, which meant a fight. "I was still hyper about what happened at the party. Then I see this *vato* (guy)."

There, in the middle of Five Points, a lone figure was crossing the parking lot. "The guy was acting crazy. He had his hand in his jacket like he had a gun, like he was tough or something. I said, 'Go back towards him, I'll show him who's tough.'"

They drove back and passed real close, and the stranger stared at Torres. "*Me vió.*" ("He looked at me.") Torres thought the man had challenged, or "mad-dogged," him. "I wanted to beat him up," Torres said.

They circled the man twice more ("I was scoping it out for cops") before Torres felt safe. Spotting a police baton under the seat of the Riviera, he grabbed it and lunged out of the Buick. "I don't know why I didn't just let him go," he said. "But I was drunk, I just wanted to get him." Blocking the man's path and smacking the polished wooden club, Torres barked, "Give me your money!"

"He tried to run away," Torres recalled later, "but I hit him [with the nightstick] on the head and shoulder."

All of a sudden the man straightened up and swung toward him. "I heard something real loud," Torres

said. "There wasn't much pain, but I got dizzy. I felt something inside me."

He lurched back to the car and screamed at Baca to take him home. "I couldn't breathe. I said to myself, 'I'm going to die.'"

They picked up his mother at home and minutes later found a pay phone. As Torres waited, bleeding and shivering, his mother dialed 911.

The youngest of four gang-member brothers, Torres's indoctrination into their world started early on. He had his first serious brush with authorities—for breaking into a car—at eight. He went on to pile up arrests

for burglary, auto theft, narcotics violations, and assault and battery ("I used to look for innocent-looking kids coming out of school and just beat 'em up. I knew it wasn't right, but it was what I liked to do.").

There was a time, Torres says, when things might have turned out differently. For a while his father, Eddie Sr., a butcher, was able to keep his brothers clean and straight. "He was real strict, man, the way he grew my brothers up. He kept them in the right direction. Couldn't cuss, couldn't go out, nothin'."

And then, as in so many families, the arguments between their parents began, escalated, then eventually forced their mother, Dorie, to leave and take the boys. "After that, Mom would say the same things to us, but we wouldn't listen. That's when I started kicking back with my brothers and homeboys. I saw the things they were doing and thought it was all right."

Hoping to get her youngest son away from his brothers' and gang's influence and into a more stable environment, Dorie took Eddie Jr. to Albuquerque, where her sister lived.

Nine days after the shooting, while Torres was recuperating in the hospital, police arrested him on charges of aggravated battery with a deadly weapon, armed robbery, and conspiracy to commit armed robbery. Nancy Neary, the assistant district attorney, saw Torres as a classic sociopath. "Empathy is not a concept this kid has within himself," she said. "He was totally without remorse. He would kill Mr. Kern or anyone else the same way I'd swat a fly."

Feeling the county judges were lenient with juveniles and would never give him the maximum on all three counts, Neary made the boy an offer: Plead guilty to aggravated battery and she'd drop the other charges. Torres agreed. In New Mexico, victims have the right to be heard. So Kern drafted a letter that read, in part:

"I feel I need to take this opportunity . . . to plead with you to keep this man away from us for as long as the law permits. . . . There is no way [law-enforcement officials] can prevent these types of crimes or protect us from these kinds of predators [*sic*]. Only you can do that, Judge. Please put this young man away for as long as you can. Please keep him off us."

The Children's Court Judge Tommy E. Jewell has a reputation as a "liberal" jurist, always willing to give an offender a break if he believes the person can be rehabilitated. When Torres's case showed up on his calendar, however, the youth's record painted a grim picture.

Jewell later stated that Torres was "a threat to society" and he was "pessimistic" that the young man would be changed by the experience.

The judge sentenced Torres to three years in prison. In a very few specified cases, courts can also add time to a sentence when there are "aggravating circumstances" for such things as the age of the victim. Because Kern was 63, Jewell tacked an extra year on to Torres's sentence. It was remarkably stiff considering the judge's reputation. When asked if such incarceration may only teach Torres to be a better criminal, Jewell replied, "A new and improved Eddie

JUDGE TOMMY E. JEWELL SENTENCED TORRES TO PRISON. COULDN'T THAT PRODUCE A WORSE CRIMINAL? 'A NEW AND IMPROVED EDDIE TORRES IS A FRIGHTENING THOUGHT.'

Torres in the crime-producing world is really a frightening thought." (As for Kevin Baca, he pleaded guilty to conspiracy to commit armed robbery and was eventually sentenced to two years probation.)

According to Janet Velazquez, Torres's attorney, incarceration may actually be the young man's best—and last—chance to turn his life around. She noted that Torres tended to do well in structured environments, such as juvenile camps, where he got A's and B's. To date he's finished 10th grade, an anomaly in the gang world. "In school he's bright," she said. "But take him out of that structure..."

The Southern New Mexico Correctional Facility is a medium-security prison built to house 480 men (and holding 570 at the time of this interview). It is surrounded not by walls but by two tall chain-link fences, one topped, the other covered, with razor wire. It sits low and half-hidden amid the pale desert scrub just off Interstate 10, a few miles west of Las Cruces.

On the day of his interview for this article, Eddie Torres strolls into the visitor's room in a lazy, liquid cholo gait. His eyes, sparkling in the bright overhead lights, reflect a detached, but shrewd, awareness. At 5-foot-8 and 140 pounds, he isn't physically threatening, but he certainly looks bigger and older than the average 16-year-old. He speaks quietly, with control—uncommonly mature for a youth his age—as he recalls the incident that had brought him there. "I was drunk," he says. "I knew I shouldn't have gone out there. I didn't want to rob him."

Did you know at the time you were beating a 63-year-old?

"I saw him, but I didn't know he was an older man. I regretted that *big time* afterwards. I knew how I'd feel if it had been my uncle or somebody."

Are you bitter about being sent to prison?

Torres slowly pulls his shirttail out and lifts it, exposing a long, ugly scar running from his navel to his sternum. "That vato didn't have to shoot me. He could've just pointed the gun at me or fired it in the air—I would've run away. I only wanted to beat him up. I wasn't trying to kill him."

Do you understand why he felt he had to shoot you?

"He wasn't wrong to shoot me, but he didn't have to tell the police. I wouldn't have said nothing. I told 'em it was a drive-by."

Mr. Kern has become a local hero for how he defended himself. Do you think he's a hero?

"F— no, he's no hero! Shooting someone doesn't make anyone a hero. A lot of old people

think if they go out and [shoot criminals], they're protecting society. *That pissed me off.* My brothers got real mad after they heard about that; they wanted to come out here and get the old guy."

If you stay out of trouble when you get out, what do you want to do with the rest of your life?

"Get a good job, a house, a lady and kids. Maybe my own business. Construction business. I'd like to build houses."

"But I'll probably be back [in prison] for something else."

What would you do if you ran into Mr. Kern again?

[Softly] "I'll probably kill him if I ever see him again."

Today, nearly a year after the crime, Dean Kern still worries about Torres's street philosophy of revenge, called *venganza* in the barrios. But what disturbs him more is the specter of the next "Torres" lurking in the early morning mist where he walks. "Suppose it happens again?" he asks. "Are people going to say, 'Ol' Dean must be out there trolling for these guys'?"

Kern poses the question but never answers it. Although carrying a concealed weapon in Albuquerque can be punishable by 90 days in jail and a



fine, little was said about it during the proceedings. Defense attorney Velazquez, although asserting that carrying a concealed weapon "is a crime in my book," opted not to pursue the issue. "That was up to the prosecutor and D.A. By ignoring it, though, [they put] a stamp of approval on vigilante behavior. My concern is that *that* will be the message."

Prosecutor Neary shrugs off the violation. "Although Mr. Kern technically did something illegal, as far as I'm concerned he did nothing wrong. He didn't shoot immediately—he fired only after he'd been hit several times and couldn't get away. If it had

been my mother-in-law, those blows would have destroyed her."

For his part, Kern admits he has changed his pre-dawn route—"I don't walk where cars go anymore"—but not his means of self-protection: He still carries his pistol.

To some experts and sociologists, youths like Eddie Torres seem destined to follow the criminal path on which—to whatever extent—family, culture or society has pushed them. They seem to have refused, or been unable, to resist their fate.

The fate of victims like Dean Kern, however, seems changed forev-

er. After the incident he received more than 50 telephone calls and numerous letters applauding his action. "I didn't get one negative comment," he says.

One woman wrote saying that he was her hero. "But," he adds with a chuckle, "she also offered some advice: 'Practice, man, practice!'"

It's easy to be so sure, so brazen, from a comfortable distance. But ask Kern today how he feels about his entrance into the world of *venganza*: "I have no remorse; I was defending myself. But I'm worried about his friends. He knows what I look like—and that's enough."