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FOUNDATIONS DEPARTMENT

**Judge May Leave
M. Franzese Case**

Lawyers for Michael Franzese and his codefendants in a federal racketeering case were expected to tell U.S. District Court Judge Jacob Mishler today whether they will be ready to go to trial within 90 days — a decision that will determine whether Mishler will hear the case.

The judge said Tuesday that if the defendants were ready that quickly for trial he will step aside, because he will be hearing federal cases in Florida in February, March and April.

Mishler's participation in the trial of Franzese and his eight codefendants became an issue Monday when lawyers for six of the defendants asked him to withdraw, claiming he would be biased against them because he presided 19 years ago over a trial involving Franzese's father, John, a reputed organized-crime figure.

John Jacobs, an attorney for Michael Franzese, asked Tuesday for a postponement of the pre-trial detention hearing involving Franzese, Frank Cestaro, 46, of North Bellmore, L.I., and another codefendant, Frank Castagnaro, 40, of Amityville, L.I. Franzese, 34, of Brookville, L.I., and the others are charged with various schemes to defraud large companies of millions of dollars. Jacobs argued that he needed time to consult with Franzese, who was returned to New York Monday from Florida, where he faces charges in a case involving defrauding the state of gasoline sales taxes.

Mishler did not rule on the motion for the postponement of the hearing, which is to determine whether the defendants are too dangerous to be released. Instead, he said that if the attorneys tell him today that they will be ready for trial in 90 days and he withdraws from the case, he will refer the detention hearing to the judge who will try the case. Franzese, Castagnaro, and Cestaro were held without bond. —Carolyn Colwell

**Wife Killed, Man Hurt
In B'klyn Hit-and-Run**

United Press International

A woman was killed and her husband was injured yesterday by a vehicle that struck the couple on Bushwick Avenue in Brooklyn and then fled, police said.

The victims, whose identities were not released, were taken to Woodhull Hospital, where the woman was pronounced dead and the man was admitted in stable condition with multiple injuries, said Sgt. Diane Kubler, a police spokeswoman.

They were struck by car believed to be a blue or black Chevrolet Nova at about 1:40 a.m. as they crossed Bushwick Avenue near Gates Avenue. A second vehicle, whose driver evidently did not see the injured woman on the street, ran over her, Kubler said.

The driver of the second vehicle, whose name was not released, stopped to offer aid, Kubler said. No charges were filed against that driver.

In another incident, a man was being held on drunk-driving and vehicular-homicide charges in a traffic accident in Queens in which his car jumped a road divider and landed on top of another vehicle, killing its driver, police said.

Marco Cogelja, 31, of 30-44 34th St., Astoria, was arrested shortly after the 8 p.m. Tuesday accident on Astoria Boulevard near 112th Street, Kubler said. The dead man was identified as Eldred Harris, 35, of East Elmhurst, Queens, Kubler said. He was pronounced dead on arrival at Queens General Hospital, she said.

Gas-Dumping Charged

Elizabeth, N.J. (AP) — A New York firm, its president and three employees have been indicted on charges they illegally dumped 96 cylinders of inflammable gas in a lot next to an oil tank farm last year.

Named in the indictment were Airgenics Industries Inc. of Brooklyn; company president Robert Balbi; Dennis Murphy, a supervisor for the firm; and two drivers, Richard Esposito and Richard Rivera.

The defendants were charged with abandoning hazardous waste.

Assistant Prosecutor Harold Knox said the indictment, handed up Tuesday, is the first to be obtained as a result of an investigation by the Union County prosecutor's Toxic Waste Unit.

NEWSDAY, THURSDAY, DECEMBER 26, 1985

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