



NEW YORK STATE SENATOR

Malcolm Smith

## Martin Tankleff And Other Exonerees And Legal Experts Testify At Senate Democratic Forum On Preventing Wrongful Convictions

MALCOLM A. SMITH July 1, 2008

### Exoneree speaks for first time in public about his nearly 20-year long ordeal

New York, NY – Wednesday, July 2, 2008 – Today, State Senators **Eric Schneiderman** (D-Manhattan/Bronx), **Velmanette Montgomery** (D-Brooklyn) and **Bill Perkins** (D-Manhattan), Assemblymembers **Michael Gianaris** (D-Queens), **Adriano Espaillat** (D-Manhattan), **Rory Lancman** (D-Queens) and **Ellen Young** (D-Queens), and leading criminal justice advocates took part in a public forum to address wrongful convictions and the creation of an independent “Innocence Commission” in New York State.

At the forum, testimony was presented by exonerees **Martin Tankleff** and **Alan Newton**, **Steve Saloom** of **The Innocence Project**, which is affiliated with the Benjamin N. Cardozo School of Law, **Bernice Leber**, President of the New York State Bar Association, **Barry Kamins**, Chair of the NYS Bar Association’s Task Force on Wrongful Convictions, and **Jonathan Gradess**, Executive Director of the New York State Defenders Association.

**Schneiderman**, who chairs the New York State Senate Democratic Task Force on Criminal Justice Reform and also serves as the ranking Democrat on the Senate Codes Committee and as a Commissioner on the New York State Commission on Sentencing Reform, has worked to ensure that the guilty are punished and innocent persons are (safeguarded). Testimony from today’s forum will be used to develop legislation that ensures the public’s trust in New York’s criminal justice system.

“No one who is entrusted with ensuring the integrity of our criminal justice process—and most importantly the legislators who make our laws—can, in good conscience, ignore the prevalence of wrongful convictions in our state,” **Senator Schneiderman** said. “There are known flaws in the system, with eyewitness identification, interrogations, and preservation of and post-conviction access to DNA, that we can and should remedy. There are also contributing factors that we don’t understand, and we have a responsibility to identify and remedy those as well.”

Testifying today about the need for reform in our criminal justice system was **Martin Tankleff**, who was convicted and sentenced to 50-years-to-life after allegedly confessing to his parents’ double-homicide. Last year, after serving over 17 years in prison, the New York State Appellate Court 2nd Department unanimously overturned his conviction. On Monday, the office of New York State Attorney General Andrew Cuomo vacated his indictments and decided not to retry Mr. Tankleff.

“I clearly do not want another person to experience what I have been experiencing for nearly twenty years,” said **Mr. Tankleff**. “The larger meaning of my case is to point out the gaps in our system, which is that when there is a horrible, obvious mistake made, there is no mechanism for correcting it. To leave it to the judicial and prosecutorial entities to correct their own mistakes is what leads the wrongfully convicted, like myself, to remain imprisoned for many, many years.”

**Steve Saloom**, Policy Director at **The Innocence Project**, indicated that the circumstances in the Tankleff case were not unique. The Innocence Project has helped to exonerate 215 individuals in the United States since 1989. According to Saloom, “Twenty-three people in New York served years or decades in prison before DNA proved their innocence, more than almost any other state in the nation. Nobody – not the police, prosecutors, judges, victims, or the public at large – benefits from these wrongful convictions. The only person who benefits is the real perpetrator of a crime, who eludes justice. In order to restore public faith in the justice system, it is critically important that we learn from each wrongful conviction by examining their causes and understanding the reforms that can prevent them. We applaud the New York Bar Association for taking the first steps towards doing so and we commend Senator Schneiderman for convening this Task Force to understand how the legislature can best act to prevent wrongful convictions.”

Saloom and others spoke about the need for an independent innocence commission as a tool for addressing wrongful convictions in the state. For several years, and without success, the state legislature has sought to establish an innocence commission empowered to evaluate the lessons of these exonerations. Such a commission would examine each case, with a specific eye towards what investigative and court processes – and what prosecutorial and defense shortcomings—contributed to those wrongful convictions.

Such a commission would make recommendations to adopt reforms that increase the accuracy of criminal investigations, strengthen prosecutions, and protect the innocent. Many other states have learned from wrongful convictions in this manner; they have researched cases and potential reforms, heard testimony from experts, and issued reports and recommendations on issues including eyewitness identifications, false confessions, and forensic laboratory oversight.

The New York State Bar Association recently created a task force of criminal justice experts from across the state's criminal justice system that will review the state's wrongful convictions, seek to understand their causes, and issue recommendations to improve the accuracy of New York's criminal justice system. This NYSBA task force has great potential to inform policymakers about the reforms New York needs to adopt in order to further enhance the quality of justice across our state. Legislation has been introduced in Albany to permanently establish and fund such a commission.

"Fundamentally, we became lawyers and public servants to help others," testified **Bernice Leber**, President of the New York State Bar Association. "I can think of no worse fear than being imprisoned – even for one day – for a crime that one did not commit."

"The Bar Association's Task Force has identified 56 cases in New York where a convicted defendant was later exonerated, either by the use of DNA testing or based on non-DNA methods, and we plan to review each of those cases and produce a report by January 2009," said **Barry Kamins**, Chair of the recently established Bar Association Task Force on Wrongful Convictions.

**State Senator Velmanette Montgomery**, a long time advocate for reforming criminal justice policies in New York, continued "The hundreds of exonerations across the nation over the past several years should inspire us to fix the cracks in our criminal justice system. By examining current exonerations and recommending ways to reform our criminal justice procedures, an independent commission will act as a guide to ensure that our criminal justice system is working properly, and that we are only convicting the real perpetrator of a crime."

**State Senator Bill Perkins** agreed with his colleagues and added, "The Central Park Five are perfect examples of how innocent individuals can be wrongfully convicted of crimes they did not commit. Frighteningly, if this case had warranted the death penalty, then these young men would have had their lives ended because our system failed them."

“Just as we study the causes of wrongful deaths, our criminal justice system needs an autopsy to determine how to prevent even more innocent people from being imprisoned,” said **Assemblyman Michael Gianaris** (D-Queens), who is the author of legislation to establish an Innocence Commission in New York (Assembly Bill A4317). “One innocent person spending years in prison for crimes he or she did not commit is one too many. Unfortunately, recent history proves that the problem is more widespread than anyone would like to admit. This is a systemic problem that requires a systemic solution.”

Addressing the information provided by the Innocence Project, Manhattan **Assemblyman Adriano Espaillat** commented, “The Senate’s Democratic Task Force on Criminal Justice Reform provides the citizens of New York the opportunity to examine how we are best able to protect the public while at the same time protecting the rights of individual citizens. There have been individuals from my district, like Fernando Bermudez, who have suffered for years because our procedures for eyewitness identification do not account for human error.”

Martin Tankleff was joined by **Alan Newton**, a Brooklyn resident who served 22 years in prison for a crime he did not commit. Mr. Newton was exonerated, with the assistance of the Innocence Project, in 2006. “It is essential that we create an innocence commission so that we can enact the necessary reforms to prevent wrongful convictions, so that other people don’t suffer the same fate I did,” said Newton.

“The hundreds of wrongful convictions exposed by DNA exonerations are a gigantic stain on the face of our criminal justice system,” testified **Jonathan Gradess** of the New York State Defenders Association. “Worse, these numbers only hint at the number of men and women who have lost, and those who will lose, their liberty due to systemic problems resulting in bad lawyering. An efficient and effective public defense system would be a big step in preventing wrongful convictions.”