

# Rand lawyer orders poll to determine fair trial

By RAYMOND A. WITTEK  
ADVANCE STAFF WRITER

Andre Rand's lawyer said yesterday he has engaged a private investigator to poll "hundreds" of Staten Island residents to determine whether his client could receive a fair trial on Staten Island.

The lawyer, Jerome V. Giovinazzo, said he has ordered the poll in preparation for submitting at some later date a motion to have Rand's trial shifted from Staten Island to another location.

Giovinazzo contends that Rand cannot receive a fair and impartial trial on the island because of the "massive" publicity given Rand's arrest in the death of Jennifer Schweiger of Westerleigh, a 12-year-old Down's syndrome victim.

The lawyer disclosed the poll as Rand appeared in state Supreme Court to enable Giovinazzo and Assistant District Attorney John Loughrey to confer with Justice Norman J. Felig about motions and other matters in connection with the case.

Rand, a 43-year-old drifter, is charged with kidnapping the girl and murdering her.

Rand was seen walking hand-in-hand with the girl near her home on July 9, authorities said. Witnesses told police they saw the two continue walking for about a mile to the grounds of the former Staten Island Developmental Center, Willowbrook, where she was last seen alive.

After a massive search, the girl's body was discovered on Aug. 12 in a shallow grave on the center's grounds, a short distance from where Rand had maintained a campsite. Rand had been arrested eight days earlier on a kidnapping charge. Following discovery of the body, he was charged with her murder.

The medical examiner has labeled the girl's death a homicide. However, the body was so badly decomposed that an autopsy was unable to state a cause of death or the time of death.

Giovinazzo said he had retained Anthony DeGuisse, a private investigator and a retired Police Department detective, to conduct the poll. He said the poll will contain a series of questions designed to determine whether Rand can receive a fair trial on the

Island. The poll will attempt to reach a cross-section of the island's population, the lawyer said.

The poll results will be incorporated with motion papers for a change of venue to serve as an "aid to the court," said Giovinazzo, who gave no indication when he intends to make the motion.

Later yesterday Giovinazzo was scheduled to meet with Loughrey at which time the assistant district attorney was to turn over to the defense attorney various police reports, statements that Rand made to detectives and scientific reports, including tests made of Rand's shirts for the presence of blood and hair. Loughrey refused to disclose the results of the tests.

Giovinazzo, acting at Rand's request, asked the judge to intercede to have items returned to him. The items, confiscated by police, were identified by Giovinazzo as a watch, a gym bag, Rand's military records (he had served in the Army in the 1960s) and music that he had written.

The judge advised Giovinazzo to put the request

for the return of the items in the form of a written motion so that he could rule on it.

Rand also complained, his lawyer said, that when detectives processed him on the murder charge a month ago they sought to question him about the case. Felig ordered Loughrey to take steps to assure that this does not happen, if it had as the defendant claimed.

When Rand appeared in court last month, he appeared battered after he said he had been assaulted by other inmates at Rikers Island. He is now in protective custody at the Brooklyn House of Detention. He is being held without bail.

Yesterday, Rand wore a red knit sport shirt with blue slacks. He showed no signs of his previous injuries, and he had regrown the full beard that he been forced to remove by court order last month so that witnesses might better identify him as the man they saw walking with the girl.

Felig adjourned the case to Nov. 16 for the submission of motions.