

# Hood Says Franzese Was Mastermind

By Marilyn Berger  
Newsday Staff Correspondent

Albany—John (Sonny) Franzese assumed personal control of a gang of bank robbers with nationwide plans, the prosecution's first witness testified yesterday at Franzese's bank-robbery trial in U.S. District Court here.

The witness, James Joseph Smith, a convicted bank robber, testified that he had participated in robbing the four banks named in the indictment against Franzese and four co-defendants. On July 19, 1965, Smith said, he met Franzese and others, and, he said, "Franzese told us he was personally going to handle the bank robberies from now on . . ." At a later meeting after one robbery, he said, Franzese discussed the job with them.

Franzese, a Long Island Cosa Nostra underboss, and the four co-defendants are on trial on an eight-count indictment charging robbery of four banks across the country and conspiracy to rob other banks. Smith's testimony was to the effect that Franzese and the other defendants planned the robberies and shared the proceeds but did not actually go into banks during holdups.

When, during Smith's testimony, Assistant U.S. Prosecutor Michael Gillen produced a semi-automatic rifle that Smith said he was told might be used in a robbery of Yonkers Raceway, Franzese's attorneys moved for a mis-

trial. The indictment did not mention the raceway. The motion by defense attorney Maurice Edelbaum for a mistrial, on the grounds that extraneous testimony would prejudice the case, was denied by Judge Jacob Mishler.

Edelbaum began the trial's second day, before Smith's appearance, with an outburst against Newsday, which he charged with "irresponsible reporting." Edelbaum called the story concerning the case in Monday's edition of the newspaper "a classic example of irresponsible reporting that went on in Newsday for all the weeks and months preceding the trial and which we would have had if the trial had continued in this (Eastern) district where most of the jurors come from." He said it was proof that Mishler had acted wisely in moving the trial from Brooklyn to Albany.

Mishler, who ordered the change of venue last week after defense charges that articles in Newsday and the New York Times might prejudice the rights of the defendants, praised the reporting of the case by the Albany papers, which except for one reference last week had mentioned nothing about the records or associations of the defendants. He said such coverage might become a model for reporting. "But I don't yet join in the condemnation of Newsday," he told Edelbaum.

In response to the remarks by Edelbaum, Newsday

issued the following statement: "Newsday's stores concerning John (Sonny) Franzese's trial have been thorough and accurate and consistent with the obligations of a responsible newspaper."

Smith testified for the entire day yesterday. Most of Smith's testimony implicated Anthony Polisi, 57, of 189 Forbell St., Brooklyn, who was granted a separate trial last week. He named Polisi as the person who supplied the guns for the robberies.

Defense attorneys in their opening statements yesterday said they would prove that the government witnesses, who are awaiting sentencing, expect to receive some consideration for their cooperation with the government.

The defendants in the bank-robbery trial are: Franzese, John (Johnny Irish) Matera, Joseph M. (Whitey) Florio, William D. Crabbe, and Nicholas Potere.

The day closed with another motion for a mistrial that is to be considered today when the judge rules on whether to allow testimony from Smith that after his arrest Sept. 30, 1965, on a charge of bank robbery, he received money from one of the defendants. The defense objected because the alleged payment followed the dates named in the indictment for the conspiracy while the prosecutor argued that the payment was a fruition of the conspiracy and corroborated its existence.



Newsday Photo by Raja

**CHECKS AND BALANCES.** Now on the collecting end of his client's long court battle with Rep. Adam Clayton Powell, Raymond Rubin, left, attorney for Mrs. Esther James, accepts a \$32,460 check from two Powell representatives. At right is Seymour Barash, Powell's business manager. At center is Stephen Blain, president of Jubilee Records.

## Powell's Payment Seen An Aid in Fight for Seat

New York—The men who put Rep. Adam Clayton Powell under the phonograph needle came up with some scratch yesterday, and the lawyer who won a libel judgment finally kept the check, baby.

In Washington, one of the members of the special House committee investigating Powell's qualifications to be seated in Congress said that payment of the \$32,460 should help Powell's cause. The committee member, who asked not to be named, said: "If he can clear up his New York court troubles, we will have no alternative but to recommend he be seated." Powell has been barred from taking his seat until the investigation is completed and is staying out of New York to evade a 30-day sentence for contempt of court which grew out of the libel action.

But Raymond Rubin, attorney for Mrs. Esther James, the Harlem widow whom Powell had called a bag woman for police on a television program four years ago, called the payment "just a minor step in the right direction." Rubin said last night that he would continue to press his motion to have Powell held in criminal contempt. "A double apology is required," Rubin said, "one to Mrs. James and the other to the courts."

Earlier, as Rubin took the \$32,460 check from Jubilee Records, he asked: "This check is deemed to be Mr. Powell's property?" Seymour Barash of Free-

port, Powell's business manager, replied: "You have my word it is. The congressman has signed an authorization."

The dialogue ended a daylong dispute between Jubilee and Rubin over whether the lawyer should accept the check advanced Powell for his recording. "Keep the Faith, Baby." Rubin first looked at the check, saw it was made out to the Harlem Democrat, and said: "I won't take a check made out to Adam Clayton Powell."

In vain, Barash sought to endorse the check himself. Finally, he told Rubin: "If you come to the bank, we'll give you cash." Replied Rubin: "I think you're bluffing." "No," Barash retorted, "I'm the one who's calling your bluff." Rubin then insisted on a check made out either to himself or to Mrs. James. Officials of Jubilee Records then went to the Chemical Bank and drew out a cashier's check payable to both Rubin and Mrs. James. This Rubin accepted.

Since a jury ordered the original award of \$46,500 in 1963, penalties and interest have increased the total amount due Mrs. James to \$174,000. Powell had previously made a down payment on the \$46,500 and yesterday's check represented the balance of the original judgment. But he has appealed the additional levies to the State Court of Appeals which is expected to hand down a decision on Feb. 16.

## Car Standards Adopted With Cuts, Changes

Special to Newsday

Washington—The federal government withdrew three of its previously announced auto safety standards yesterday, modified six others and gave car manufacturers four additional months to comply with the new standards in their 1968 autos.

Of the 23 provisional standards announced Dec. 1 by the National Traffic Safety Agency, part of the Department of Commerce, 14 were adopted in the final list made public yesterday. The agency temporarily withdrew standards relating to head rests, tires and wheel rims, saying it needed more time for information and testing. The new enforcement deadline was changed from Sept. 1, 1967 to Jan. 1, 1968.

The new standards require that all 1968 cars have:

- Essential dashboard controls labeled and within reach of a driver wearing a seat belt.
- Automatic transmission gear shifts with the park position at the left, followed in order by reverse, neutral and the forward drive positions.
- Windshield defrosting and defogging equipment.
- Windshield washers and two-speed wipers covering an area yet to be specified.
- Parking brakes meeting set standards, a light warning of brake failure and an emergency system to take over in such instances.
- Hydraulic brake hoses meeting official standards.
- A limit on the reflectivity of surfaces in the driver's field of vision.
- Lights and related equipment that meet specific standards.
- Outside rear-view mirrors on the driver's side.
- Padding of interior surfaces and protruberances.
- Impact-absorbing steering wheels.
- Shatterproof windshields.
- Door latches that will not open in accidents.
- Seat belts for all passengers and chest straps for those in the front seat.
- Rupture-resistant fuel tanks.

The new regulations also ban hub caps with "spinners" or other projections.

Modification of six of the standards involved technical changes to allow for compact cars and foreign vehicles. The auto industry has 30 days to appeal any of the standards to the Commerce Department. If that fails, it could oppose the standards in court. Auto makers, notably the Ford Motor Co., had said earlier that "unreasonable" standards might force it to curtail production because of difficulties in meeting them.

The government action drew immediate criticism from auto safety crusader Ralph Nader, whose book, "Unsafe at Any Speed," helped spur legislation for mandatory car safety measures. Nader termed the government regulations weak and charged that Dr. William Haddon Jr., head of the safety agency, had yielded to pressure from car manufacturers. A spokesman for the auto industry declined to comment on the new standards, the full legal text of which will not be available until later this week.

Lowell K. Birdwell, acting undersecretary of commerce for transportation, said that "to my knowledge" no pressure was brought on the government to alter standards. "I'm not happy with them in the sense they are not as far as we need to go in the future in order to protect the lives of people who drive automobiles," Birdwell told a news conference. "But . . . they are as far as we are able to go now within the legal restraints."