

Suffolk County's Criminal Justice System & the Tankleff Case

MARKED FOR MISCONDUCT: Dishonorable Mention by the State Commission of Investigation

Thomas Spota

CURRENT DA OF SUFFOLK COUNTY

After serving as Chief Trial Prosecutor for the DA's office, he partnered in a defense firm and was directly involved in what the SIC determined "a potentially serious corruption case involving an alleged kickback scheme" that threatened the "erosion and undermining of public confidence...through efforts to bribe or influence police officers." As the legal counsel to the Detective's Association of the Suffolk Police Department, Spota represented the detectives investigated by the SIC, including James McCready.

Detective James McCready

LEAD DETECTIVE, TANKLEFF CASE

Cited by the SIC for "knowingly giving false testimony" in a murder trial.

Detective Walter Warkenthien

DA'S INVESTIGATOR, EVIDENTIARY HEARING

Citing patterns of "disproportionate salary and overtime," the SIC listed him among detectives whose high salaries "were not, unfortunately, accompanied by a high degree of professionalism in their performance."

DA Patrick Henry

FORMER DA OF SUFFOLK COUNTY

Finding that Henry had "seriously failed in his stewardship as chief law enforcer in Suffolk County" the Commission said he "most charitably can be described as having ignored the grave and demanding responsibilities of his Office." His "increasing intransigence," "vituperative press statements," and litigation "in an unsuccessful attempt to block this very Report" made it evident that he was "unwilling to reform his own Office." (Unsuccessful legal attempts to block the Commission's investigation were also made by Suffolk police unions, including the PBA, and both the Detective's and the Superior Officer's Associations.)

Detective Sergeant Robert Doyle

OVERSAW "MISSING PERSON" INVESTIGATION OF JERRY STEUERMAN

Assigned to Internal Affairs, he did not investigate illegal activity of narcotics officers until after Election Day "out of fear that the entire matter would become public knowledge and help [DA Patrick Henry's] opponent."

source: SIC Report (See below)

CORRUPTION

SIC REPORT

Seven months after the Tankleff murders, the State issued an investigative Report on the Suffolk County DA's Office and Police Department, finding "grave shortcomings in the leadership and management of both agencies." The "harsh and sweeping conclusions" were based on "overwhelming evidence" that called for "desperately needed changes" and "major reform" seeking "justice and integrity in place of an attitude of 'You do what you have to do to arrest and convict.'" Citing a "long-standing tolerance for misconduct," the Report found that the Suffolk County Police Department and DA's Office "engaged in and permitted improprieties to occur" in narcotics operations and homicide prosecutions "including perjury, as well as grossly deficient investigations and management practices." The Report, while mentioning individuals (many of whom are directly involved with the Tankleff case), found that the "significant failures in the entire system" resulted from the "day-in, day-out manner in which [the agencies] conducted the business of law enforcement in Suffolk County so badly."



The SIC revealed "two important failures" with respect to narcotics operations: 1) "supervision in the investigation and prosecution of narcotics cases was lax." 2) "there was a gross failure to detect, investigate, and punish police misconduct in narcotics matters."

Drug dealing operations were run out of Jerry Steuerman's bagel stores. Todd Steuerman, Jerry's son and a convicted cocaine dealer, told a confidential defense witness "local police officers were paid not to interfere with the drug business." At least one year before the Tankleff attacks, in 1986 or '87, this same witness, while at one of the bagel stores, was introduced by Jerry Steuerman to James McCready as one of Steuerman's "card-playing buddies." The witness then saw Steuerman take McCready to a small office at the back of the store where there was a safe. Later, when seeing news reports of Steuerman being returned from his cross-country flight after the Tankleff attacks, the witness immediately recognized McCready as the same person introduced by Steuerman in the bagel store, finding it odd that the police would allow his friend to pick him up in California.

Leonard Lubrano a wholesale bakery supplier whose business association with Jerry Steuerman required daily visits to Steuerman's bagel stores, testified that in the late '70 to early '80's he often saw McCready talking to Steuerman in the bagel store. In the mid-1980's, Lubrano opened a pizzeria. McCready ran a construction business in addition to his job at the Police Department, and he often purchased food for his construction crews from Lubrano. At some point during this time, McCready told Lubrano, among other things, that he was performing construction work for Steuerman.

McCready, who did not live in the area and was not on duty at the time of Marty's 911 call, responded to the scene and isolated Marty as a suspect. Repeatedly denying any relationship with Steuerman, he testified at trial that he "didn't know one thing" about him before the morning of the murders.

COVER-UP

MIRANDA MALPRACTICE

On September 7, 1988, the main and back-up devices recording radio communications between officers and headquarters had allegedly failed, resulting in a loss of tape from 7:27 am to 8:06 am. Tankleff family attorney Myron Fox told McCready around 8:05 am that he represented Marty, a claim McCready denied. With the loss of the tapes, there was no way to confirm it. A Police Officer's Confidential Log stated "Clean Power loss, 911 and all phones, tapes out—Power restored at 0643," contradicting all "public" testimony and paperwork. (Power failure of both main and back-up recording had never occurred before the morning of the Tankleff murders and, reportedly, never since.)

THE INTIMIDATION OF WITNESSES

The DA revealed the names of confidential defense witnesses who came forward despite their fear of retaliation from Joseph Creedon and Peter Kent.

The DA's investigator Walter Warkenthien (a former associate of McCready's in Homicide) misrepresented the law, telling Glenn Harris if his story was true he'd be "changing places with Marty." Harris cited the DA's threats of prosecution as a reason for pleading the Fifth and the DA (who contends Marty acted alone) refused to grant him immunity.

Attempting (unsuccessfully) to discredit Harris, the DA had two cooperating witnesses try to induce Harris to retract his statements while being surreptitiously recorded. These efforts were unethical; they were done after the DA knew Harris had legal representation.

THE "INVESTIGATION" BY THE DA'S OFFICE

In 1988, after Jerry Steuerman fled to California, his family filed a Missing Persons report. Though Steuerman was never investigated as a suspect, Detective Sergeant Robert Doyle of Homicide told Missing Persons that "Steuerman has been thoroughly investigated and Homicide does not believe he was involved." Doyle had Homicide search for Steuerman but asked Missing Persons to handle the "major media interest" by telling the press their investigation was in no way related to the murders.

In 1994, Karlene Kovacs submitted an affidavit stating Creedon admitted to her his involvement in the Tankleff murders. The DA's Office never seriously investigated the information.

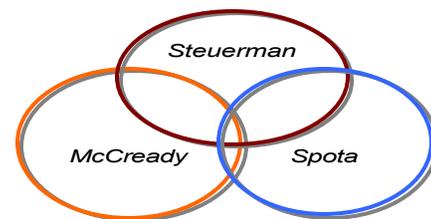
In 2003, the Defense provided the DA with new evidence implicating Creedon and a chance to investigate outside the glare of the media. Six weeks later, when the DA had still not investigated, the Defense filed a 440 motion and the DA argued the Court should not hold an evidentiary hearing.

When the DA interviewed Kent, the hardened criminal broke into tears after hearing he was implicated by Harris. Investigators immediately comforted him, saying "we don't believe you did this." They then gave him a defense witness's home phone number and had him record his unsuccessful attempts to discredit the witness.

Harris's statements lead to the discovery of a possible murder weapon: a lead pipe. The DA's Office refused to visit the scene until two months after the discovery and investigators have yet to examine the evidence.

Joe Graydon, admitting involvement with Creedon in a "mis-hit" on Seymour Tankleff allegedly arranged by Jerry Steuerman, came forward by calling the DA's Office. He was told his direct involvement in a murder plot was "just speculation." He was hung up on after asking for defense counsel's phone number.

CONFLICT



BIG TROUBLE IN LITTLE CHINA

Because of prior legal representations of James McCready (during the SIC investigation and an assault and robbery trial) DA Thomas Spota was asked to recuse himself. Declining, he appointed Investigator Warkenthien, McCready's old colleague, and then gave ADA Leonard Lato the case. Lato claimed Spota "erected an attorney's version of a 'Chinese Wall'" so he would not be influenced in his investigation. Despite the "wall," Warkenthien reports directly to Spota, and Spota attended the hearing and apparently participated in decisions not to grant Glenn Harris immunity. With revelations about McCready's relationship with Steuerman and Spota's long-standing relationship with McCready, the defense filed a motion to appoint a Special Prosecutor.

FAILURE TO DISCLOSE

In opposition to a motion to disqualify him over his connection to McCready, DA Spota revealed that Spota's former law partner had represented both Jerry and Todd Steuerman in 1989, at a time when Spota may have been sharing office space with him. What he omitted from his sworn affirmation is that in 1983 his own law firm represented Todd Steuerman on "narcotics charges." Later, on the very day that defense investigators began reviewing court documents and may have discovered it on their own, Lato specifically disclosed that Spota's firm defended Todd Steuerman in a case in which Todd pled guilty to selling cocaine out of his father's bagel stores.

"IMPROPER INFLUENCE"

Brian Scott Glass, a violent felon, was scheduled to testify for the Defense that Jerry Steuerman offered to pay him to "hurt" Seymour Tankleff and that he passed the job to Creedon. He recanted his story and began cooperating with the DA after being released without bail for an armed robbery charge. Glass is now represented by William Wexler, a high-powered attorney and friend of the DA who shares office space with Judge Braslow's father.

Mark Callahan, who knew Glass from high school, testified that Glass told him in the early 1990's about his role in the Tankleff case. According to Callahan, when the two recently met in a holding cell, Glass, a third-time offender who could face 25 years to life, confided that he was being pressured by the DA to change his statement. (Since being released on his own recognizance for the armed robbery charge, Glass has twice been arrested [drug possession and assault] and released without bail.)

SOURCES: SIC, Apr 1989; SCPD Confidential Log, Sept 1988; 440 Motion, Oct 2003; DA's Opposition/Defendant's Response, Apr 2004; Motion for Special Prosecutor/DA's Opposition, Aug 2004; Supplemental filings, Sept 2004; Motion for Evidentiary Hearing and Supplemental filings, Nov 2004; Judge's Decision, Dec 2004; Evidentiary Hearing Testimony