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San Francisco Mayor Joseph Alioto and the Press

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Look: San Francisco Mayor Joseph Alioto and the Press By ALEXANDER MULLANEY

ON THE EVENING of September 5, 1969, newspaper and broadcast reporters descended on San Francisco's City Hall. They gathered in a conference room and waited for Mayor Joseph L. Alioto to give a statement.

That morning, newspaper reporters in Sacramento got their hands on mimeographed copies of a report headlined "The Web that Links San Francisco's Mayor Alioto and the Mafia—A *Look* Report on the Private Joseph Alioto and His Relationships with Organized Crime" from an advanced courtesy copy of *Look* that had been provided to Governor Ronald Reagan's press office. Later in the day, the *San Francisco Examiner*, the city's afternoon newspaper, printed word of the forthcoming article and part of Alioto's letter to the publisher pleading for redress.

Mayor Alioto entered the unusually crowded room and took position behind the podium while his press aides monitored the reporters. Cameras flashed and recorders started rolling. Bald and barrel-chested wearing a finely tailored suit, Alioto said while smiling, "You require a pretty tough skin in this business," before reading his prepared comments.

"The *Look* article is loaded with lies," he said. "I have never been associated with the Mafia or with underworld activity, and I am suing the magazine and its publisher, Gardner Cowles, personally for \$7.5 million actual damages and \$5 million punitive damages."

Freelancers Lance Brisson and Richard Carlson's 5,000-word article for the national magazine said Alioto had a "web of alliances with at least six leaders of the Cosa Nostra." The five-page spread, beset with sinister looking portraits of the article's subjects, detailed how Alioto provided them with "bank loans, legal services, business counsel and opportunities and the protective mantle of his respectability" while he earned "fees, profits, political support and campaign contributions." Four days from then, the issue would hit newsstands and mailboxes across the country and already a rumor dogging Alioto since his campaign for mayor—that he consorted with the Mafia—had returned.

Once Alioto finished reading his remarks, he said that Police Chief Thomas Cahill could confirm there was no Mafia activity in the city. He told the reporters that he will request television airtime to discuss the article and its "larger issue of the ethnic slur against persons of Italian ancestry," and that, should he run for higher office, he will "insist that the full background of all the candidates become an issue in the election."

The reporters asked him sharp questions based on the copies of the article and copies of Brisson and Carlson's tape-recorded interview with the mayor that press aides had made available.

No, Alioto said, he had never heard of Mafia members Frank "Bomp" Bompensiero or Frank La Porte. Yes, he represented Emilio "Gam" Giorgetti when he testified before a senate hearing on organized crime, but Giorgetti was no longer involved in illegal activity. Yes, he had represented Mafia members Salvatore Marino and his son Angelo Marino in a tax case. It was true, he said, he did hold a ten-percent stake in Regal Packing Company, a business owned by his brother-in-law Rudolph Papale. Yes, he was

acquainted with James Lanza, the reputed Mafia boss of San Francisco. Yes, he had met Jimmy "The Weasel" Fratianno while chairman of First San Francisco Bank, but he had not helped Fratianno obtain any loans.

A reporter pushed about the facts of one Mafiosi allegedly tied to the mayor and Alioto refused to answer the question. "Thank you, Mr. Mayor," a press aide called out, the customary phrase reporters said when they had no more questions. Alioto hastily left the podium and silently walked through the room of reporters who were still questioning him.

In 1969 Alioto was ascendant. The ebullient son of a Sicilian fisherman had become a dynamic anti-trust attorney and businessman with a gift for politics. He was considered a viable candidate for the 1970 gubernatorial race against incumbent Reagan, and he had nearly been put on the democratic ticket as Hubert H. Humphrey's running mate for the 1968 presidential election.

Alioto's libel suit against *Look* publisher Cowles Communication was one of several high profile legal imbroglios during his time in elective office, but *Alioto v*. *Cowles Communication, Inc.* would be an epic legal battle that drew the attention of the local press and an investigative reporter from the *New York Times*.

To this day, "The Web that Links San Francisco's Mayor Alioto to the Mafia" is remembered for crashing Alioto's chances for higher office on the rocks of public opinion. He would remember the article as both a vicious libel born from the prejudice Italian-Americans suffered during a national obsession with the Mafia, that he called "dementia Americana," and a conservative plot to destroy his political career. But the story behind the story produces a view of the tribulations of public interest reporting with the aid of confidential sources.

Richard Carlson, now a retired U.S. Diplomat, remembers carefully crafting an investigative report in the days before Watergate popularized the genre. "We talked to a lot of people," Carlson said. "We did a good job. I feel that the local press slandered us. Their coverage, for whatever reasons, listened to the mayor and not to us."

AT 11:00 ON a Friday night in 1967, 24-year-old Alvin "Piggy" Roberts and 23-year-old Jerome Cook walked along Grove Street and stopped short of the light cast from the Executive Motel in Western Addition, a predominantly African-American neighborhood.

The young men, wearing dark pants and overcoats, crouched and put women's stockings over their heads. They stood up. Cook drew a pistol from his coat pocket and held it at a right angle as they walked pass the glass doors into the motel's office where a clerk read a magazine.

From a second-story motel room across the parking lot, San Francisco Police Sergeant Louis Canopy and Detective Joe Flaherty duck-walked along the balcony and down the staircase. KGO-TV reporter Richard Carlson followed them with a 16 millimeter Bell & Howell camera, leaving his partner Lance Brisson shooting on the Auricon camera through the motel room's picture window.

In the parking lot, the three men stopped behind the 1965 Pontiac parked in front of the office. They saw Cook's pistol was held up to the desk clerk's head and Roberts was reaching into the cash register for fistfuls of bills.

"Get ready," Canopy said.

"I hope they don't shoot my friggin' car," Flaherty said.

"You stay down," Canopy told Carlson.

As Cook and Roberts left the office, Canopy and Flaherty stood up and shouted, "Police!" and opened fire. The office window and glass doors shattered.

The police officers got down to reload and the robbers ran onto Grove Street. Brisson followed shouldering the unwieldy camera, now rigged with a microphone and floodlight. A block away, at the intersection, a shotgun blast sounded. Cook fell on the sidewalk and Roberts tripped over him. While trying to get up to run, Roberts slipped in Cook's blood. Before he could stand, Canopy and Flaherty were on top of him holding him down. He struggled to get loose.

"You saw what happened to your friend," Flaherty said.

"He ain't my friend," Roberts replied. "I never seen him before in my life."

Frank Fanning, a plainclothesman, stood in the street, shotgun held low. A crowd across the street started shouting "Pigs!" and throwing bottles. Afraid of a riot starting, Canopy quickly drew a circle around the body with chalk and, with the help of three other officers, threw Cook's body into the back of a paddy wagon. A man held inside protested the decision. Brisson and Carlson collected their gear and headed to the Hall of Justice to get tape of the booking. The cops made their arrest and Brisson and Carlson had their story.

IN THE 1960s, KGO was said to mean "Killings Guts and Orgies" and its motto was "If you stage it, we'll shoot it." Another saying around the office then was, "If you ain't got the flames, you ain't got the fire." For the Executive Motel robbery, Brisson and Carlson had the flames and the arsonist too. A prostitute who agreed to be the robbers' getaway driver had told them of the plans for the robbery and they took that information to the police—on the condition they could film the takedown. It was just another one of the many stories the due had shot together.

In the early 1960s, Brisson and Carlson met in college while at the *Los Angeles Times* working as part-time copyboys, filling paste pots and running stories. Brisson dropped out to work full-time at the *Times* and Carlson took a job in San Francisco working for *United Press International*. In 1964, Carlson took a job at KNTV in San Jose and learned how to shoot film, do a stand-up and edit. The next year, the friends quit their jobs to spend months filming a documentary about tramps, homeless men who rode trains across the nation. They sold "Hobos in America" to news director and anchor of KGO-TV Roger Grimsby as a five-part series.

Brisson and Carlson set up a large one-room office above a Japanese restaurant on Union Street and had *Vector News Service Film*, *Television*, *Magazines* painted in black on the door glass. They worked freelance for *Time* magazine and rented out a small Land Rover they had converted into a video surveillance to private investigators and often did contract private investigator work. Although against union rules, Grimsby hired Brisson and Carlson to shoot nightly crime stories paid for by a secret retainer.

They chased stories across the city in a Ford Mustang outfitted with a police scanner. They covered fires, robberies, assaults, prostitution busts, and transvestite bar crackdowns. Over the course of their reporting, they became friendly with the homicide

and general-works detectives and many of the patrolmen who worked at night. They even became friendly with a few captains.

ALIOTO'S RISE TO the mayor's office in 1967 was sudden. He was serving as the finance chairman for the committee to elect state Senator J. Eugene McAteer when McAteer unexpectedly died in May. In September, Jack Shelley, the present mayor, decided not to run for a second term citing personal health concerns. An hour and a half after Shelley's withdrawal announcement, Alioto announced his candidacy on the steps of the Fairmount Hotel.

Insider accounts point to a group of business and political leaders, chiefly hotel magnate Ben Swig, business executive Cyril Magnin, and Mayor Emeritus Elmer Robinson, forcing Shelley out to make way for Alioto, who had spent years as chair of the Redevelopment Agency. Congressman Philip Burton said, "Truthfully, it smacks to me like a deal."

Republican businessman Harold Dobbs, Alioto's opposition, received the endorsement of both the *Examiner* and *Chronicle*. On the evening of his successful campaign, Alioto and a group of his supporters paid a visit to the *Chronicle*.

In 1968, seven-months into his first term of elected office, Alioto gave the speech nominating then-Vice President Hubert H. Humphrey for president at the Democratic National Convention. He was even one of four choices for Humphrey's running mate. Days after the convention, it was reported that Humphrey passed over Alioto for having represented a Mafia figure in court, a difficult fact for the electorate, after receiving a report from the Federal Bureau of Investigation.

Dated August 23, 1968, the report was compiled by Special Agent Herbert K. Mudd, Jr. who monitored organized crime. Eight cover-pages detail Alioto's encounters with F.B.I. agents, the services he rendered to Mafia members, and reports from informants about Alioto and his family. A source in the bureau at the time said Hoover made sure Humphrey saw the document.

THOMAS FITZPATRICK LIVED on in a two-story house on Burnside Street, one block away from Glen Park Canyon where he and his wife Helen raised Marlene, Gayle, Cheryll, and Thomas Francis. Fitzpatrick headed the San Francisco Police Department's anti-communist and subversive details in the 1950s, working his way to the head of the Intelligence Unit and Vice Squad. A career cop, he was the captain of the San Francisco Police Intelligence Unit. He invited Brisson and Carlson over for Sunday dinner many times. Carlson suspected Fitzpatrick's invitations were really introductions to his unwed daughter.

Brisson, six foot-two and thin, went to boarding school before attending University of Southern California. He was well read with a healthy sense of humor though he could be tightly wound. He was the son of Hollywood director Frederick Brisson and actress Rosalind Russell.

Carlson, a native of Boston, was husky with a wide face and was a consummate storyteller with powers of description that made him a natural television man, able to speak off-the-cuff about any incident or idea.

Over the course of their dinners and visits to the weekly intelligence unit, Fitzpatrick told Brisson and Carlson that Alioto had made an interesting appointment to the Police Commission—Elmo E. Ferrari. At a commission meeting the year before, Ferrari had tried to demote Fitzpatrick by stripping him of vice and intelligence and replace him with a patrolman who was a college classmate and friend of Alioto. Fitzpatrick, a classic Irishman, full of emotion and dignity, said he would resign. Chief Tom Cahill and Deputy Chief Al Nelder said they would too. The conflict brought Alioto up from a Los Angeles business trip four days early.

Brisson and Carlson investigated Ferrari. The tall, handsome shipping executive owned Bulk Food Carriers Inc. He had been the director the Port of Stockton and when he left, he was credited with putting San Joaquin Valley on the map through aggressively taking business from the Port of San Francisco. Alioto appointed him to the Police Commission in 1968. He and Alioto were friends and business partners.

Alioto directed the City Attorney to loosen the conflict of interest rules so that Ferarri could sit on the non-profit Ariel Transit Company's board of directors. The non-profit was formed to build a monorail to San Francisco's airport and compete with the then-nascent Bay Area Rapid Transit.

Brisson and Carlson were hired full time at KGO-TV. Brisson joined the cameraman's union and Carlson started appearing on the station's morning show. Ferrari, they found, was interesting but not worth a takedown. Alioto, however, seemed to warrant investigation.

THE DUO WORKED on their investigation of the mayor between projects for KGO, a perk of working in their own office. By March 1969, the investigation had become their priority. Brisson quit shooting for KGO and Carlson went part-time since he had a newborn son to support.

Brisson spent days in the El Centro courthouse analyzing records of a fraud investigation that Jimmy "The Weasel" Fratianno and Frank "Bomp" Bompensiero had been arrested and tried for in 1965. Brisson poured over records of court proceedings in San Mateo County's courthouse related to Marino's tax case and the late Giorgetti, the "gambling czar." They visited Fratianno under false pretenses in Tempe, Arizona to inquire at the end of a long interview why he had banked with Alioto instead of a bank near his home at the time in Sacramento. Fratianno, sensing the ruse, warned them of Alioto's litigiousness.

They then went to the Los Angeles Police Department Intelligence Unit and gained access to its organized crime files.

They interviewed Ed Reid and Ovid Demaris who together wrote The Green Felt Jungle, a tell-all about the mob in Las Vegas. They made contacts in the California Attorney General's office. Carlson interviewed an official in the Small Business Administration about a loan granted to Marino and Thomas Lee Thomas, Fratianno's son-in-law, who told of clandestine meetings between Alioto and the Mafiosi at the Nut Tree restaurant in the suburbs where secret business deals were forged.

They met San Francisco FBI Special Agent-in-Charge Charles Bates who introduced them to Special Agent Herbert K. Mudd, Jr. Mudd served as a fact checker of

their findings, providing no information but only confirming or denying what he was asked. Carlson called Mudd thirteen times to corroborate the duo's findings.

In June, Brisson and Carlson had enough to pitch their story. They first called the investigative unit at *Life*, at the time home to a group of journalists famed for hard-hitting reports that unseated a Supreme Court justice Abe Fortas and removing a Louisiana governor from office. Russell Sackett, the unit's leader, told them *Life*, given that it had its own investigations going on, had to pass on the pitch, but suggested they take the story to *Look*.

Martin Goldman, *Look*'s managing editor, a wispy but serious New York intellectual with a full editor's Rolodex took to the story immediately. When he understood the story's potential impact, he called on the magazine's editor, William B. Arthur, to hear their pitch.

To the New York newsman, exposing Alioto, a politician aimed at the governorship, warranted serious consideration for the public good it could do. Brisson and Carlson had a deal, but, due to protocol, the West Coast editors would need to be brought in for their expertise on San Francisco.

Weeks later, in a hotel room at the Fairmount, *Look* West Coast senior editors George Leonard and John Poppy listened to Brisson and Carlson recount the findings of their investigation. For hours, they told, re-told and clarified what it was that they had uncovered in the two months of reporting across California. Documents were spread out over the bed. They offered up the notes, transcripts of interviews, and copies of reports. The East Coast office wanted their opinion on the story they had bought for \$10,000 plus expenses.

The four men spent the better part of the day going over files, taking lunch in the room, making sure the story would stand up. Brisson and Carlson shared their documents and answered questions.

Look was founded in middle America, in De Moines, Iowa. Like Life it was a large-format glossy biweekly, but it fostered no pretension of being a hard-hitting investigative publication. It focused on what is called human-interest stories, image-heavy articles that showed what it was like to live in the first co-ed dorm or in a planned suburb. Leonard and Poppy understood why the editors in New York wanted the story, but to them, it seemed risky. Not in a journalistic sense but for the potential loss of audience. The magazine had a circulation of over seven million who knew the publication for covering Americana, not public corruption investigations. Look was an odd home for the story.

This was not a *Look* story. Poppy, in a Teletype memo, made this clear to his colleagues back east. But he knew, for better or worse, the article would appear in the magazine's pages.

ON A SATURDAY morning, Richard Carlson and renowned private investigator Harold Lipset drove to Sacramento. Carlson had worked a handful of investigations for Lipset's Service, the older man's private investigation firm based in Pacific Heights. Now Lipset was working for Carlson defending his article against Alioto's libel suit.

When they arrived in Sacramento, Lipset pulled over so Carlson could use a payphone to call Thomas Lee Thomas and, quite possibly, save the younger man's life.

In the course of Alioto's fast moving lawsuit, it was revealed that Thomas, husband to Joanne Fratianno, the Mafioso's only daughter, had furnished information for the article and would have to be deposed.

Thomas worked for Fratianno's trucking company. When Carlson interviewed him, he told secondhand stories of the Mafiosi meeting at the Nut Tree restaurant in Walnut Creek.

The *Look* editors insisted Carlson go back and get a recorded interview. Afraid of spooking Thomas by pulling out a notebook and losing the interview, he wore a wire to record Thomas's comments.

The defense intended to offer Thomas a cabin to hide away in and ask him to testify. *Look*'s attorneys, the white-shoe firm Cooper White Cooper, were waiting for their return with good news. Thomas's testimony would show Brisson and Carlson had done their due diligence while reporting.

The three men met at a Denny's restaurant and sat in a booth. When Carlson told him the situation, Thomas appeared stricken by fear.

"Well, I got to talk to my lawyer," Thomas said.

"Wait a minute," Lipset said. "No, no, no. Don't be ridiculous."

They walked over to the wall-mounted payphone. Thomas couldn't remember his lawyer's name, but called a number to no avail. He pulled out the phonebook and found a number and dialed. Lipset and Carlson tried to dissuade him but he called a firm that happened to be open on Saturday.

"My name is Tommy Thomas, and I'm tied up in this lawsuit with Joe Alioto," Thomas told them, and they said they would be right there.

In the parking lot, two young lawyers drive up and ask which one is Thomas.

"Which one of you is our client?"

"You don't have a client yet," Lipset said.

They went to the law firm and sat around a conference table. Lipset explained the seriousness of the situation. Afterward, one of the young lawyers requested to speak with Thomas alone.

In the hall, the lawyer told Carlson and Lipset, "I can get him to go with you for a price."

"How much?" Carlson asked.

"\$5,000."

Lipset and Carlson walked off a ways to talk. Carlson was incredulous and Lipset calmed him down by explaining that negotiations had just begun. The three men returned to the conference room. No deal was made.

Thomas and his newfound attorneys eventually sued Carlson for invasion of privacy—a turn of events that the defense would learn from Alioto's lawyers in court. After winning a small judgment, Thomas disappeared.

THE TESTIMONY THOMAS might have provided was critical to the defense's case in the trial. The defense was already in trouble. Jack Goldberger, a Teamster leader erroneously reported to have met with Fratianno and Alioto, sued *Look* and won and it turned out the Small Business Administration loan acquired by the Marinos had not been

sped along with help from Alioto's office. However, the alleged Nut Tree meetings drew a sensational picture of criminal conspiracy and thus a heavy burden.

The first trial ended in a partial victory for Brisson, Carlson, and *Look*. The jury deadlocked in their favor eight to four. As a public figure, the court required Alioto to prove malice, but before he could do that, he had to prove falsity and defamation. Alioto appealed and in 1971, the case was back in court. This time, after a two-night sequester, jurors returned a special verdict finding that Alioto had been defamed and that the article had been false in part—the clandestine meetings at the Nut Tree—and, once again, had deadlocked nine to three in favor of *Look* on the issue of malice.

After years appealing the decision, Alioto would get his third day in court in 1976. Jurors said neither side could provide enough evidence to prove or disprove malice and U.S. District Judge Russell E. Smith disqualified himself from ruling under the rationale that he had failed to properly guide the juries. A fourth trial was automatically granted.

Brisson and Carlson would move on from journalism but not the legal battle.

BY 1977, ALIOTO'S suit against Cowles Communications entered its fourth trial, making it one of the longest running and most expensive libel suits in American history and *Sacramento Bee* reporter Denny Walsh covered the case, finding himself pulled into familiar territory.

In 1974, Walsh had been an investigative reporter stationed at the Washington, D.C. Bureau of the *New York Times*. He spent three months in San Francisco living in a motel by Ocean Beach under an assumed name investigating Alioto and the *Look* lawsuit. He poured over court records, his specialty, and befriended the defense's private investigator, Michael Hamel-Green of Neilson & Green. Hamel-Green, an Englishman with impeccable recordkeeping, shared files with Walsh. At one occasion, after dining on Fisherman's Wharf, they found Hamel-Green's car broken into, an incident they found highly suspicious.

When Walsh returned to the *Times* office, he had a 10,000-word hand-written investigation report detailing serious inconsistencies between Alioto's testimony and law enforcement records and, once again, between the public and private Alioto. It appeared Alioto had met with Bompensiero and Fratianno despite what Alioto had said in legal proceedings. In April, after a round of editing, Walsh took the story to New York with two suitcases of the corroborating documents he collected, for approval to print from the *Times* managing editor Abe Rosenthal and the newspaper's outside counsel. The *Times* tangled with Alioto's lawyer Darrell Salomon, who requested that publication of the article be delayed until Alioto could speak with the management in person. By May, however, the article would be found legally sound.

In August, [MORE] magazine, the monthly journalism review, published a story questioning if Walsh's story had been killed. It worked through the situation, reporting that despite Cowles Communication being a major stockholder in the New York Times Co., there did not seem to be a substantial reason for the article to remain unpublished.

Writer Britt Hume, [MORE]'s Washington editor, tried to incorporate some of Walsh's reporting into the story, but when he sought comment from Alioto, he was given ominous letters requesting all documents related to the reporting be retained for legal

purposes and that publication be delayed. [MORE] had acquired a copy of Walsh's manuscript from *Rolling Stone*. Walsh had taken the story there after being encouraged by fellow *Times*man Seymour Hersh.

Walsh moved to Sacramento where he was McClatchy's star reporter at the *Bee*. Walsh had made his name reporting on public corruption in American cities. While at the St. Louis *Globe-Democrat*, he shared a Pulitzer Prize with Al DeLugach for a series on labor union corruption. When he joined *Life*, he was first to write about St. Louis Mayor Alfonoso Cervantes' relationship with a labor lawyer and organized crime.

Walsh slipped in the results of his investigation for the *Times* in his reporting on the Alioto-*Look* trial despite fears that Alioto would sue. To allay his editor's concerns, Walsh tried to interview Alioto to no avail. Walsh chalked it up to Alioto not caring what the *Bee* printed. Although it was speculated he would run for mayor again, Alioto was no longer a politician in the national spotlight.

U.S. DISTRICT JUDGE William Schwarzer alone decided the four trial of Alioto vs. Cowles Communication, Inc. Since he had verdicts of the article containing false and defamatory information, Schwarzer determined it also contained malice based on the quality and age of information and statements along with the absence of fact checking.

He awarded Alioto \$350,000—95 percent less than what had been originally asked for—but no damages. Alioto was susceptible, he found, to suffer "the lawyer's vulnerability to that public sentiment which often tends to identify the lawyer invidiously with his clients."

Brisson had no comment. Carlson said, "I think it's had a chilling effect on the press, just the sheer length of time, for one thing. I think they won partly by attrition." Press rights advocates said the case should have never gone to trial. Money and wherewithal won the case, not reason and grounds.

"We beat the scoundrels," Alioto said in an issued statement. "How sweet it is. It should help to stop the continuing slanders against Americans of Italian descent. It should also help public officials to get a better deal from sensation seeking reporters. Maybe they will think twice in the future."

Alioto v. Cowles Communication, Inc. would add to case law that when in a libel suit, a journalist could be found guilty of malice not on bad information but on the failure to attempt to verify the information. Failing to fact check a story alone may show proof of malice.

Schwarzer's verdict was not the end. *Look* appealed the outcome. In 1979, the Department of Justice Organized Crime Strike Force chief Thomas Kotoske authorized an investigation into whether Alioto had perjured himself in the libel trials based on information from Bompensiero, who had been murdered on Fratianno's orders for being an FBI informant, and Fratianno who had entered the witness protection program to testify against the Mafia. Hamel-Green and Carlson volunteered their files to the FBI. On one of the files generated in the investigation, it is noted that the *Look* article covered the same information as the FBI report about Alioto sent to the White House on August 1968—the last day of the Democratic National Convention in Chicago.

Kotoske closed the probe. Sources said there was not enough evidence to prosecute. Cowles Communication sued Alioto for fraud claiming he had perjured himself.

The Alioto-*Look* saga ended in 1981 when *Look* dismissed its fraud suit and paid the judgment with Alioto's promise he would not countersue.

#### **Abstract Source List**

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