

# Post Editor Testifies on Photographs of Berkowitz

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## Post Editor Testifies on Photographs of Berkowitz

By LAURIE JOHNSTON

A top editor of The New York Post, testifying on pictures The Post published of David Berkowitz asleep in a hospital prison ward, said yesterday that he did not know at the time that a freelance writer to whom The Post paid a total of \$13,000 was in turn allegedly paying a source inside the ward.

Peter Michelmore, the paper's metropolitan editor, told a court hearing that he did not know about the alleged payments when the illegal pictures were published on page one of The Post Dec. 5, 1977, but learned about them before he made a statement to the special state prosecutor's office the following April.

"What steps did you take to confirm the authenticity of the pictures in The Post?" Mr. Michelmore was asked by Felix T. Gilroy, attorney for the freelance writer, James Mitteager. "No steps — none," Mr. Michelmore replied.

The editor was testifying at a pretrial hearing in State Supreme Court in Brooklyn, at which the writer, a 32-year-old former police officer, is seeking dismissal of charges that he bribed a correction officer with \$5,800 to get pictures of and information about Mr. Berkowitz, who was under arrest as the "Son of Sam" killer.

Mr. Mitteager's contention is that he has been made a scapegoat, singled out for discriminatory prosecution, while

Post officers and editors who were party to his actions are not being prosecuted because of their political influence.

Mr. Michelmore also testified that, contrary to the transcript of his 1978 statement to the special prosecutor's office, he had suggested to Mr. Mitteager and another freelance writer, Maury Terry of White Plains, that they take any information they had to the Brooklyn District Attorney's office. The editor said he had not written the statement himself and that "the employee" who wrote it down had destroyed the notes..

Mr. Terry testified later that Mr. Michelmore had told him and Mr. Mitteager that it was not "advisable or necessary" to go to the District Attorney's office. He also testified that Mr. Michelmore told him, during his own dealings with The Post on information about Mr. Berkowitz, that "we have a way of getting to him 24 hours a day — we have somebody inside the hospital."

### Officer Granted Immunity

Last week Mr. Michelmore testified that he did not think a crime would be committed when he approved The Post's purchase of a compact "spy" camera for taking pictures of Mr. Berkowitz in a prison ward at Kings County Hospital. He said he "just didn't inquire" how the camera given Mr. Mitteager would be used.

Herbert Clarke, the correction officer Mr. Mitteager is accused of bribing to take the pictures, has been granted immunity from prosecution in exchange for his testimony, but has been forced to resign. He is expected to testify today.