

# Berkowitz Is Found Unfit for Trial, But Gold Will Get Own Evaluation

## 2 Psychiatrists Call the 'Son of Sam' Suspect Paranoid—New Hearing Set for Oct. 4

By MARCIA CHAMBERS

David R. Berkowitz, the man accused of being the .44-caliber killer, was reported by two court-appointed psychiatrists yesterday to be mentally unfit to stand trial and to be suffering at present from paranoia.

District Attorney Eugene Gold of Brooklyn moved immediately in court to have a psychiatrist of his choice examine Mr. Berkowitz, who is accused of slaying six persons and wounding seven others and of being the "Son of Sam." He acted because psychiatrists say that it is possible to be suffering from paranoia, which they define as an illness characterized by delusions such as persecution or grandeur, and still be competent to stand trial.

The conclusions of a 10-page psychiatric evaluation, based on an examination of Mr. Berkowitz, his letters and a lengthy interview with his father were disclosed in a heavily guarded room in the State Supreme Court building in Brooklyn yesterday before 200 spectators, lawyers, undercover police officers, reporters and Mr. Berkowitz.

### Defense Also Asks Evaluation

The report set in motion what is expected to be a complex legal battle over whether Mr. Berkowitz can eventually be deemed competent to stand trial for murder in Brooklyn. Justice Gerald S. Held granted Mr. Gold the right to have his own psychiatric evaluation, and Mr. Gold retained Dr. David Abrahamsen, a psychoanalyst who is an authority on criminal behavior, to conduct the examination.

The defense, too, sought additional psychiatric evaluation, although it has

not yet hired a psychiatrist. Justice Held ordered this examination as well. He scheduled a hearing for Oct. 4 that may last several days or weeks. Mr. Berkowitz's mental competency will be a legal, not a psychiatric decision, and will be made by a Supreme Court justice following psychiatric testimony at the hearing.

The task of the two psychiatrists who submitted yesterday's report, Dr. Daniel W. Schwartz, chief of forensic services at Kings County Hospital, and his colleague, Dr. Richard L. Weidenbacher Jr., was limited to determining whether Mr. Berkowitz was able to understand the murder charges against him and was capable of assisting his lawyers in his defense.

### Prognosis Called 'Guarded'

They concluded that Mr. Berkowitz, a 24-year-old former mail clerk from Yonkers, was an "incapacitated" person who because of "mental disease or defect" was unable to understand the legal process at this time. Their prognosis, read aloud in court by Justice Held, was "guarded," meaning it was not possible to tell whether or when Mr. Berkowitz would improve or not.

After listening to Justice Held describe him as an incapacitated person, one of Mr. Berkowitz's attorneys, Ira Jultak, leaned over and whispered to him: "Are you O.K.?"

"I'm O.K.," he replied.

The two psychiatrists did not address themselves to Mr. Berkowitz's mental

Continued on Page B20, Col. 1

# Berkowitz Found Unfit for Trial in 'Son of Sam' Case

Continued From Page A1

state at the time he is alleged to have committed the murders and attempted murders in Brooklyn, Queens and the Bronx. That is a question that would be raised during an insanity defense should the ever stand trial.

Mr. Berkowitz, who for the first time wore a three-piece gray suit to the court, with an unbuttoned vest and a blue shirt, sat with his handcuffed hands in his lap during the 35-minute court proceeding. There was a one-hour recess to allow the attorneys to read the psychiatric report.

Mr. Berkowitz has been in the Kings County Hospital's psychiatric ward since Aug. 11, and he looked pale. At times, he glanced at the judge, or the jury box filled with artists and reporters or Mr. Gold or held an occasional brief conversation with his lawyers.

The courtroom was tense when the proceedings began at 10 A.M. as lawyers and spectators alike wondered whether Mr. Berkowitz, in this first report, would be declared competent or incompetent to stand trial. Everyone was silent. Everyone was seated—except Mr. Berkowitz.

He had been driven to the courthouse in a 10-car caravan, with sirens blaring and a helicopter hovering overhead. But he had not been brought into the courtroom.

Justice Held apparently didn't notice his absence. "I have a report here," he told the lawyers without any of the customary introductory court announcements.

At that point he was interrupted. "Gerry," shouted Justice Guy V. Mangano, the assistant administrative judge of the Second Judicial District, to Justice Held. "Wait until the defendant is brought in."

Justice Held looked chagrined. Mr. Berkowitz was led to his seat. Then, apparently aware of the great public interest in the case, Justice Held carefully described step by step the handling of the manila envelope that contained the report

and that had been delivered to him on Monday.

First, he turned to Justice Charles R. Rubin, the chief administrative judge of the Second Judicial District, who was seated next to him on the bench. Justice Rubin gave him the envelope.

"This report was delivered in this envelope," Justice Held said in staccato style. "It was sealed. I took it to Justice Rubin's chambers Monday at noon. I am now going to open it for the first time.

"I say this because there have been reports in the media concerning the bottom line of this report. No one in this courtroom, as far as I know, knows what the report contains. I am now going to open it and break the seal. I am now going to hand it to defense counsel and the District Attorney."

The conclusion of the report was not disclosed at the time and the judge told the lawyers to study the report in an adjacent room. One hour later Mr. Gold asked, and was granted permission, for a competency hearing.

If a judge rules, following that hearing, that Mr. Berkowitz is incompetent then he will be sent to a hospital for the criminally insane where he would stay until he was found fit to stand trial. If, however, a judge finds him competent to stand trial, then he would be ordered to do so.

## The Course of Examination

Justice Held, while reading the report's conclusions into the court record, did not read the entire report. Instead he ordered sealed eight pages at the request of the defense. The District Attorney concurred.

The report stated that Mr. Berkowitz was examined for 11 hours on six separate occasions. Dr. Schwartz and Dr. Weidenbacher also studied statements—admissions—that Mr. Berkowitz made to the District Attorneys of Brooklyn, the Bronx and Queens following his arrest Aug. 10.

Photographs of Mr. Berkowitz's Yonkers apartment and his automobile were

analyzed. So were his letters to the police, to Jimmy Breslin, the columnist for The Daily News, and to his father. Mr. Berkowitz sent at least seven letters to his father in 1972 when he was stationed in Korea. It was there he purportedly experimented with LSD.

A physical examination, including an electroencephalogram, skull X-rays and a brain scan showed a normal response.

Before the court session ended, Mr. Gold requested and was told by the defense that he would receive all materials, including tape recordings, that were used by the two psychiatrists in examining Mr. Berkowitz at the hospital.

The defense requested from Mr. Gold and was told that it would receive a list of evidence taken from Mr. Berkowitz's car and home. At 11:38 A.M., Mr. Berkowitz was remanded by Justice Held to Kings County Hospital and the hearing was concluded.

## Held Answers to Questions

After the court session, Mr. Gold said on the courthouse steps that he believed Mr. Berkowitz was "competent to stand trial."

Justice Held, who had told reporters from the bench that he would be available in chambers to answer questions, was asked later if he would be surprised if Mr. Berkowitz were found competent to stand trial.

"I learned a long time ago not to be surprised by anything a psychiatrist says," he said.

Meanwhile, a spokesman for the Department of Correction said yesterday that Mr. Berkowitz had been struck by another inmate in the Kings County Hospital psychiatric prison ward.

The spokesman said that last Sunday, after breakfast, an inmate had rushed past a correction officer guard as he turned to hand Mr. Berkowitz a special safety razor in the shower room and struck Mr. Berkowitz "one glancing blow." Mr. Berkowitz sustained no injuries, according to the spokesman.

Carmelo Colon, the inmate who allegedly struck Mr. Berkowitz, is under