

Rand's lawyer wins OK to get records

BY ADVANCE STAFF WRITER

With the consent of the district attorney's office, a judge yesterday authorized Andre Rand's lawyer to subpoena area TV and radio stations, requiring them to preserve and produce video tapes and recording tapes that they have aired in connection with the case.

Supreme Court Justice John Leone, however, denied as "inappropriate" other motions by Rand's lawyer, Howard S. Rintel of the Legal Aid Society, in which he sought to protect Rand's right against self-incrimination by restricting interviews with him by doctors and others, except with the lawyer's approval.

Among those that Rintel asked the judge to bar from seeing his client is the Rev. Charles G. Muskett, a storefront preacher who says that at request of police he invited the 43-year-old drifter to live with him in his home in West Brighton so that police could keep him under surveillance.

During the nearly month that Rand remained in the house, the

clergyman said police with his permission used tape recording devices to secretly record his conversations with the cleric and members of his family as authorities carried out their investigation into the disappearance of Jennifer Schweiger.

Police arrested Rand Aug. 4 on charges of kidnapping the girl and unlawfully imprisoning her.

Rintel told Leone that the defendant himself has asked to see Muskett, but as his lawyer he opposes the meeting since Muskett has admitted that he acted as an "agent" of law enforcement authorities.

Rand is presently undergoing psychiatric tests at Kings County Hospital to determine his fitness to proceed with criminal proceedings against him. He is not scheduled to return to the Criminal Court until Sept. 4. He also is facing grand jury action.

The judge directed Assistant District Attorney John Loughrey to prepare an order relative to the motions made yesterday by Lintel in a show cause proceeding.

The judge denied the lawyer's

application for an order barring any communication with Rand, including by non-psychiatric medical personnel, except with his permission.

In granting Lintel's motion for issuance of the subpoenas, the judge cited recent state caselaw on the subject, permitting the subpoenaing of TV and radio tapes, but only those that have been aired. Tapes that have not been broadcast are not subject to subpoena. Lintel said he sought the subpoenas upon learning that stations routinely erase and reuse tapes after 30 days.

Lintel said he is seeking the subpoenas in anticipation of a motion for a change of venue, shifting the case from Staten Island to another county for trial. He said he wanted the tapes as evidence to support the defense's position, presumably alleging prejudicial pre-trial publicity that would impair Rand's right to a fair trial.

Lintel said in his supporting papers that he was unable to communicate with Rand at his Criminal Court arraignment Aug. 5. In addition to ordering the psychi-

atric fitness test, a judge directed the Correction Department to maintain a "suicide watch" for him, Lintel said.

Other Legal Aid Society lawyers at the hospital say that Rand still is not communicating with them, although there have been "episodes" in which he has spoken "briefly" to them and members of the medical staff, Lintel said.

A doctor at Kings County has asked for his permission to treat Rand for "possible psychotic depression," the lawyer said.

Lintel said that he has consented to Rand receiving any medication "as may be proper" for treatment, but he has refused to allow others to communicate with Rand, either individually or in group therapy, until the fitness report is completed.

Lintel quoted a Kings County doctor as saying he would inform law enforcement authorities if Rand makes any incriminating statements. Only those psychiatrists determining Rand's fitness should be allowed to talk him, Lintel insisted.