

Eighteen years after the grisly double murder and sixteen years after one of the most controversial convictions in Long Island history, the case of wrongly imprisoned Martin (Marty) Tankleff has gone through more twists and turns than a long-running TV soap opera.

Not even the lawyers presently involved are capable of recounting all of the legal machinations that have occurred to date, and in-depth news reporters find themselves without sufficient time or space to recount even a bare-bones version of one of New York suburbia's juiciest crime stories. Instead of winding down, the saga keeps growing in size and intensity, with no clear end in sight. The stakes are high – not just for Marty Tankleff.

Connoisseurs of mistaken conviction rate Tankleff as one of the most memorable cases of false confession and police and prosecutorial misconduct they have encountered, notable for its incredibly complex webs of sordid intrigue and political corruption.

Chances are, if you have followed some of the many reports in the major news media or come across the dynamite blog at <http://martytankleff.org> maintained by many of Tankleff's relatives and friends, you may have already heard about it.

### 1988 Murders

It all started on the morning of Sept. 7, 1988, when Suffolk County police responded to a frantic emergency call from an upscale house in Belle Terre, on Long Island's North Shore. Marty Tankleff, aged seventeen, who was scheduled that day to begin his senior year in high school, blurted he had just awakened to find his father brutally bludgeoned and covered in blood. With instructions from 911, the boy helped keep his father alive until help arrived.

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was not only a well respected community activist and businessman with no criminal record – but that he was actually innocent.

#### Endnotes and sources:

- 1 Lyons a free man with clean record, by Kimberly C. Moore, *Florida Today*, October 1, 2004.
- 2 The Criminal Injustice System – The Nino Lyons Story, [freenimo.org](http://freenimo.org).
- 3 Federal judges blast trial's prosecution, by Henry Pierson Curtis, *Orlando Sentinel*, January 17, 2004
- 4 *Id.*
- 5 *Id.*
- 6 *Id.*
- 7 *Id.*
- 8 *U.S. vs. Lyons*, Case No. 6:01-cr-134-Orl-31DAB (D.C. M.D.F.), Order, September 30, 2004.
- 9 Federal Judges Blast Trial's Prosecution, *supra*.
- 10 Lyons a free man with clean record, *supra*.



## Will The Frame-up Hold Up? The Martin Tankleff Story

By Scott Christianson

Emergency responders found Seymour Tankleff, aged 62, barely breathing and his wife, Arlene, horribly stabbed to death and nearly decapitated. Seymour, a wealthy insurance broker and entrepreneur, never came out of his coma and would die a few weeks later.

Although the slightly built youth had no criminal history, record of mental illness, or known strife with his parents, as their closest relative and lone survivor in the house at the time, the boy was quickly taken away to the police station for questioning without a lawyer present. Why would any killer have left behind a possible witness?

Despite Marty's claim that Jerard Steuerman, his father's estranged business partner in bagel stores and horseracing, owed the Tankleffs hundreds of thousands of dollars and had been the last one to leave a high-stakes card game at the house earlier that morning, the cops immediately targeted the kid as the prime suspect.

### Tricked into "Confessing"

The youth denied he had done anything wrong, but the police detectives persisted. When the teenager didn't confess, one of the detectives, K. James McCready, remained within earshot and pretended to receive a telephone call telling him that Seymour Tankleff had revived under adrenaline to blame his son for the attack. McCready also said, "We also have your hair in your mother's hand, Marty, we know you did it, just tell us you did it."

Tankleff said, "Absolutely not. I'd be willing to take a polygraph, I'll do anything I can. I have nothing to do with this."

But McCready countered, "Marty, then why would your father identify you?"

Tankleff replied, "Maybe because I helped him that morning, giving him first aid."

After that, the questioning just became more hostile and more aggressive, and within minutes young Tankleff broke down and "confessed" to the experienced detectives, without signing any statement or giving a videotaped admission. Although the teen quickly recanted his statement and proclaimed his innocence, the police arrested him and the district attorney charged him with murder.

### Attention Increases

The case became politicized when Tankleff's family hired as his defense lawyer Robert Gottlieb, a Democrat who was running for district attorney against the incumbent Republican. Gottlieb soon began to note that the police had no physical evidence whatsoever to support their supposed "confession." There was no bloody murder weapon, bloody gloves or clothes, or other corroborating evidence.

Tabloids reported the DA's line that Tankleff was a spoiled rich kid who had tried to eliminate his adoptive parents because he resented having to drive a "crummy Lincoln." Defenders focused on the "coerced" or "tricked" confession, which prompted law-and-order types to support the police. Greed, jealousy, mystery – reporters already saw a good crime story.

### Another Suspect

But when reports circulated that Seymour Tankleff still hadn't died, and might recover, Jerry Steuerman, his business partner, suddenly turned up missing. It quickly emerged that Steuerman had faked his own death, shaved off his beard, and fled across the country using a false identity. He was later found in California, where he had changed his hair weave and acted distraught, yet Detective McCready assured the public that he "wouldn't hurt a fly" and continued to insist that the boy had done it.

Steuerman and his son, Todd, were never seriously interrogated even after Suffolk law enforcement authorities secretly learned that they had been involved in cocaine trafficking from their bagel store and that a notorious drug enforcer, Joey "Guns" Creedon, told police Todd had shot him after he refused to agree to "cut out Marty Tankleff's tongue" for Jerry Steuerman. Todd Steuerman was quietly arrested, offered a lenient plea deal, and whisked off to prison, and the allegations against the Steuermans were kept away from the Tankleff defense and the news media.

### Tankleff Convicted

Instead, Marty Tankleff was tried for double murder in a high-profile trial that was televised live—a trial that attracted so much media attention it helped lead some enterprising businessmen to start Court TV.

The only member of his extended family who didn't support him was his half-sister Shari, and his brother-in-law, who gained more inheritance upon his conviction, and

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were later found to have secretly gone into business with Detective McCready.

The Steuermans' alleged criminal background was kept out of the trial.

Despite a lack of any physical evidence against Tankleff, in 1990 he was convicted and sentenced to fifty years to life, based almost exclusively on his questioned confession.

### Fruitless Appeals

The case might have ended there, except that young Tankleff also attracted some pro bono legal assistance from several top-flight lawyers from a number of the nation's leading firms and law schools. (One of the law offices was Baker Botts, the Washington-based powerhouse headed by former Secretary of State James Baker.)

For more than ten years his lawyers brought potent appeals in the state and federal courts, but narrowly lost each time.

Some of their claims pointed out that Suffolk County law enforcement was notorious for compiling the nation's highest conviction rate based on "confessions", and its police and prosecutors were under federal and state investigation for drug corruption and other misconduct. Detective McCready himself had been targeted for perjury in a state corruption probe and acquitted of felony assault. Cops and prosecutors were in cahoots with the bad guys. In short, the county was a law enforcement sewer.

### Private Eye Strikes Gold

All of these appeals and entreaties failed to turn the tide for Marty Tankleff, however.

Then, in 2003, a miracle happened. Jay Salpeter, a retired New York Police Department homicide detective turned private investigator, entered the case in 2001. Two years later he obtained an affidavit from a career criminal who claimed to have served as the getaway driver of a hit team. He detailed how he transported two other known thugs to and from the scene of the Tankleff murders, and he stated that they had committed the murders for hire, at the behest of Jerry Steuerman.

The purported getaway driver, Glenn Harris, and Marty Tankleff, passed polygraph examinations for the defense. Witnesses who substantiated their accounts began to come out of the woodwork. (They are still popping up.)

Tankleff's lawyers, Bruce Barket and Barry Pollack, confronted the new Suffolk County district attorney, Thomas J. Spota, with the evidence. Spota, the first Democrat to be elected in decades, initially supported their motion for an evidentiary hearing in county court, thereby setting the stage for a public review of the controversial case. However, Spota also assigned as his investigator Walter Warkenthien, a former homicide detective who had been another detective named with McCready in the state corruption probe back in the 1980s. Spota also hired a new assistant, Leonard Lato, a flamboyant former federal prosecutor, to handle the case, claiming that Lato would conduct an independent probe.

### Harris Denied Immunity

Harris told his story on national TV, and *The New York Times* and other major media began to devote detailed coverage to the new evidence.

Then the courtroom showdown began in July 2004. Some observers hoped that the proceedings would result in Tankleff's immediate release, but when the district attorney and County Judge Stephen Braslow (a different judge from the same court that had presided over the original conviction) refused to grant Harris immunity from prosecution for testifying about his alleged inside knowledge of the murders, Harris – now represented by counsel – invoked his right against self-incrimination and refused to testify.

Despite the setback, Tankleff's team refused to give up. They called witness after witness, unleashing a cascade of new evidence, none of it effectively rebutted or discredited by the prosecution, which provided more corroborating details about the alleged murder plot and suggested a cover-up by the Suffolk authorities.

Tankleff's side acted like a prosecutor, identifying the killers, establishing a motive, finding the murder weapon and laying out the crime and its aftermath in graphic detail, whereas Lato responded like a defense attorney, by attacking defense witnesses and trying to raise reasonable doubt.

### Witnesses Depict Murder for Hire

Those who covered the hearings agreed that Tankleff's defense team marshaled much more evidence against the three career criminals – Joe Creedon, Peter Kent and Glenn Harris – in the murders, than the prosecution has ever presented against Tankleff.

Among the two dozen witnesses called by the defense were Creedon's former wife and

crime partners, who described his activities at the time of the murders, and Creedon's own son, who testified that his father had admitted to him that he had participated in the Tankleff murders. Professor Richard Ofshe, a leading authority on false confessions, explained how police convinced young Tankleff to admit to something he had not done – a phenomenon that has been revealed in many cases involving a false confession by a person proven innocent by DNA evidence. Witnesses from all walks of life (including a priest, businessmen, and a housewife, as well as career criminals) came forward to relate incriminating statements made by Jerry Steuerman, Harris, Kent and other figures in the case. Investigator Salpeter disclosed how he had gone to the scene where Harris claimed the murder weapon had been discarded – and found embedded in the earth a pipe matching the object. (DNA tests have thus far failed to link it to the murders or the alleged murderers.)

### Focus on Spota

Some of the most potent evidence presented at the hearings involved Suffolk's new DA, Spota, who otherwise had seemed to earn himself a reputation as a corruption fighter – the nemesis of the crooked old political machine.

Through the Tankleff case, it came out that before being elected in 2001, largely with key support from police unions, Spota had headed up the DA's homicide bureau. In the era of the murders, as a private lawyer he had represented McCready, when the detective was under investigation for perjury, corruption and assault. In those days Spota also represented police officers who were involved in drug corruption, some of whom ended up taking a fall to the feds. He knew where the bones are buried, all right.

As the hearings unfolded, Spota belatedly disclosed that in 1983 his law firm had defended Todd Steuerman when he was charged with dealing drugs out of his father's bagel store. Spota also acknowledged that shortly after the murders, his former longtime law partner had defended Jerry Steuerman in unspecified matters, and defended Todd Steuerman in another drug-dealing case. (Tankleff relatives say the slain couple's dispute with Jerry Steuerman over his son's stake in one of their bagel stores was a major factor in their murders.)

Yet Spota refused to recuse himself in the case or to yield to a special prosecutor, and his assistant, Lato continued to fight Tankleff every step of the way.

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### Suffolk Judge Backs DA

Judge Braslow ruled in favor of the DA on every motion, refused to require a special prosecutor, and denied Tankleff's bid to conduct advanced DNA tests on pieces of human skin scraped from Arlene Tankleff's fingernails after the attack.

Braslow ultimately refused to overturn Tankleff's conviction, simply concluding that he didn't find the evidence presented by the defense to have been credible, thus forcing the defense to appeal in state court.

Although it was scarcely reported in the news media, Braslow also exhibited conflicts of interest, which should have led him to recuse himself from handling the case. He and Lato worked as a team. Stories abound that Braslow's father, a local Democratic boss, helped make Spota DA and figured in Lato getting hand-picked as Spota's assistant in the case. Judge Braslow showed obvious favoritism toward the prosecution, and his final opinion in the case was also poorly reasoned and extraordinarily weak.

### Support for Tankleff Grows

Numerous legal organizations, such as the National Association of Criminal Defense Lawyers, and several high-profile legal experts supported the appeal. Said Barry Scheck, co-director of the Innocence Project, "We've taken the unusual step of writing a letter along with our motion because the facts of this case are so strong, and because the lower-court ruling that denied Marty Tankleff a new trial was so misguided and troubling."

Meanwhile, members of the news media also weighed in. The CBS program, "48 Hours" devoted three prime-time shows to the case, and an array of newspapers, magazines and broadcast media supported Tankleff's cause.

His family and friends, aided by Soury Communications in New York City, widened their campaign over the Internet and held fundraisers in a SoHo art gallery and other locations. Twenty-seven relatives said in one statement, issued in 2004 on the sixteenth anniversary of the murders: "From the beginning, any impartial observer familiar with the facts of this case—and with the sordid history of the Suffolk County criminal justice system to which it will be forever linked—has come to the same conclusion: Marty didn't do it. That's where we find ourselves, 16 years later: Marty didn't do it, and everybody knows it. Yet, Marty remains in prison."



## Jeffrey Scott Hornoff Settles Lawsuits Over Wrongful 1996 Murder Conviction

By Hans Sherrer

Jeffrey Scott Hornoff was a married 27-year-old Warwick, Rhode Island police officer when in the summer of 1989 he had two sexual encounters with 29-year-old Victoria Cushman. On August 11, 1989, Cushman was found dead in her Warwick apartment. She

had been bludgeoned to death with a 17-pound fire extinguisher.

Initial suspicion that Hornoff might be Cushman's killer was fueled when he denied to Warwick police detectives that they had been anything other than friends. The detectives knew otherwise, and within an hour Hornoff changed his story and acknowledged their two sexual encounters.

Hornoff's alibi was that he was at a party with his wife and friends the night of

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### Tankleff Wins Leave to Appeal

In May 2006, Justice Reinaldo Rivera of the Appellate Division, Second Department, granted leave to appeal on the main motion to vacate the conviction. Appeal was also granted on the deprived indifference motion. The DNA motion will be heard by the appellate court, because there is an automatic right to appeal on DNA issues. Appeal was denied on the disqualification motion. The decision can be found at [www.courts.state.ny.us/re...5-2006.htm](http://www.courts.state.ny.us/re...5-2006.htm). Judge Rivera's actions mean that a panel of judges will review the case.

Motions, rebuttals and oral arguments are likely to continue until February 2007 at the earliest. The Appellate Division may not rule until early summer 2007. Even then it's possible that the case may end up in the State Court of Appeals. By the time the issues are resolved in state court, even if just in this latest bout, twenty years may have elapsed since the Tankleff murders.

### Tankleff Still Imprisoned

Thus far, Marty Tankleff remains wrongly convicted and imprisoned. Now in his mid-thirties, he is bulkier and has less hair than he did when he first left the courthouse in handcuffs. He has served most of his sentence in rock-hard Clinton Correctional Facility near the Canadian border, but in 2005 was moved to Great Meadow C.F. Over the years he has become one of the sharpest jailhouse lawyers in New York, and unlike many other wrongfully convicted prisoners, his spirit remains strong and he is still confident he will be exonerated. Over the years, he has managed to make and keep an amazing number of friends and supporters. But he still locked up.

Jerry Steuerman lives the good life in a gated community in Florida. Joey Creedon continues to roam the streets of Long Island. McCready is enjoying his retirement

in South Carolina. And Tom Spota does his best to protect them all, and himself, trying to ensure that what they all did back in the old days doesn't come back to haunt them.

Although the old Republican political machine no longer rules Suffolk County with a steel grip, and many of the mobsters (including John Gotti) and political scoundrels who haunted the scene in the 1980s are either dead or retired, and coke's boom era has tapered off a bit, innocent victims of the old corrupt law enforcement system (including Marty Tankleff) remain locked up for crimes they didn't commit, all these years later. The feds and the state do nothing to intervene; they just let nature take its course.

### "Chinatown" Syndrome

Like an East Coast, present-day version of "Chinatown," Suffolk's a place that contains some awfully dark secrets. As Noah Cross says in the movie, "Politicians, ugly buildings and whores all get respectable if they last long enough."

This is a drama that is still unfolding, and the final unscripted scenes haven't yet been acted out.

Stay tuned.

In the end, Marty Tankleff may go free — and others may take his place.

Scott Christianson, Ph.D., a longtime investigative reporter and former New York state criminal justice official, has written about the Tankleff case for *The New York Times* and *Newsday*. One of his books, *Innocent: Inside Wrongful Conviction Cases* (NYU Press, 2004), is scheduled to be reissued in paperback in November 2006. *Innocent: Inside Wrongful Conviction Cases* is available from Justice:Denied's Bookshop at, <http://justicedenied.org/books.html>

