

TANKLEFF HEARING REPORTS **by Rick Friedman/Doctor News**

Tankleff Hearing Report – Monday, July 19, 2004

Note: Since there will be no shortage of news coverage on the hearing, these reports will be more in the style of a journal, to attempt to convey what it was like as events unfolded in the courtroom in real time. So, although we may “bury the lead,” we’re confident you’ll all be able to dig it up.

The courtroom was filled with some 20 members of Marty’s family, along with friends and supporters and a great turnout from the media, which was allowed to sit in the jury box. Marty was led into the courtroom in khakis, sneakers (he’s not allowed to wear shoes), shirt, tie, blazer and handcuffs.

Judge Braslow started by stating that he would allow a wide range of evidence to be admitted at the hearing—more than would be allowed at a trial, as long as the evidence had “probative” value. An example of this wider latitude was that “hearsay” evidence would be allowed.

Barry Pollack, one of Marty’s attorneys, began with an opening statement, in which he said that Joseph Creedon has stated his belief in Marty’s innocence, and that Creedon:

- has admitted to four people that he committed the Tankleff murders
- has a record of violence
- was an enforcer for drug dealers, including Todd Steurman
- knew Jerry Steurman through Todd Steurman
- knew Todd was running his drug operation out of Jerry’s bagel store
- knew that he and Glenn Harris could find drug money in the safe at the bagel store

On the other hand, there were no eyewitnesses to the murders that could point to Marty; no physical evidence linking Marty to the crime; Marty’s confession didn’t match the crime scene; and witnesses would testify to Marty’s loving relationship with his parents.

Pollack also revealed information that had not been public before—that Glenn Harris told private investigator Jay Salpeter that while driving away from the crime scene, he stopped the car beside a wooded area, and Creedon got out and hurled one of the murder weapons—a pipe—into the woods. Salpeter recently searched that area and found a pipe.

In his opening, Assistant District Attorney Leonard Lato stated that since he filed his opposition to the hearing, he’s had an opportunity to investigate the new evidence further, and all the defense’s witnesses have credibility problems. He also backed the credibility of the second detective in Marty’s interrogation—Detective Rein, whom he called the “primary witness” in the original trial. Detective McCready was conspicuous in his absence.

John Collins, who prosecuted Marty in 1990, was a spectator in the courtroom in the morning session.

Private investigator Jay Salpeter was the first witness for the defense, with Marty's other attorney, Bruce Barket, doing direct examination. After explaining how he tracked down Glenn Harris through "good old-fashioned detective work," Salpeter provided details on Jerry Steuerman's recently reported statement that, "So what, I slit their throats what are they going to do, give me 50 years?" Apparently a waitress at a Strathmore bagel store heard this from two cooks, who heard it directly from Steuerman. All are understandably hesitant to go on the record about this.

Salpeter then stated he spoke with a witness very close to Creedon, who saw Creedon in a bagel store along with Todd and Jerry Steuerman. Previously, Creedon had been linked to Todd but not to Jerry. This witness, understandably reluctant to come forward, may be compelled to testify later this week.

Salpeter stated that he spoke with another witness who, at a date prior to the Tankleff murders, saw McCready with Steuerman in a bagel store. This witness later changed his story, saying he misspoke the first time.

Salpeter stated that Glenn Harris, in addition to telling his story to Salpeter, also confessed to a nun and a priest.

Barket then took Salpeter through the finding of the pipe, with Salpeter showing photos of the pipe to the judge. At one point, Salpeter reflexively held the photos toward the jury box, and Barket said, "These are very important people, but they're not the jury," referring to the media seated in the jury box. "Please show the photos to the judge." There was laughter in the courtroom.

Salpeter stated that a witness reported that Jerry Steuerman's daughter was upset prior to Marty's original trial, because she was going to have to lie to provide her father with an alibi.

After lunch, ADA Lato began his cross of Salpeter, seeking to establish that the detective, who has been paid a total of \$10,000 over two years, is in it for the fame and fortune. "This is a high profile case with a lot of media coverage, and if it were successful, it would be good for your business, wouldn't it?" asked Lato. "Just recently, you were on '48 Hours,' weren't you?" Lato asked. "So were you," replied Salpeter.

The rest of the day was spent by Lato seeking to discredit Harris, due to his criminal past, his bouts with drugs and his psychological woes. Lato quoted from dozens of letters that Harris had written to Salpeter, in which Harris says he's "nuts" and would be a terrible witness. For example, Harris would write something like, "Hey, Jay, it's me, crazy Glenn, the worst witness in the world." On redirect, Barket elicited out of Salpeter that this is Glenn clowning around, being sarcastic, stating not so much how he really is but how he is sure he will be perceived." Barket also made the point that prosecutors use convicted criminals' testimony to lock people up all the time, and one's mental condition or criminal history does not necessarily bear on whether one is telling the truth in a given instance, especially when other evidence corroborates the story.

An interesting exchange occurred between Lato and Salpeter, when Lato asked him to acknowledge that he was retained in order to find information to prove Marty's innocence. "I was retained to get the truth," said Salpeter. "It's the same job as when I was a police detective—to seek the truth."

“Do you dislike the Suffolk DA’s office,” Lato asked Salpeter? “I dislike DA’s who don’t let the truth come out,” replied Salpeter, who may have been referring to John Collins, who prosecuted Marty and also another recent case in which Salpeter was involved.

Expected witness on Tuesday: Joseph Creedon.

Expected witness on Thursday: Glenn Harris.

Tankleff Hearing Report – Tuesday, July 20, 2004

Witnesses: Joseph Creedon and Creedon's ex-live-in-girlfriend and mother of his children.

Joseph Creedon was the first witness, with defense lawyer Barry Pollack questioning him. Creedon admitted that he worked as a debt collector, including for Todd Steuerman, who he first met at the Port Jefferson Bowling alley in 1986, and who was known as a drug dealer at the time. Creedon said Todd dealt drugs out of the Strathmore bagel store.

Techniques by which Creedon convinced debtors that it was in their best interest to pay up included "punching them in the face" and "maybe pulling a gun." However, in response to a question, he denied ever using "torture."

Creedon recalled the night in December of 1989 that he and Glenn Harris attempted to break into a Strathmore bagel store to rob the safe of the drug money he knew would be there. Unable to break into the bagel store, they stole the bagel truck and drove it through the window of a Fayva shoe store, and took that safe. The police report for that incident listed a hatchet as among the items recovered, although Creedon testified he had no recollection of being in possession of a hatchet.

Asked about his sworn affidavit recalling the incident in which Todd Steuerman told him to talk to his father about cutting out Marty Tankleff's tongue, Creedon said, "You have to remember, everybody was doing drugs," so people said all kinds of things.

Pollack elicited that in 1982, as a 23-year-old, Creedon forcibly raped a 14-year-old girl. Creedon was convicted of statutory rape for that offense.

Pollack introduced a police report stating that in 1987, Creedon smashed someone's car window in with a pipe. [Yesterday, private investigator Jay Salpeter testified that he recently recovered a pipe where Glenn Harris told him one had been thrown into the woods the night of the Tankleff murders in 1988.]

Despite having signed an affidavit that he spoke with Jerry Steuerman to turn down \$10,000 for refusing to drop the charges for Todd's shooting him, Creedon denied having ever met, or spoken with, Jerry. He said Bob Gottlieb, Marty's original lawyer, misled him into signing the affidavit. Despite claiming that Gottlieb botched his 1990 affidavit, in 1992 Creedon asked Gottlieb to represent him on another matter.

Creedon said he did not recall Karlene Kovacs, who has sworn that Creedon told her he was involved in the Tankleff murders; and he denied telling people at a bar, "Too bad about Marty Tankleff, because he didn't do it," and he knew he didn't do it because he, Creedon, was there.

Creedon's former girlfriend and mother of his children testified next, under questioning from defense lawyer Bruce Barket. She testified that she knew Glenn Harris to be a friend of Creedon's, and recounted an instance in which Creedon and Glenn Harris once left a dog and a bird with her that they had stolen from a retarded boy.

Under questioning, she said that she was testifying reluctantly, because she feared Creedon, who was “not a very nice person.” Through tears, she said, “he was cruel to me. He used to beat me. I’ve seen him beat up many people.” Under questioning, she said that Creedon told her he used to torture people in someone’s basement. “He lit their face on fire with gasoline, and their hands.” She said Creedon threatened to do the same to her if she told anyone about it.

She told of going to a Strathmore bagel store with Creedon while Jerry was at the store, and Joe told her who he was.

She now lives in another state, where she fled with her children out of fear of Creedon. She recounted a night, shortly before she fled, when she heard gunshots, and she believed Creedon was shooting at her. She also said that Creedon possessed guns, and once let their five-year-old son shoot a gun out of the dining room window. She thought it was an Uzi, but under cross-examination from Suffolk County Assistant District Attorney Leonard Lato, she admitted she wasn’t sure what kind of gun it was.

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Expected witnesses on Wednesday: Karlene Kovacs, who signed an affidavit that Creedon told her he was involved in the Tankleff murders with “Steuerman”; Richard Offshe, an expert on false confessions; and Tankleff family members who will testify to Marty’s loving relationship with his parents.

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Tankleff Hearing Report – Wednesday, July 21

Witnesses: Karlene Kovacs and false-confession expert Richard Ofshe

On the third day of the hearing, the session was well attended; however, there are seats available and nobody has been shut out so far.

Under questioning from defense lawyer Barry Pollack, Karlene Kovacs testified that in the early 90's, she dated a man named John Guarascio, sister of Terry Guarascio, who testified yesterday about her former boyfriend Joseph Creedon. On an Easter Sunday in '91 or '92, John and Karlene went to Terry and Joe's house for a family gathering. On the way there, John warned Karlene that Creedon, whom Karlene had not met until that day, was kind of a rough guy. At the home, John, Creedon and Karlene went through the bedroom and outside to smoke a joint, during which time Creedon told Karlene the substance of what she put in an affidavit: that Creedon was present at the Tankleff murders with a Steuerman, had to get out of there in a hurry, had to get rid of his clothes, and was going to have to move away from the area. "I was scared," Kovacs testified, "so scared I didn't want to discuss it."

Asked which Steuerman she thought Creedon was referring to, she said, "Jerry." She had known about Jerry through media coverage of the trial, and had met him while she worked in sales at an Infiniti dealership. "Every time he came in, I got a nervous feeling," she said.

In a coincidence, the father of one of her colleagues at the dealership was an investigator for Marty's lawyer at the time, Robert Gottlieb. Deciding it was her duty to share the information she had heard from Creedon, she arranged to meet with Gottlieb, and signed an affidavit of her account of what Creedon told her.

That was the last she heard about the whole thing until she was contacted by Marty's current legal team, and in 2003 she took, and passed, a polygraph about her account of what Creedon told her. "I had nothing to lie about," said Kovacs. [Note: Marty and Glenn Harris have also passed polygraphs.]

Under cross-examination from ADA Lato, she answered questions regarding what Lato calls "inconsistencies" in her telling of the story over the years. [This is a recurring tactic of the District Attorney's office, whereby minor inconsistencies in the retelling of stories are supposed to add up to a witness's being not credible. For example, Glenn Harris has told his story numerous times about waiting in the getaway car for Creedon and Kent. Each time, the important points are consistent. Among the inconsistencies that are pointed out by prosecutors are the number of minutes he waited in the car, e.g., 15-20 vs. 20-30.] Lato spent a good deal of time today on whether, a dozen years ago, the joint was smoked in the bedroom or outside.

Somewhat more substantively, although years later Kovacs recalled that Creedon had told her his clothes were bloody, this detail was left out of the affidavit. Later, under redirect, she said she signed the affidavit anyway because the major point of what Creedon has told her was in the affidavit—that he was present at the scene of the Tankleff murders.

Lato intimated he thought it unlikely that Creedon would simply volunteer this information, out of the blue, while smoking a joint at a family gathering on an Easter

Sunday. Although Kovacs couldn't remember what in the conversation might have led to Creedon's admission, she did say she saw boxes packed for Creedon's trip out of town.

Lato asked Kovacs if she had ever written a letter to Marty Tankleff. "No," she replied. Have you ever written an email, or posted a message on a message board. "Yes," she replied, on www.MartyTankleff.org, she said. [Actually, it's on the Marty Tankleff News Group linked to www.MartyTankleff.org.] She said she wrote that she would be there for Marty, and couldn't wait to meet him and give him a big hug, because he doesn't deserve to be where he is. "I want to help Marty because I think he's innocent. I would do that for anyone in that situation," she said.

On redirect, Pollack asked Kovacs, "Are you getting anything for giving this information?" "Agita," Kovacs' answered, drawing laughter.

Next up: Dr. Richard Ofshe, professor at UC Berkeley, social psychologist specializing in interrogation and false confessions, who has testified in over 200 cases in over 30 states, in Federal and State court. Although he was paid to work for the Tankleff defense in the mid-90's, today's testimony was pro bono. "Having reached a conclusion [in this case], it's necessary for me to be here if I'm asked to," he said.

Under direct questioning from Pollack, Ofshe testified that false confessions are a regularly occurring phenomenon in this country. He cited three studies—from Stanford Law Review, the Center of Wrongful Convictions at Northwestern (where Steve Drizin does his fine work) and the Innocence Project—which in total average out to about 25% off miscarriages of justice involving a false confession.

Ofshe also testified that in his field, it is generally accepted that there is a bias among the general public that innocent people don't confess to crimes they didn't commit. That is why it's so important that jurors hear expert testimony about false confessions, said Ofshe. Doctor Herbert Spiegel, a psychiatrist, testified at Marty's trial about Marty's mental state, but Spiegel was not an expert on false confessions. Therefore, Ofshe's expert testimony is new evidence in Marty's case.

Professor Ofshe proceeded to school the courtroom on the elements that go into standard police interrogations, including Marty's, and which can lead to a false confession. First, the subject must be made to feel his situation is hopeless. To achieve this, police are permitted to lie, as in Marty's case, when Detective McCready told Marty his father had regained consciousness in the hospital and named Marty as the attacker. Then, typically, "motivators" are introduced—generally a threat (you'll get the maximum sentence if you don't cooperate) or an offer (I'll put a good word in for you with the prosecutor or judge)—to induce the confession. Often, as in Marty's case, the subject is presented with a dilemma, i.e., evidence of guilt (including his father's fictional "statement" or the detective's false assertion that Marty's hair was found in his mother's hand) but no memory of it. The subject is then given a way to resolve the dilemma: you blacked out, you were drunk or on drugs, you repressed the memory. By admitting the crime, the subject resolves the dilemma. Typically, Ofshe said, the subject reverts to a claim of innocence in short order when the interrogation ends.

Ofshe testified that there are two necessary components of a confession. First is the admission. But equally important is a narrative that matches the facts of the crime scene. It's imperative that the confessor describe details of the crime that only the perpetrator

would be in a position to know. There has been dispute over the years over who is the author of the narrative of Marty's "confession," said Ofshe. The police say the narrative came from Marty; Marty's defenders say it came from Detective McCready. But according to Ofshe, it doesn't really matter, because it's clear that whoever created the narrative knew nothing about the crime. The facts—the physical evidence—don't match the narrative.

The white-bearded Ofshe looks very much the professorial type, and his answers tend to be a bit wordy but very articulate, his style uninflected but supremely confident and unflappable. So when the youthful Lato began his cross, there was the sense of a graduate student testing his thesis against the chair of the department. Another observer likened it to "a guy trying to argue with Mr. Spock." Lato started by telling Ofshe he was aware he needed to get back to California, "so I'll get you on the plane tonight." "I have until tomorrow morning," Ofshe assured him.

Foreshadowing the jailhouse informants Lato is expected to present later in the hearing, he asked Ofshe whether an admission to someone in jail following a confession would bear on whether the confession is false. "It would depend on whether the snitch is telling the truth," replied Ofshe, adding his conclusion would be based on his "understanding of the nature of snitchery." This caused Lato to ask Ofshe if, in his testimony at over 200 trials, he was expected to give long answers rather than a simple yes or no. Ofshe replied that he finds it necessary to give long answers when the questions are distorted or leave out crucial facts.

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Expected start time on Thursday: 10:00 a.m.

Expected witnesses on Thursday: John Guarascio, who was present when Kovacs says Creedon admitted his involvement in the Tankleff murders; Robert Gottlieb, Marty's attorney at original trial.

Tankleff Hearing Report – Thursday, July 22, 2004
Witnesses: Robert Gottlieb and John Guarascio

Robert Gottlieb, Marty's attorney at the original trial, was called by the defense in response to Creedon's testimony earlier in the hearing. Creedon testified Tuesday that Gottlieb had mistakenly (or intentionally) written in Creedon's affidavit that Creedon had spoken with Jerry, rather than Todd, Steuerman when he turned down the offer of \$10,000 to drop the charges against Todd for shooting Creedon for refusing to cut out Marty Tankleff's tongue.

Under questioning from Bruce Barket, Gottlieb read from a memo-to-file he wrote following his meeting with Creedon in April of 1990. This memo was consistent with Creedon's affidavit in that it referred to Creedon's conversation with Jerry, not Todd, Steuerman, and recounted the gist of what Creedon said in the affidavit: "Todd shot him. Jerry Steuerman offered him \$10,000 and said, 'What are you, @#%\$ crazy? You're @#%\$ with the wrong person. I can have you dead.'" Gottlieb testified Creedon was sure it was Jerry because Creedon recognized Jerry's voice from having spoken to him on the phone twice before.

Assistant DA Leonard Lato cross-examined Gottlieb, establishing that Creedon's affidavit was taken while evidence was still being introduced at Marty's original trial. Gottlieb stated he thought Creedon's information important, but that Judge Tisch would not let Gottlieb probe Jerry Steuerman on the stand about it.

On redirect, Barket asked Gottlieb if he knew at the time of Marty's original trial that Creedon had admitted to four different people that he was involved in the Tankleff murders; or that a man named Glenn Harris said he drove Creedon to and from the crime scene that night; or that Harris said Creedon discarded a pipe in the woods near the crime scene that night, and that a pipe would later be recovered at that spot? Gottlieb answered no to each question. Barket then asked Gottlieb, "Would all that information have made a difference to the jury in Marty Tankleff's trial?" to which Lato objected. The judge overruled, and Gottlieb answered, "No question."

His testimony over, Gottlieb met the press in the hallway and echoed the sentiments Marty's family expressed following Karlene Kovacs' testimony. "We gave this information to the Suffolk DA, and they sat on it. They said they would look into it. They did nothing with it....Marty Tankleff should be released immediately. It's very clear even to not very sophisticated people who see and read about this case."

The next defense witness was John Guarascio, who dated Karlene Kovacs and took her to his sister Terry's house on Easter Sunday of '90 or '91. Terry lived with Joe Creedon. Under questioning by Barry Pollack, Guarascio said he didn't like Creedon "because he terrorized my family, and abused my sister." Asked if he knew of Todd Steuerman, Guarascio said he did, from Todd's dealing drugs out of the back of the bagel store, which he heard about from Joe and Theresa.

According to Guarascio, at one point during the day, Creedon brought out and showed off a rifle, and announced, "I'm known as 'Joey Guns' on the street." Later, Guarascio said, he, Kovacs, Creedon and a friend of Creedon's went into the bedroom and smoked a joint, during which Guarascio said Creedon told them he was in the bushes, watching a card game and was pumped up at the time. "Once Joe said that, I kind of tuned him

out, because the less you know, the better, with a guy like that.”

Under questioning by Lato, Guarascio said he was sure the joint was smoked in the bedroom. He said he had no idea what Creedon was talking about, meaning he didn't realize he was referring to the high-profile Tankleff case. “I thought it was another one of his robberies or drug deals,” said Guarascio. As Lato continued to question him, the witness drew a sympathetic chuckle from the courtroom when he said, “Run that by me again 'cause I don't know where you're going.”

On redirect, Pollack asked Guarascio if he thought Creedon, based on his reputation, was capable of murder. “Joe was capable of it,” said Guarascio.

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Expected start time on Friday: 10:00 a.m.

Expected witnesses on Friday: Glenn Harris.

Tankleff Hearing Report – Friday, July 23, 2004

Following a meeting with the Judge and lawyers for both sides in chambers, at approximately 12 PM court was adjourned until 10 AM Monday.

Neither the District Attorney's office or defense lawyers had any comment for the media. The DA subpoenaed Joseph Creedon's medical records.

Suffolk County District Attorney Thomas Spota was a spectator in the courtroom.

Expected start time on Monday: 10 AM

Expected witness on Monday: Glenn Harris

Tankleff Hearing Report – Monday, July 26, 2004

Witnesses: Confidential police informant; Glenn Harris; Bruce Demps

A confidential witness was sworn in outside the courtroom. He said he knew Joe Creedon from a bar in Farmingville, where Creedon "shot a friend of mine in the behind." He said Creedon used to extort money, or a "tax," from drug dealers. If they didn't pay up, Creedon would do whatever it took to make them pay, including "shoot 'em, beat 'em up....He always had guns on him. Always."

One time when he was talking to Creedon, the Tankleff murders came up. "I said it's a shame, because that kid is innocent." Creedon said "He IS innocent, because I did it." He said he didn't bring it up again, because "I knew who I was talking to." A couple of months later, Creedon was telling somebody he was going to shoot an individual. "I said, sure he will, he was involved in the Tankleff murders. Creedon nodded his head."

In cross-examination, Lato questioned the police informant's reliability, pointing out an "inconsistency" in his testimony. When telling the same story to a Suffolk County detective last year, the informant quoted Creedon as saying, "The kid didn't do it. I was there." The informant didn't see it as an inconsistency, saying that however Creedon said it, there was no question what he meant: "He did it. I wouldn't have come forward [otherwise]."

The next witness was Glenn Harris, who took the stand and took the fifth. He appeared extremely uncomfortable, nervous and torn. He did say a few words and did answer a couple of questions. Defense lawyer Bruce Barket asked him, "Do you know Joseph Creedon?" "Yes," Harris replied before his lawyer, Dick Barbuto, could interject that he should take the fifth. "Do you know Peter Kent?" "I refuse to answer on the grounds that it may incriminate me," replied Harris. "Is it correct that you drove Kent and Creedon to a house in Belle Terre?" "I refuse to answer...." "And the two of them brought out a pipe and had blood on their clothes?" "I refuse to answer...." "And Creedon threw the pipe into the woods?" "I refuse to answer...." "And you brought Jay Salpeter to Belle Terre?" "Yes," Harris threw in before his attorney could object and get it stricken from the record.

Barket asked Harris if a Walter Warkenthien, from the DA's office, had spoken with him about his story, and told him he could be liable for murder, that if his story was true he would take Marty's place. [On page 16 of the DA's report opposing Marty's motion for a

hearing, retired Suffolk County Detective Walter Warkenthien wrote about his interview with Harris on October 6, 2003: "I also told him that if the statement he had given to Salpeter was true, he might be changing places with Marty. Glenn leaned back in his chair and looked stunned at what he had just heard, and did not respond."]

Barket asked Harris, "Did someone close to Kent tell you Kent knew what you were up to and knew where your children were?" Barket's final question, which Harris refused to answer, was, "If you get immunity, would you testify?"

Barket then made a forceful and impassioned application to the court to direct the prosecution to grant Harris "use immunity" for his testimony. [Use immunity means the witness cannot be prosecuted for his testimony in court. However, he could still be prosecuted for any offense he has committed (prosecutors would just have to, you know, investigate and find evidence) and could be prosecuted for perjury if he lies on the stand.] Barket said: the DA has coddled Joe Creedon, treating him as their witness; the DA says they don't believe Harris; they put the fear of jail in him. Harris is threatened with jail from the prosecutors, with death from Kent and Creedon, and with being a rat from fellow inmates. By putting him in this position, the DA has caused Harris to refuse to testify. The DA can't have it both ways: they can't continue to believe Marty is guilty and at the same time threaten to prosecute Harris for the same crime. Such a stance is an obstruction of the truth-finding function of the court. Lato doesn't want Harris to testify. All the letters Harris wrote, one of which Lato holds up to say Harris has "recanted," actually show something different: a man torn. The letter Lato holds up is actually proof Harris is telling the truth, because he wrote it to avoid prosecution. Barket ended with a plea that the court consider a memorandum in support of his argument submitted by the defense to the court that morning.

The judge quickly ruled, "I am not inclined to step on the shoes of the District Attorney. I will not compel them to grant immunity," he said.

Barket indicated that he would seek to revisit the issue before the hearing is over, and would seek to enter into the record Harris's many out-of-court accounts of his story. He added that the defense has subpoenaed Todd Steuerman.

Outside the courtroom, Barket told the media that approximately ten days ago, an individual at the Suffolk County jail, where Harris is incarcerated on a parole violation, threatened Harris's children. Barket's fellow defense lawyer Barry Pollack said, "We'd like to have Harris, but there is ample evidence without Harris's testimony." Referring to Creedon, he said, "How often do you have someone other than the defendant making multiple admissions to the crime?"

After lunch, Bruce Demps took the stand. He has been in jail for 19 of his 38 years, for robbery, rape, sodomy, kidnappings and burglary. He is scheduled for release in 11 months, having served 2/3 of the maximum sentence for his crimes. In other words, he can't be helped or hurt by his testimony, and he said he has not received anything in exchange for his testimony. Demps testified he met Todd Steuerman in Clinton Correctional Facility in the late 80's. Todd "couldn't hold his own," said Demps. "He needed someone to back him...he couldn't fight...people would try to put pressure on him." Demps, who projected the sense that he could hold his own, helped Todd, who reciprocated by having his father take care of someone "on the outside" who was harassing Demps' girlfriend in Brooklyn. This was resolved short of violence, through

“conversation.”

During their time in prison, Demps said Todd told him that he knew Marty didn't murder his parents, because friends of his father did it. “Todd said money was the problem,” with Jerry owing Seymour money but not being able to pay. Jerry “was supposed to do one thing with the money, but opened a business with Todd, and it didn't work out.”

In response to questioning by Barket, Demps said that an officer in the Clinton Correctional Facility had an affair with Todd's wife, and that one day the officer showed up with two black eyes and assorted bruises, courtesy of Todd's father's friends.

Testimony over for the day, Judge Braslow announced that Tuesday would be the last day of court for this week, and that the hearing would resume on August 3rd at 2:00 p.m. Next week, sessions will be held only in the afternoon, due to other court business. He added that he would allow Glenn Harris to testify at any time during the hearing, should he change his mind.

Outside the courtroom, Marty's family called on the DA to grant immunity, saying, “They can't have it both ways. Either they believe Marty Tankleff killed his parents, in which case there's no harm in granting Glenn Harris immunity for his testimony; or they believe Glenn Harris might be telling the truth, in which case they should immediately begin investigating his claims—starting with hearing his testimony.”

Assistant DA Leonard Lato, who had promised to speak with the media at the close of the day's testimony, went upstairs to his office the back way.

Accompanied by members of the media, the family took the elevator up two flights to the office of Thomas Spota, the Suffolk County District Attorney, to ask him to grant immunity to Glenn Harris. Told Spota was not there and couldn't be located (“he has many offices,” they were told) about a dozen family members sat in the waiting room and waited for about an hour. At one point, Walter Warkenthien, the Suffolk County investigator who had threatened Harris with prosecution, came out to let the media in to finally interview Lato. Family were not allowed in. A family member called out to Warkenthien, “Why did you intimidate Glenn Harris?” Warkenthien replied, “Do I look like someone who would intimidate anybody?” Several family members exchanged glances as if to say, “Well, since you ask...”

In the impromptu news conference, Lato reportedly said that he never grants immunity for witnesses to testify unless they first interview with him; and that from the beginning, he has been willing to offer Harris “limited use” immunity to interview with him. Lato said that if, after interviewing Harris, he believes he is telling the truth, he would grant him use immunity for his testimony in open court. Having been asked by the media why he would not let family members in, he did agree to meet with two family members, who reported that Lato told them that he believes in Marty's guilt, that they have no case, and that they are going to lose.

Tuesday start time: 10:00 a.m.

Expected witnesses: Todd Steurman, if he can be located and brought to the courthouse; others TBD

Tankleff Hearing Report – Tuesday, July 27, 2004
Witnesses: Father Ronald Lemmert, Neil Fischer

Father Ronald Lemmert, a Roman Catholic priest whose congregation resides at the Sing Sing correctional facility in Ossining, New York, was the first witness.

ADA Leonard Lato objected to Father Lemmert's testifying to what Glenn Harris told him on hearsay grounds. Defense attorney Bruce Barket argued that because Harris has taken the fifth, statements he has made against his "penal interest" would be admissible. "I do not disagree with that," said judge Stephen Braslow. [Tankleff supporters took this as good news, because it appears to mean that even if Harris does not testify in open court, the judge will consider other evidence of Harris's story, which is fairly extensive and includes Father Lemmert's account, Harris's sworn affidavit, Jay Salpeter's testimony and statements by Harris to the media.]

Father Lemmert answered in the affirmative to the first question, "Do you solemnly swear to tell the truth...so help you God?" After Harris sent an intermediary to confirm that Father Lemmert would keep his confidentiality, he unburdened himself to the priest, telling him his story of being the unwitting getaway driver for Creedon and Kent the night of the Tankleff murders. Harris told Father Lemmert his story on October 2nd, 2003, the day Marty Tankleff's lawyers filed the motion for a hearing based on new evidence in the case. Father Lemmert saw the news coverage that night.

Within the last few weeks, Father Lemmert testified, Harris telephoned him and wrote him from the Suffolk County jail, where Harris has been incarcerated for a parole violation. Harris told Father Lemmert how afraid he was to come forward. He said he was torn between wanting to clear Martin Tankleff's name and protect the life of his children, who had been threatened. He said that in a previous stay at the Suffolk County jail, he had been beaten by corrections officers, and he was afraid that by coming forward and telling the truth, he would have the murders pinned on him.

"I told him I couldn't give him legal advice," said Father Lemmert, "but the correct moral response was to tell the truth." Harris, he said, was miserable with carrying the secret, and was having nightmares. Father Lemmert told Harris, "The only way you'll find peace is to tell the truth and take the consequences."

Father Lemmert said that, this past Friday, Harris called him to say he was unwilling to testify, for two reasons. One, people had come to him to say, "We know where your children live, we're going to get them." And two, "an investigator from the DA's office said he would spend his life in prison."

Harris also expressed concern about the further evidence he provided to defense investigator Jay Salpeter: the existence and location of the murder weapon, the pipe. Father Lemmert said Harris feared that the discovery of the pipe could be used as further evidence of his involvement, making him more liable. And so, just the day before he was due to testify, according to Father Lemmert, Harris vacillated back and forth. "One moment, yes, the next, cold feet." At one point, Harris was so terrified of spending the rest of his life in jail that he broke out in hives. This fear came, said Father Lemmert, from a conversation with the DA's office.

ADA Lato cross-examined the priest, asking him if he was aware of Harris's long

psychiatric history. Yes. “Did he ever say, ‘I made it all up?’ No. Did Father Lemmert know that in the episode in which Harris said prison guards beat him up, Harris had flooded his cell by putting his shoe in the toilet? No.

Father Lemmert was accompanied to court today by Sister Angelene Matero, who also counsels prisoners at Sing Sing, and who was overhead in the hallway to say, “We Franciscans care for peace. You can’t have peace without justice.” During a break in the hearing, Father Lemmert and Sister Angelene accompanied family members upstairs in an attempt to meet with Suffolk County District Attorney Thomas Spota, to ask him to grant Harris use immunity for his testimony. Yesterday, when the family went looking for Mr. Spota, his staff was unable to locate him, and the family left a cell phone number with a request for Spota to call. Today, outside Spota’s office, the family grew more convinced that Spota was avoiding them. “He’s at the Hauppague office,” the family was told. Father Lemmert said, to no one in particular, “Glenn is scared, but that’s a coward.”

In court, Bruce Barket revisited the immunity issue by asking that a memo submitted to the court by the defense be marked as a court exhibit, for potential appellate review. Barket argued that there were additional factors to be considered since the judge ruled yesterday not to compel the DA to grant immunity. One factor was that the priest had testified that one reason Harris was not speaking was due to the DA’s investigator’s intimidation of Harris, telling him he would go to jail forever. The DA’s intimidation of Harris is what caused Harris to be unavailable to testify. Further, Barket argued, as seen in media reports of the hearing, Lato has agreed to grant immunity for Harris to meet privately with him, and then, if and only if Lato believes Harris, he will grant him immunity. But we know what Lato will say—he doesn’t believe Harris. Lato, Barket said, is acting not as a public servant, but as a gatekeeper. It’s an abuse of discretion, argued Barket, for Lato to, in effect, take the place of the court. The court is in a better position to evaluate Harris’s testimony because the court has not already announced what it thinks of what we all know Harris will say. The court should direct that immunity be granted.

Lato replied that “you can’t put the cart before the horse.” Harris must come in for a “sit-down” with him like anyone else. “If the session goes well, I will make a determination. I will not give immunity to someone I have never spoken to and who has recanted on more than one occasion.”

Judge Braslow said, “I made a ruling yesterday. I understand Harris is an important witness to you.... I’m not going to compel the prosecution to grant or not grant immunity. I’m drawing the line as far as being the prosecutor in this case. I’ve given you a lot of latitude [on admissible evidence].

Before a break in the hearing, the bailiff, Sergeant Frank Dautzenberg, addressed the courtroom. Throughout the hearing, he had sternly admonished the spectators to remain seated while Marty was led to and from the courtroom. Today he announced that it was his last day in the courtroom, in that he had been promoted to lieutenant. With some emotion, he spoke of his first day as a court officer, 14 years ago, strangely enough at the original Tankleff trial and about how he’d come full circle, working at the Tankleff hearing today. He thanked everyone for their cooperation and professionalism.

During the break, Barket told reporters that before the hearing ended, “Harris will testify, because he has a conscience, and he’s been haunted for years, and his conscience will

overcome the advice of the legal counsel he just met.” Asked by the media what would happen if Harris doesn’t testify, Barket said, “I frankly think we can stop now and Marty can go home. It will be like ‘Twelve Angry Men.’ Everyone in the world will believe Marty is innocent, and the prosecution will come around.”

The defense’s next witness was a man named Neil Fischer, who contacted Barket just yesterday. In 1988 he had a cabinet-making business, and Jerry Steuerman was one of his best customers. Fischer testified that one day in 1989, he was installing a cabinet at one of Steuerman’s bagel stores, when he overheard Steuerman arguing with a man who sold him an oven that wasn’t working properly. Steuerman was “screaming, extremely angry...and said something to the effect of he already killed two people, and it wouldn’t matter if he killed him.” Fischer testified that Steuerman was “far from a regular guy...to say he’s high-strung is an understatement...I never met a person like Jerry Steuerman.”

Before adjourning, Barket said he expects a busy day of testimony next Tuesday, when the hearing resumes at 2:00 p.m. [Due to the court’s schedule, sessions will begin at 2:00 p.m. all next week.] Barket added, “There’s still the real possibility that Mr. Harris will revert to where he was the last two years, before whatever happened this weekend happened...Stick around, it should get better.”

“I’m here, Mr. Barket,” said the judge.

...

Expected start time on Tuesday: 2:00 p.m.

Expected witnesses: TBD

Tankleff Hearing Report – Tuesday, August 3, 2004
Witnesses: Joseph Graydon, Restaurant Owner

As the hearing resumed after several days' break, the first order of business was Glenn Harris. The judge reiterated his order that nobody visit Harris in jail, despite Harris's reaching out last Friday to defense lawyer Bruce Barket and investigator Jay Salpeter, asking them to come visit him. Barket argued that allowing Harris's lawyer to act as Harris's gatekeeper amounted to a violation of Marty Tankleff's rights. Barket argued that Harris is not a "party" to the case, and the DA drew the same conclusion when they used wired inmates to tape Harris surreptitiously. Barket said Lato is abusing his discretion by not granting immunity, and the court is doing likewise by not compelling it. The judge reiterated his order.

The first witness was Joseph Graydon, who first met Joseph Creedon in 1986, when he looked at Creedon's girlfriend the wrong way, and Creedon "flipped out." They had a "verbal altercation," and soon after became friends. Graydon lived upstairs from Creedon in the late 80's. Together they "sold drugs, did drugs, robbed drug dealers" and got into fights.

In the summer of 1988, Graydon went with Creedon on a murder-for-hire job. Graydon was to drive, with Creedon doing the killing. Graydon's understanding was that one of the partners of Strathmore bagels was hiring them to kill the other partner, and that one partner owed the other a lot of money. They were to make it look like a robbery, which is why they drove to the Strathmore bagel store in East Setaukut on a Sunday evening around 8:00 p.m. That's when the most money would be there, and when the partner was expected to pick it up. The two of them would split \$25,000 for the hit, plus whatever they took away from the store. But the business partner never showed up, so Graydon said he and Creedon drove around the parking lot for a while, until Creedon threw a garbage can through the glass doors of a stationery store, and they made off with a money box with a few hundred dollars in it. Graydon was relieved the hit didn't happen, because he "really didn't want to do it."

A few weeks later, Graydon was offered the hit again, but turned it down. Some time later, Graydon was arguing over the phone with a drug dealer over territorial issues. The guy threatened to kill him, so Graydon packed his .357 and went down to find him at Sullivans bar in Centereach or Selden. When he got there, he saw that the guy he had been arguing with on the phone was his old buddy Creedon. "Oh, that was you?" they said and hugged each other. Commenting on his threat to kill him, Creedon said, "I got away with a couple of murders, what's another?"

Graydon said it wasn't until media reports in October of 2003 on the new evidence that he realized that Creedon may have been involved in the Tankleff murders. At that time, Graydon figured, "the kid was getting out," and didn't follow the story further. Since 1996, Graydon said, he's been clean and sober, has been attending bible college and church, and is opening a restaurant.

It happens that last week, he happened to be reading the newspaper (he rarely follows anything besides sports) when he saw a photo of a "little old lady" next to a story about the Tankleff case. [Possibly Aunt Ruthie, wife of Seymour's brother Norman.] Graydon went to his pastor, who convinced him to do the right thing and come forward.

So come forward he did. Graydon said he called the Suffolk County District Attorney's office to get the number for Marty's lawyer Bruce Barket, but they wouldn't give him the number. A Walter Warkenthein [you may remember him as the man who told Glenn Harris he might be changing places with Marty] did get back to him, but only to ask for his Social Security number. To track down Barket's number, Graydon said he had to go into his dumpster to find the Newsday article mentioning "Bruce Barket of Garden City."

Graydon said he knew Glenn Harris from the neighborhood and also, in answer to a question, a man named Scott Brian Glass. "We all did crimes with Creedon," he said.

Graydon was contentious from the get-go with Lato on cross-examination, interrupting Lato to say, "Please ask me the right questions," "Wait until I'm done, just wait!" shouted Lato. "Don't yell at me," shot back Graydon. Going over whom Graydon spoke with at the DA's office, he said to Lato, "I think I talked to you." But he wasn't sure. He said the person on the line asked him, "Did you see [Creedon] do it [the murders]? Then it's just speculation." "No, it's not speculation. Two plus two equals four. The kid didn't do it," Graydon said he replied. "Then he got wise and angry, like you are. I think it was you," said Graydon. "Did you tape the conversation?" asked Lato. "No, did you?" asked Graydon. Here came the judge: "Mr. Graydon, I'm letting you be you, but...."

"I'm more scared of you people than I am of Joey Creedon," Graydon told Lato. "With all the cover-ups here and there...you say I do crimes, everyone does crimes, even the government."

On redirect, Barket asked Graydon if he ever saw Creedon beat someone excessively. He had, in 1987, after a Bon Jovi concert, at a Pagan Bar in West Hempstead. He said Creedon beat a guy unconscious, and then kept "stompin' and stompin'" on his head. "He was a little guy, but he would hurt you."

After a break, Barry Pollack called the next witness, who ran a wholesale baking business, and purchased materials from Jerry Steuerman seven days a week at his Stony Brook store. He said he was 100% certain he saw Detective James McCready (the lead detective in the Tankleff case, who took Marty's "confession") with Jerry Steuerman in the bagel store in the late 70's and early 80's, well before the Tankleff murders.

In 1984, the witness ran an Italian restaurant/pizzeria, where McCready was a regular customer. The detective owned a construction business on the side, and would often buy food for his crews. McCready wore a Rolex watch and dressed snazzily. The witness was into watches, and recognized the Rolex from when he had seen McCready with Steuerman in the bagel stores. To the best of his recollection, he also recalled McCready saying he was working on construction projects for either Strathmore Bagels or Strathmore Stables, two of Steuerman's businesses.

Then the witness was led out while Barry Pollack made an application. Pollack said that at trial, Detective McCready went to great lengths to testify he didn't know Jerry Steuerman. After the murders, the Tankleffs immediately pointed to Steuerman as the culprit. McCready interrogated Marty and made him confess, and was quick to say he never considered Steuerman a suspect, because he believed Steuerman "wouldn't hurt a fly." With the new evidence linking McCready and Steuerman, McCready's conduct is now in question. District Attorney Thomas Spota represented McCready when Spota

was in private practice. Given all this, there is a clear conflict. The district attorney must investigate McCready's involvement. There are decisions to be made on whether the totality of the evidence should lead to the granting of immunity for certain witnesses or an agreement to vacate Marty's conviction. And so, Pollack said, we are asking for the appointment of a special prosecutor in this case.

As observers whispered "Good!" and "Yes!" in the courtroom, the judge and lawyers began to work out scheduling. The defense will file papers to a separate judge, and the prosecution will respond. Court was adjourned until August 17th, although it could resume sooner depending on how quickly the lawyers file and respond to the application.

Outside the courtroom, Pollack commented that now we are looking at a possible conspiracy before the murders, as well as an attempt to murder Seymour Tankleff before the murders. "Sooner or later, someone in law enforcement will have to wake up and free Marty Tankleff."

Added Barket, "Short of a videotape of the murders, this county will not consent to a new trial. Maybe now we're starting to see why."

Tankleff Motion for Special Prosecutor Filed/New Evidence

For Immediate Release

TANKLEFF DEFENSE FILES MOTION TO DISQUALIFY DISTRICT ATTORNEY
THOMAS SPOTA AND APPOINT A SPECIAL PROSECUTOR

Cites Possible Ongoing Conspiracy by Detective James McCready to Cover Up
Discovery of Real Murderers of Arlene and Seymour Tankleff

Bruce Barket of Garden City and Barry J. Pollack of Washington, DC, attorneys for Marty Tankleff, today filed a motion for the disqualification of Thomas Spota and the Suffolk County District Attorney's office in the hearing on new evidence in the case.

The motion follows explosive testimony on August 3rd, when Leonard Lubrano testified that Detective James McCready knew Jerry Steuerman for years prior to the Tankleff murders. McCready was the lead investigator in the case and is the detective who tricked Martin Tankleff into giving a questionable "confession," which Marty immediately disavowed. The confession was not corroborated by any physical evidence. The Tankleff defense has always considered Steuerman the most likely suspect in the murders. Despite the fact that Steuerman had the motive, means and opportunity to orchestrate the murders, McCready testified at trial that he never considered Steuerman a suspect.

Contrary to Lubrano's testimony, McCready vehemently denied at trial that he knew, or had even heard of, Steuerman prior to the Tankleff murders. Tankleff's lawyers say that the reason that McCready never treated Steuerman as a suspect and the reason that he may have lied about his pre-existing relationship with Steuerman must now be investigated.

In today's motion, a new witness corroborates Lubrano's testimony that McCready and Steuerman knew each other. This witness has told Tankleff's lawyers he/she lived behind one of the bagel stores as a teenager in the 1980s, and that local police officers were paid not to interfere with the drug business. One day, while in the store, this witness was introduced by Jerry Steuerman to one of his "card-playing buddies," Detective James McCready. This witness is frightened to come forward, and "[t]his fear is not unfounded," reads the motion. "When an earlier confidential witness came forward to testify, Assistant District Attorney Lato informed Mr. Creedon of the witness' identity before the witness testified."

Among the reasons the Tankleff defense cites for seeking a special prosecutor:

- The only significant evidence presented against Marty at his trial was the "confession" that Detective McCready wrote for the 17-year-old Martin Tankleff after a multi-hour un-Mirandized station-house interrogation that involved lying to Martin about his dying father.
- At Marty's 1990 trial, McCready flatly denied knowing Jerry Steuerman before the murders. (Remember that McCready also testified that he was in the neighborhood of the Tankleff home the night of the murders, even though he did not live there, and that he was off-duty when Marty called 911, but responded to the scene anyway.)
- DA Thomas Spota defended McCready before the State Investigation Commission in

the 1980s. The Commission found that McCready had perjured himself in a homicide trial prior to the Tankleff murders. In the same report, the Commission criticized Spota as well. Spota also defended McCready in a lengthy and emotionally charged criminal assault case from an incident that occurred in 1991, shortly after Marty Tankleff's conviction. McCready's trial ended in McCready's acquittal and a tearful McCready hugging his lawyer, Thomas Spota.

- Despite Spota's promising not to participate in the hearing, ADA Lato consulted with Spota in a jury room next to the Court's chambers just before announcing to the Court the decision to deny Mr. Harris immunity. Thus, in what may be the most important question for the prosecutor in this hearing—short of consenting to the application itself—Mr. Spota apparently contributed to the decision by speaking with his subordinate Leonard Lato.

- According to the Tankleff defense, the DA's office has from the beginning focused not on the search for the truth but in obstructing it, naming an old colleague of McCready's, Walter Warkenthein, as the lead investigator in the motion for a new trial. According to the Tankleff defense, Warkenthein and agents working under his direction improperly intimidated Glenn Harris, who the DA's Office believed would be an important witness for Marty Tankleff.

Tankleff Hearing Report – Tuesday, August 19, 2004

Those expecting an uneventful day in court were in for a surprise, as it was revealed in the district attorney's filing and in court proceedings this morning that District Attorney Thomas Spota's law firm represented Todd Steuerman in the early '80's, and Spota's former partner represented both Jerry and Todd Steuerman in the late '80's.

In an "Affirmation" by Spota attached to the district attorney's motion opposing the appointment of a special prosecutor, Spota wrote, "After Mr. Lato informed me of the contents of Tankleff's disqualification motion, I asked my staff to search for all office files involving Jerry or Todd Steuerman. According to the files, about four to five years after we split up, Sullivan appeared as counsel for Jerry and Todd Steuerman in unrelated criminal cases."

In the court session, in chambers or at side-bar, Assistant DA Leonard Lato is said to have conceded that Spota's firm represented Todd Steuerman in the early 80's. It is not clear on what charge Spota's firm defended Todd. According to a police report, Todd plead guilty to attempted criminal sale of a controlled substance in 1983.

After the session, Tankleff lawyer Bruce Barket said, "This is bordering on silly. Any proposition that the district attorney's office can remain on this case, having represented a detective who may have lied as well as one of the people we think is involved in the murders, is preposterous...This is not a hard call legally." Barket's colleague Barry Pollack added that in questions of conflict of interest, it does not matter which particular lawyer at a firm represents a client in court.

Tankleff supporters questioned why Spota has only now volunteered this information (his Affirmation bears today's date). Coincidentally, on a hunch, private detective Jay Salpeter has spent the last few days actively researching public records in Suffolk County offices for this information.

Marty's attorneys will hand in a reply to the DA's filing by August 26th, to which the DA will not reply. Per agreement between the two sides, there will be no oral arguments on the special prosecutor issue in court, and there are no court dates scheduled. The next anticipated event will be the judge's ruling on the special prosecutor.

Tankleff Hearing Report – Tuesday, October 26, 2004 New Witness Corroborates Glenn Harris's Account

As the Tankleff hearing resumed today, the defense presented a new witness, William Ram. Ram's name had surfaced in the first sentence of Glenn Harris's August, 2003, affidavit, in which Harris described how "in early September 1988 I ran into Peter Kent and Joseph Creedon at Billy Ram's house." Harris went on to describe how he drove Creedon and Kent to a house in Belle Terre for what he thought would be a burglary, then later realized was the Tankleff murders.

On the stand today, Ram corroborated Harris's account under questioning from Tankleff attorney Bruce Barket. Ram testified about a night at his home when Joseph Creedon, Peter Kent and Glenn Harris were there. Ram sold drugs and did drugs and various crimes with them. That night, Creedon asked Ram to go with him to "straighten somebody out." According to Ram, Creedon said he was working for "somebody in the bagel business," and they would be going to "straighten out" his partner, "a Jew in the bagel business." Ram refused to join in the job, and also refused to loan Creedon his mother's car, a recent model that would not look out of place in Belle Terre, where the Tankleffs lived.

The next day, Ram testified, Harris came by Ram's house and told him, nervously, about what had transpired the night before—essentially the same sequence of events Harris described in his affidavit to private investigator Jay Salpeter, including Creedon and Kent running back to the car, with blood on them, and later burning their clothes. When Ram later heard the news reports about the Tankleff murders, he "put two and two together."

As to why he never came forward before and why he's coming forward now, Ram echoed Harris's sentiment about finally wanting to do the right thing. "After six years in prison, I know what a hell it is for something you DID do" said Ram, who is on lifetime parole. "It weighed on my conscience. I needed to help him get out." He added, "It's probably going to hurt my parole, because I see police, prosecutors and parole officers all as one team. If I get violated and went back to prison, I would have a bad label; it's gonna be hard on me."

Ram further testified that just last Sunday, he met up with Peter Kent in Ronkonkoma, who told him, "They're looking to get me to trade places with Marty Tankleff, because Glenn is running his mouth."

Hallway Talk:

Assistant District Attorney Leonard Lato declined to comment on Ram's testimony, saying it doesn't matter what he thinks. "It matters what Judge Braslow thinks." "If the judge believes Ram's testimony, that's a problem for you, isn't it?" asked a reporter. "Yes," said the ADA.

Bruce Barket told reporters, "We are very pleased with Mr. Ram's testimony, and I'm increasingly frustrated with the prosecution. There are two murderers running loose in your county, and the DA attacks witnesses for no other reason than because they support Tankleff or implicate Creedon. I don't know why we're still doing this. This

should have been over in July when Graydon testified. I don't know what their motivation is. What do they see that nobody else sees? I'm sick of it."

Asked whether there was enough evidence for a prosecutor to indict Creedon and Kent, Tankleff attorney Barry Pollack said, "There's enough for a conviction. It's almost unheard of to have a situation like this, in which every single associate has testified against Creedon and Kent."

Some courtroom observers wondered why the District Attorney's office never tracked down Billy Ram as part of their investigation, since they've had Glenn Harris's affidavit mentioning Ram for over a year. With Ram either in prison or on parole at the time, he should have been easy to locate by law enforcement.

Tankleff Hearing Report – Wednesday, October 27, 2004
Hearing Suspended Until December 6th While Defense Files Motion on Witness Intimidation

Marty Tankleff's attorneys today requested a separate hearing to determine whether the District Attorney's office has intimidated or otherwise interfered with a planned defense witness. Judge Stephen Braslow ordered the defense to file a motion on this matter by next Wednesday, and the District Attorney to respond a week later. Due to previous scheduling conflicts in the court, the Tankleff hearing is now scheduled to resume on December 6th.

Barket identified the witness in question as Brian Scott Glass, one of the group of acquaintances around the Suffolk County town of Seldon that did and sold drugs and committed crimes together, and which is said to include Joseph Creedon, Peter Kent, Glenn Harris, Billy Ram and Joseph Graydon. Glass reportedly told the Tankleff defense that Jerry Steuerman offered him the Seymour Tankleff hit, but Glass turned it down and passed it along to Creedon. But Glass subsequently became a cooperating witness for the prosecution, and the defense is charging foul play by the DA's office. "The DA offered Glass a get-out-of-jail-free card," said Barket to reporters following the hearing. Barket said Glass had an "open robbery charge" against him, along with multiple prior offenses, which should have assured Glass of mandatory jail time. But according to Barket, the DA arranged for Glass to be released, right at the time Glass began cooperating with the DA in the Tankleff case. Said Barket, "If you think that's a coincidence, I've got something to sell you." Further, Barket said that Glass suddenly went from having trouble finding a lawyer to having one of the best connected in the county, as he's now represented by William Wexler, whose father is a federal judge on Long Island.

Asked whether this all amounted to prosecutorial misconduct, Barket replied that it was for the judge to determine, adding, "I'm perfectly willing to testify" at a hearing on the matter.

The day began where the hearing left off prior to the defense's motion for a special prosecutor, which was denied by Judge Stephen Braslow. Assistant District Attorney Leonard Lato cross-examined Leonard Lubrano, who stuck to his story that he saw Detective James McCready with Jerry Steuerman at the bagel store, and that McCready told Lubrano of doing construction work for Steuerman.

The next witness was the girlfriend of Billy Ram, who on the stand yesterday corroborated Glenn Harris's account that Joseph Creedon was involved in the Tankleff murders. She testified that years before private investigator Jay Salpeter contacted Ram, her boyfriend had told her he knew Marty was innocent because he had firsthand knowledge of who murdered the Tankleffs. Ram was apprehensive about coming forward, but she talked him into it. "I told him he could do the right thing, could do something good for somebody...because there's an innocent man in jail and he should help him get out."

On the way out of the court complex, Barket said that following the resolution of the witness interference issue, the defense was prepared to rest unless Glenn Harris decides to testify. Barket and Barry Pollack, Tankleff's other attorney, then reflected on where things stood following 11 days of hearings (and three months of real time).

“There’s no doubt in my mind: Marty Tankleff deserves to have his conviction vacated,” said Barket. “This is the same defense theory that Gottlieb [Marty’s original lawyer] had. Sixteen years later, the truth is coming out. Steuerman sponsored the hit. Creedon and Kent carried it out. Who here doesn’t believe it?” Pollack said the key question is whether a jury, knowing this new evidence, would have reached a different verdict. “Take Graydon, take Glenn, take Fischer, take the pipe. It was an incredibly close case without any of that.” As they ticked off the names of the “Seldon gang”—Creedon, Kent, Harris, Ram, Glass, Graydon—the attorneys paused and seemed to marvel for a moment that four of them have come forward and said, in one way or another, that Creedon was involved in the Tankleff murders. A fifth, Creedon himself, admitted his involvement multiple times. “We’ve done a lot with limited resources. We’ve done this without being able to offer anything,” said Barket.

Tankleff Hearing Report – Thursday, December 9, 2004

The defense rested today, and Suffolk County prosecutors put on their first witness, a surly, swearing, glaring Peter Kent. Kent was one of two men—the other was Joseph Creedon—whom Glenn Harris has said he drove to the Tankleff residence the night of the murders. The next morning, according to Harris, Kent burned his clothes.

Kent told a different story today to Assistant District Attorney Leonard Lato, who called him to the stand. Glaring often in the direction of the defense table, Kent admitted to committing as many as 50 crimes with Harris, and “very few,” that is, “five to ten” crimes with Billy Ram, another of the group of drug dealers, users, enforcers and burglars who hung around together in Suffolk County in the 80’s. Kent denied involvement in the Tankleff murders, and recounted confronting Glenn Harris about his allegation that he was involved. The two happened to be in prison together, though on a “keep separate” list because of Harris’s allegation, and also, according to Kent, because Harris “was hurtin’ ‘cause I was doin’ his old lady,” that is, enjoying sex with Harris’s ex-wife. But the two came into contact, according to Kent, one day in adjacent sections of the prison yard. “I says, ‘Glenn, why the fuck would you do this to me?’” Kent testified he told Harris. Kent testified that Harris told him he had lied about driving him and Creedon to the Tankleff home, and that he was being paid to lie.

In an apparent attempt to establish an alibi, Lato asked Kent to refresh his memory by perusing a list of 10 robberies he had committed in a one-week crime spree around the time of the Tankleff murders. The one previous to the Tankleff murders took place on August 31, 1988. The one following the Tankleff murders took place at 9:00 p.m. on September 7, some 15-18 hours after the Tankleff murders took place, depending on whose chronology you believe.

Kent testified to his recent encounter with Billy Ram, who had testified earlier in the hearing that Kent, Creedon and Harris had done drugs at his home before driving off together the night of the Tankleff murders. Kent testified that Ram recently offered him \$50,000 on behalf of the Tankleff defense team to “join the winning team.”

Earlier in the day, the defense concluded its case with their last witness, Marty’s cousin and one-time legal guardian, Ron Falbee. Marty lived with Falbee, his wife Carol and their twin daughters throughout the original trial. Under questioning from Tankleff lawyer Barry Pollack, Falbee testified to the deteriorating relationship between Seymour Tankleff and Jerry Steuerman during the summer before the murders, and to Seymour’s intention of ending his partnership with Steuerman and taking sole ownership of the racehorses they owned in common. Falbee also recounted finding two notes in the home after the crime scene was unsealed. One note was found in the safe, written and placed there by Arlene Tankleff, who wrote of her fear of Jerry Steuerman and what he might do to her and her husband. The other note was a blood-sprayed copy of a letter Seymour wrote to Steuerman, demanding a \$50,000 payment on the half a million dollars Steuerman owed him. Falbee testified he found the letter in plain sight, on top of a stack of papers right on the desk beside which Seymour was found stabbed and bludgeoned. The police never took it into evidence. Both notes were entered into evidence today at the hearing. Falbee said that on the day of the attacks, he told police detectives that Steuerman was the likely suspect, but police never followed up with Falbee. He did recall being baffled at the time that the police made a statement that there were no financial problems between Tankleff and Steuerman.

Following Kent's testimony, Marty's lawyers spoke to the media. "My stomach turned...it's disgusting that Lato puts liars on the stand," said Bruce Barket. "I'm watching the Suffolk County prosecutors coddle criminals, admitting they gave them deals, giving them suits, passing them off as credible, all in an attempt to keep Marty Tankleff in jail." He went on, "If Lato wants a job as a defense attorney, he can have one, because he's defending his clients Creedon, Kent, Glass. They're coddled by the very people who are supposed to keep us safe. Kent sits up there glaring, the king of the world. Why? Because the chief law enforcement official of Suffolk County is coddling him." Barket said the claim that Kent was offered \$50,000 was "too stupid to comment on."

A growing number of Tankleff supporters are becoming pessimistic that the hearing will go Marty's way. They point to some key points along the way where they believe the judge has shown which way he is leaning: his refusal to take any action that would lead to Glenn Harris's receiving immunity; his ruling against the special prosecutor motion, and more importantly the way the ruling was written; the method by which he quickly disposed of the witness-interference charge; and finally his statement today, in a heated moment, to Marty's lawyers that "Ninety percent of your evidence would not be admissible at trial," an assessment with which Marty's lawyers vigorously disagreed.

The hearing resumes Tuesday at 2:00 p.m., at which time the Suffolk County District Attorney's witness, Peter Kent, one of the men Glenn Harris said he drove to the Tankleff home the night of the murders, will be cross-examined by Marty Tankleff's lawyers.

Tankleff Hearing Report – Tuesday, December 14, 2004

The hearing resumed today with Tankleff lawyer Bruce Barket questioning prosecution witness Peter Kent, one of two men getaway driver Glenn Harris has said he drove to the Tankleff residence the night of the murders. Kent enters and exits the courtroom with a swagger and a smirk. He has spent six years in maximum security prisons. He's been arrested 20 times. He has admitted to dozens of burglaries, armed robberies and beatings. He once beat up the guy in the next cell for disturbing his sleep. He once allegedly threatened to kill a police officer if he testified against him. An Assistant District Attorney once recommended against parole for Kent because he was a "dangerous guy." Yet, today Kent admitted to crying one year ago when prosecutors informed him of Harris's allegations.

Kent presumably didn't cry for long, because, he told the media following his testimony, prosecutors quickly assured him, "We don't believe you did this." What Kent did do, he told the court, was help the DA's investigator, Walter Warkenthein, investigate defense witness Billy Ram. Using telephone numbers for Ram and Ram's mother provided by the DA, Kent called Ram in an apparent, and unsuccessful, attempt to trap Ram into saying he gave false testimony earlier in the hearing. Kent also told prosecutors he believed that Joey "Guns" Creedon, the other man Harris said he drove to the Tankleff's, was capable of murder. "You knew Creedon was capable of murder," said Barket, "because you watched him bash in Marty Tankleff's father's head, didn't you?" No, said Kent, repeating his past "airtight alibi" that he was too busy committing other crimes in distant parts of Long Island, far from the town of Seldon, where Harris and Billy Ram said they and Kent and Creedon gathered on the evening before the Tankleff murders. However, when confronted with the specifics of a confession from one of his criminal associates, Kent acknowledged he might have been in Seldon on the night of the Tankleff murders. Despite earlier testimony that he and his pals drove daily to Manhattan in the early morning hours to get decent drugs—the other part of his alibi—today Kent described cutting up "ounces of coke" at Billy Ram's house.

Referring to Kent, Creedon and Harris, Barket said, "The three of you went up to Belle Terre, where Creedon killed the Tankleff's." Kent responded, "All those guys are paid off by the Tankleff family," an assertion that Assistant DA Leonard Lato has said he will provide evidence to back up.

Following his testimony, Kent told the media, "I think they got the right killer. Why would [Marty] put the finger on Steuerman?"

The prosecution's next witness was Thomas McDermott, a retired investigator in the DA's office. He joined Suffolk law enforcement in March of 1989, following the Tankleff murders. In 1994, he was assigned to look into Karlene Kovacs' affidavit that Creedon had admitted to her his involvement in the Tankleff murders. Under cross-examination by Tankleff attorney Barry Pollack, McDermott said that his "investigation" comprised nothing more than interviewing the people mentioned in the affidavit: Kovacs, Creedon, Terri Guarascio and John Guarascio, and essentially taking them at their word. He did not review the Tankleff case prior to the interviews. He didn't review Creedon's arrest records or interview his criminal associates. He didn't know that Creedon had previously stated that Jerry Steuerman had tried to hire him to cut out Marty's tongue. He wasn't aware that Jerry Steuerman owed Seymour Tankleff hundreds of thousands of dollars, was the last guest in the home the night of the murders, and had faked his own death.

McDermott did say he would have found these facts to be of interest to his investigation had he known of them.

Following the hearing, Tankleff's lawyers spoke to the media. Barry Pollack said it was remarkable that Kent admitted to being in Seldon on the night of the murders, corroborating Harris and Ram. "The DA did not take Kovacs seriously. It should have been blockbuster new evidence. If they did anything like the investigation Jay Salpeter has done, we would have found out years ago what we've found out the past few weeks."

Barket described Kent as "among the most arrogant individuals I've ever seen. "He acts like he's got the keys to the kingdom, because he got them from the DA. We saw a man prone to extreme violence at the drop of a hat. He doesn't have an alibi because you can't have one if you committed the crime. When the tears came to his eyes, that told you he knew the jig was up. Think about Peter Kent crying. [The prosecutors] said, "Don't worry, Peter, we're not going to prosecute you. Think of what would have happened if Lato and Warkenthein told him, 'We know you were there, Peter, but you didn't commit murder. Tell us who did.'"

As testimony wrapped up today, Judge Stephen Braslow engaged in some banter with the Tankleff lawyers, chiding them for being late for the start of the hearing. Quick on their feet, the lawyers shifted blame to Barket's vehicle, which the Judge surmised must be a fine model. "Not based on what he's making on this case, your honor," said Pollack, referring to the fact that the Tankleff defense is working pro bono.

Tankleff Hearing Report - Monday, December 20, 2004
Witnesses: Walter Warkenthien, John Kelly, Creedon's Sister

In the summer of 2003, Marty Tankleff's lawyers provided Suffolk County District Attorney Thomas Spota with Glenn Harris's sworn affidavit in which he stated he drove Joseph Creedon and Peter Kent to the home of Seymour and Arlene Tankleff the night they were fatally attacked. Summer turned to Fall, and with the DA's office having taken no action on the matter, Tankleff's defense team scheduled a press conference for October 2nd, the day they filed their motion for a hearing. On September 30th, Spota assigned an investigator to the case. He might have recruited Thomas McDermott, the ex-Suffolk detective who joined the DA's office in 1989, following the State Investigation Commission into Suffolk County police and prosecutorial misconduct, and following the tenure of Detective James McCready, on whose testimony Marty was convicted, and who was found by the SIC to have perjured himself in a previous homicide case. After all, in 1994 McDermott had investigated Karlene Kovacs' affidavit implicating Joseph Creedon with an open—some would say empty—mind, unencumbered by any history or connection to characters related to the Tankleff case.

Instead, even as he built his "Chinese wall" separating himself and his connections to McCready from Assistant District Attorney Leonard Lato, Spota assigned Walter Warkenthien, a colleague of McCready's and a veteran of that notorious era in Suffolk law enforcement. In its report, the SIC, citing patterns of "disproportionate salary and overtime," listed Warkenthien among detectives whose high salaries "were not, unfortunately, accompanied by a high degree of professionalism in their performance."

Today, on the witness stand, Warkenthien described his investigation into new evidence in the Tankleff case. As recounted in the DA's written motions, Warkenthien interviewed Kovacs and Harris, essentially having them repeat their stories as outlined in their affidavits. The purpose of this exercise is apparently for the DA then to compare the stories and point out inconsistencies to discredit the entire affidavits. The defense argues that the repeated statements are remarkable in their consistency—that is, the important elements always remain, e.g., Creedon and others at the Tankleffs the night of the murders, the quick getaway, and the inconsistencies are minor, e.g., waiting 10 minutes or 20 minutes or 30 minutes, smoking a joint in the bedroom or outside.

Actually, the inconsistencies are exactly like the one Warkenthien displayed today, when he said that last June he visited the site where Harris said a pipe used in the murder had been discarded, and where Jay Salpeter had recovered a pipe. Actually, Warkenthien had visited the site in August, not June. Maybe Warkenthien was thinking of June because that's when Salpeter found the pipe and babysat it for two days, waiting in vain for the DA to send someone to retrieve the evidence.

But nobody really seemed to care when Warkenthien said he was there. What's important is what he said he found there. Four more pipes! One just 13 feet from the spot Salpeter retrieved a pipe. Under direct examination from Lato, Warkenthien described the pipes as 1.5" in diameter, about the same as the pipe retrieved by Salpeter. Lato didn't ask Warkenthien about the length of the pipes, but after the hearing ended today, the media asked Lato. The shortest was 10 to 12 feet, and all were partially buried.

Cross-examination of Warkenthien was postponed until Tuesday, due to scheduling issues.

The next witness for the prosecution was John Kelly, the manager of the “sober house” where Glenn Harris was living and trying to kick his drug habit while on parole. Kelly was not much help to Harris, as Kelly himself was abusing drugs and was arrested for it on May 27th. Harris was violated by parole and given the 10-month maximum sentence he’s currently serving because he went out on a drug binge with Kelly in the sober house van.

Kelly testified that Glenn had made statements to him that “his family would be taken care of,” and that when Glenn went to see Salpeter, he often came back “with money.” One time Glenn had \$1,000 on him, which Kelly said he thought Glenn got from working with his brother. Under cross-examination, Kelly denied the money was from a burglary of the sober house office by Kelly and Harris, which is what Harris told Tankleff lawyer Bruce Barket.

According to Kelly, Glenn and the sober house residents all watched Glenn on the “48 Hours” show on Marty. The guys in the home were nervous, said Kelly, because of what Creedon or Kent might do to Glenn for implicating them. “Some guys knew them from the street and that they were crazy enough to come to the house to do something stupid,” said Kelly.

The last witness was Maryann Testa, Joseph Creedon’s younger sister. She testified that Joe’s relationship with Theresa, the mother of his children, was not as bad as Theresa had testified to. She also said she had never known her brother to be referred to as Joey “Guns.” “Only in the papers,” she said.

In his testimony today, Detective Warkenthien revealed that Billy Ram, whose testimony in October corroborated Harris’s statement, among others, was recently shot by police in Florida while being apprehended for robbery. Ram apparently shot himself in the head as police closed in, and is in critical condition. Following the hearing, Tankleff lawyer Barry Pollack reminded the media that this tragic news shouldn’t be surprising, and it shouldn’t affect Ram’s credibility, as these are the types of people in position to witness the sordid events of the Tankleff case, “as opposed to Marty Tankleff, who never had any criminal history” prior to being arrested by Suffolk County cops.

With the DA having rested, Pollack described their case as “the dog that didn’t bark,” and said, “You’d think they would put on one witness to poke holes in our 16 or 20 witnesses.”

Tankleff attorney Bruce Barket added, “We accused four people of murder [Steuerman, Creedon, Kent, Harris], and not one is able to prove an alibi. None were working, none were in jail. They all had motive, opportunity, means and inclination.”

Assessing the mass of evidence the defense has accumulated over the course of the hearing, Barket said, “I certainly think we’ve cleared the legal bar. I’m not sure we’ll clear the bar set in Suffolk County for us.”

Court resumes Tuesday at 11:00 a.m. with cross-examination of Walter Warkenthien and defense rebuttal witnesses. Barring any surprises, it is expected to be the final day of the hearing. Both sides will then write and submit briefs, expected to take several weeks each.

Tankleff Hearing Report – Tuesday, December 21, 2004
Witnesses: Mark Callahan, Zachary Souminem, Jay Salpeter

The hearing did not end today as anticipated, as scheduling conflicts again prevented the cross-examination of the DA's investigator, Walter Warkenthien. That will take place on January 18th at 2:00 p.m., when the hearing resumes.

Today the defense called two rebuttal witnesses. The first, Mark Callahan, is currently incarcerated in the Nassau County jail, where Marty is residing, although in a separate building. Callahan recently wrote a letter to Marty stating he had information that might help him.

Callahan is an old acquaintance of Brian Scott Glass, having known him since their school days. Earlier in the hearing, Tankleff's lawyers filed a motion for a separate evidentiary hearing on whether the District Attorney had intimidated or otherwise persuaded Glass to change the story he had told the Tankleff defense—that Jerry Steuerman had offered him the hit on Seymour Tankleff, and that he had passed it along to Joe Creedon. A convicted felon, Glass was facing an armed robbery charge, but was released on his own recognizance around the time he began cooperating with the DA on the Tankleff case.

Callahan said he always looked up to Glass and “that group of people,” because “they were the guys who people feared in our neighborhood. They had beautiful girls, good parties and drugs.” Callahan testified that Glass had told him of his connection to Steuerman and the Tankleff murders as far back as 1990 or 1991.

Fate recently brought Callahan and Glass together in a Central Islip holding cell, where Callahan says Glass told him he was reconsidering his decision to testify for the defense. Callahan said Glass told him the DA was putting pressure on him to change his statement, and that if he went through with it, the DA said he could get 25 years to life as a third-time offender. Callahan said Glass was released on his own recognizance recently not only on the armed robbery charge, but also on two other charges, one for drugs, the other for harassment.

Asked why he was coming forward, Callahan said, “I must have asked myself a million times already. I got nothing to gain from this.”

The defense's other rebuttal witness was Zachary Souminem, a friend of Marty's from high school. The two had adjacent lockers, as their last names were close in the alphabet. Zachary had testified at Marty's original trial, and today testified to his encounter last year with Daniel Cicero, a witness who recently testified for the prosecution that defense investigator Jay Salpeter offered him money for his testimony.

It happened that in October of 2003, Zachary was working on a mortgage for Cicero, and was with Cicero when he got a call from his friend, Joey “Guns” Creedon. According to Zachary, Creedon called Cicero seven times that morning. Creedon was worked up about a front page newspaper story on Glenn Harris's statement implicating Creedon in the Tankleff murders, to the point where he “wanted to whack the guy.”

Also today, Assistant District Attorney Leonard Lato called defense investigator Jay Salpeter to the stand to question him about expenses paid to Billy Ram for his trip up

from Florida to testify. While the defense has cited statutes permitting reimbursement for travel expenses and lost wages for witnesses, Lato has suggested that witnesses can be induced to alter their testimony in exchange for such payments. Tankleff attorney Bruce Barket took exception to this, taking it as Lato's inferring he was bribing witnesses.

Following the hearing, Tankleff's lawyers commented on the revelation that Brian Scott Glass was released on his own recognizance three times in the past two months. "Who can blame him for committing the subsequent crimes," said Bruce Barket, "when he had a get-out-of-jail free card?" According to the attorneys, several of the key witnesses in the hearing have told the same story for the past 15 years, and Glass is the only witness who has changed his story, and only now because of the DA's interference.

Barry Pollack commented on the account of Creedon's calls regarding Harris. "The day it's first publicized, Creedon's reaction was to threaten to whack Harris. Is that the action of an innocent man? Not once, not twice, he calls him seven times." Added Barket, "Frankly, I think the reason [Creedon, Kent, et al] haven't done anything is because they have the best friends in the world: Spota and Lato.

"A special prosecutor's first order of business is to protect witnesses," said Pollack. "The DA is protecting murderers."

Tankleff Hearing Report – Friday, February 4, 2005
Witness – Walter Warkenthien

Today was the final day of testimony, although Marty's lawyers Barry Pollack and Bruce Barket left open the possibility that leads they've been pursuing may yet yield more witnesses. In such an instance they would petition the court to reconvene to hear the testimony, or they would file another 440 if required. Otherwise, the timetable calls for the defense to present a written argument by March 11th, the prosecution to respond by April 15th (Tax Day), and the defense to reply by April 29th. Following that, Judge Braslow will read the briefs "word by word prior to rendering a decision," he pledged to the lawyers. Judge Braslow granted the defense's request that Marty remain in the Nassau jail while the briefs are written, so that Marty can consult with his legal team through Bruce Barket's office, which is in Nassau County.

Today's testimony was comprised of Barry Pollack's cross-examination of prosecution investigator Walter Warkenthien. In what the defense considered perhaps the most significant point to come out of today's testimony, Pollack established that Warkenthien reports directly to District Attorney Thomas Spota, and that Spota handpicked Warkenthien to handle the Tankleff case even before he appointed Assistant DA Leonard Lato and built his "Chinese wall" supposedly separating himself from the case. In the 1980's, Warkenthien was a colleague of Detective McCready, the man who took Marty's "confession" and, like McCready, was cited by the State Investigation Commission into Suffolk County police and prosecutorial misconduct in the 80's.

According to Warkenthien's testimony, although the defense provided the DA with their 440 motion for a hearing in August of 2003, Warkenthien did not interview any witnesses until October 1st, the day before the 440 was filed and the Tankleff defense team held a press conference. On October 7th, Warkenthien interviewed Peter Kent, one of the men Glenn Harris said he drove to the Tankleff's the night of the crime. It was during this interview that the tough, swaggering, career-criminal Kent, told of Harris's statement implicating him, broke down in tears. However, Kent has said, prosecutors immediately assured him they didn't believe he was involved in the Tankleff murders.

Warkenthien's interview of Kent lasted 30 minutes, and it wasn't until two months later that the Suffolk County investigator filed a one-paragraph report on the encounter. Under Pollack's cross-examination, Warkenthien confirmed that he did not warn Kent he could trade places with Marty, as he had warned Glenn Harris; did not recall asking Kent if he had been at Billy Ram's house at the time Harris had claimed in his affidavit; did not attempt to wire snitches to surreptitiously record Kent as he had done to Harris; and was unsuccessful, in contrast to the defense, in obtaining the log book indicating there was no guard on duty at the Belle Terre gate in the early hours of the morning of the murder.

Warkenthien confirmed that he did indeed tell Glenn Harris that if his testimony was true, he could trade places with Marty Tankleff. And Warkenthien admitted that at the time he wired snitches to surreptitiously record Harris in the Suffolk County jail, Warkenthien knew that a week earlier Judge Braslow had appointed Harris an attorney. But Warkenthien said "it never crossed my mind" that this could be considered witness intimidation. Warkenthien acknowledged that he waited months before investigating the site where Jay Salpeter found a pipe possibly used as a murder weapon.

And so the hearing ended. Before once again being handcuffed and escorted out of the courtroom, Marty, through his lawyers, expressed his appreciation to all his supporters and everyone who had attended the hearing.

In the hallway outside the courtroom, Marty's cousin Ron Falbee spoke to the media about the hearing that began last summer. "At the first trial, we heard nothing of drugs, beatings and guns. Now, since July, we've heard nothing *but* that." He added, "This case got off to the wrong foot from day one, with the 'confession,' which was a creation of Detective McCready's imagination." He said that although Marty and the family had felt they were close to achieving justice in the past and been disappointed, they were "cautiously optimistic." He thanked Marty's defense team: Barry Pollack, Bruce Barket, Stephen Braga, Jennifer O'Connor and Jay Salpeter.

Marcella Alt Falbee, Ron's mother and victim Arlene Tankleff's sister, expressed her hope that the resolution of this hearing would lift a burden off the whole family's shoulders and provide "peace for my sister....She loved Marty and he loved her."

Defense lawyer Barry Pollack said the evidence presented on behalf of Marty Tankleff was "absolutely overwhelming," and that he was "very hopeful that the judge will at a minimum grant a new trial." Barket added he believed most of the evidence presented at this hearing would be admissible at a new trial. In addition, at trial the defense would be able to accomplish things the judge did not allow in this hearing, e.g., material witness orders could be issued to compel testimony by witnesses such as Todd Steurman.

Marty's lawyers reflected on how different the past 16 months would have been had there been a special prosecutor, who would want to look at what might be a murder weapon, and would offer immunity to witnesses in return for their information. In contrast, said the lawyers, the Suffolk County DA made efforts to stifle witnesses, going so far as to make the names of confidential witnesses public. Referring to the moment when Kent broke down crying in the DA's office, Barket said, "If they had used a small part of the coercive tactics they used on Marty, this would be over. If they had only said, 'Tell us what happened....' Instead, they put their hand over Kent's mouth."

Barket, the former prosecutor, said the Suffolk County DA's handling of the Tankleff matter is "bordering on the outrageous" and "The DA has to answer for this." Referring to Suffolk law enforcement's dubious history, Barket said, "The people most involved in the 80's have risen like a Phoenix to power."

Asked to predict the outcome for Marty, Barket said he was not taking any bets, adding that he was indeed a betting man. But, added Barket, "If I can say one thing to Lato and Spota: Don't think this will be over with Judge Braslow's ruling."