

American Gangster

Franzese in police custody. Credit: Newsday/James O'Rourke

Part 3

‘Everybody wanted to get glory’

How prosecutors went after Sonny Franzese on murder, robbery charges

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On a bright day in August 1964, as Sonny Franzese was at his apex, a 16-year-old boy came upon a gruesome sight on the shore of Jamaica Bay near Far Rockaway: the bloated body of Ernest (The Hawk) Rupolo, 50, a one-eyed hit man from Baldwin.

A heavy rope was looped around his neck and wrists and two concrete blocks were tied to his body. He had been shot five times, stabbed 18.

Journalists reported he had been killed because he was a stool pigeon, having once testified that mob chieftain Vito Genovese ordered a murder that he committed.

But others, including his widow, Eleanor, said Rupolo was killed for a different reason: He had tried to muscle in on Franzese’s rackets.

“They hated each other. They really, really did,” she told a magazine writer.

The Hawk’s murder opened an extraordinary legal onslaught against Franzese that culminated two years later, when prosecutors from four different jurisdictions — Manhattan, Queens, Nassau and the Justice Department’s Eastern District of New York — went after him.

In a single year, they charged him not only in the homicide but with running a \$10 million bookmaking ring in Manhattan, conspiring to rob banks across the country and a home invasion targeting an Oceanside jukebox company owner.

By then, Franzese, who ran rackets from Brooklyn to Deer Park, was a celebrity at New York City’s brightest night spots, with a profile so high that tabloids referred to him simply as “Sonny.”

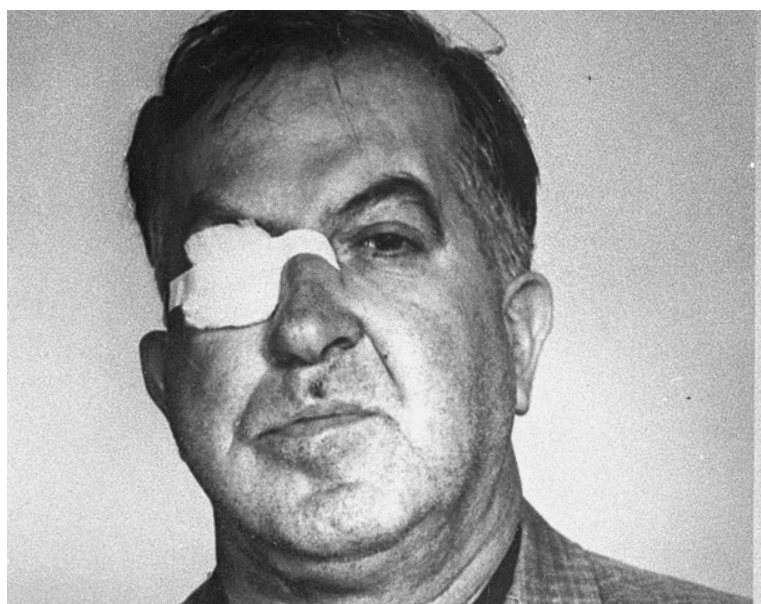
Franzese, who died on Feb. 23 at age 103, recalled those events as part of a series of interviews with Newsday over the past two years. The conversations became the foundation of a deep look into his life,

the Mafia on Long Island and beyond and the system of justice itself.

“Sonny Franzese back in 1966 was one of the preeminent organized crime figures in New York, if not the United States. And everybody wanted to get glory,” said Ed McDonald, former chief of the federal Organized Crime Strike Force in Brooklyn.

What resulted was an epic confrontation between seasoned prosecutors and a man who epitomized organized crime and its hold on society.

The showdown raised questions about the integrity of a judicial system where verdicts turned on oddly fuzzy memories, last-minute witnesses and shaky testimony by admittedly terrified people.



Ernest (The Hawk) Rupolo in a 1964 mug shot. Photo credit: NYPD

Cinder blocks found tied to Rupolo's legs when his body washed up on the shore of Jamaica Bay in 1964. Photo credit: Bob Peterson

The one trial Franzese lost left its own troubling questions. To this day, Franzese and his friends, and even some people in law enforcement, believe he was wrongly convicted in an effort to bring him down.

When Manny Topol, Newsday's veteran legal affairs reporter, developed information challenging Franzese's conviction, he said he met a wall of resistance from law enforcement sources who told him the evidence was beside the point. “The guy's an animal,” he said they told him. “We gotta get him off the streets.”

To the prosecutors who charged Franzese, his guilt in the single case they won, as well as his proclivities for violence, were beyond dispute.

Implicating Franzese

The Rupolo murder case remained open for more than a year before an unusual break.

The FBI was getting a bead on five similar bank robberies over 44 days, from Oceanside to Denver.

That led them to a house in Bethel, Connecticut, on Oct. 1, 1965. Hiding out there was John (Blue Boy) Cordero, a wiry, fidgety man with a heroin addiction. According to an FBI report, they also found \$10,000 in cash, a rifle, jewelry and Cordero's new wife, Eleanor.

Eleanor was Rupolo's widow.

Cordero, 26, of Lynbrook, quickly admitted to his role in the bank robberies, court records show, and within days the FBI was rounding up his henchmen: Richard Parks, 32, of Corona, an experienced gunman; James Smith, 30, of Brooklyn, the "vault" man who jumped over counters and scooped up money; and Charles (Blackie) Zaher, 22, of Woodhaven, the wheelman in two robberies. Eleanor, 34, was arrested with them but never charged.

It took three months for Cordero to name Franzese. His co-defendants quickly backed him up in separate FBI interviews, according to records. So significant was their testimony that they became witnesses in three of the four cases against Franzese. The fourth case, involving the bookmaking charge, was resolved with a plea.

Their story

As spun out in FBI reports, their story was this:

Nearly a year after Rupolo's body was discovered, Cordero said, he took Eleanor to the John Doe Room, a bar at the Kew Motor Inn in Jamaica. In walked Joseph (Whitey) Florio, 40, a member of Franzese's crew. Eleanor shouted across the bar that Florio had killed her beloved Ernie, as stunned patrons looked on.

Florio later told Newsday in 1966, "I ask the bartender, and he tells me this broad is The Hawk's wife," Florio said. "I say I didn't, but I don't say anything else, even though she is foul-mouth, 'cause I am a gentleman."

Cordero hustled her out. In the parking lot, he said, he heard a door open and close behind them, turned, and saw Florio with his hand in his pocket. Cordero fired five shots at Florio but missed.

The incident was so serious — shooting at a member of his crew was unacceptable — that Franzese had to convene a mob sit-down, or Mafia court, according to a January 1966 FBI memorandum.

A sit-down was described vividly in FBI memorandums and by the bank robbers, but not by Franzese. He said it never happened.

He said it would have violated his long-standing rule of insulating himself through middlemen. “I was a firm believer that if a guy knew something about you, you had to worry about it,” he said in one of several interviews with Newsday recently.

The bank robbers, though, described a sit-down in great detail. They said it took place at the Aqueduct Motor Inn in Queens, owned by Franzese associate Anthony Polisi. Cordero and Zaher later said Franzese told them the hostilities had to be straightened out, in no small part because he had ordered the Rupolo hit and wanted to know if Cordero was going to come after him in revenge.



The Aqueduct Motor Inn in Ozone Park, Queens, in 1966. It was the alleged site of a mob sit-down involving Franzese and a crew of bank robbers. Photo credit: Newsday/Jim Cavanagh

Whether Cordero answered the question is unknown, but he explained why he shot at Florio and complained that bank robberies he had done for Polisi had been beset by foul-ups, a Newsday story related. “There will be no foul-ups from now on. Starting now, I am going to take personal charge of the operation,” Franzese told the bank robbers, according to federal sources cited in the story.

Leaning forward in his wheelchair recently, Franzese said, “Please believe me. I know it’s hard to believe, but I never met them.”

"I'll take a truth serum today. Not even a lie detector, but truth serum. Never happened."

Closing in

Prosecutors believed otherwise, and the indictments came in an avalanche. They commanded front-page stories filled with Franzese lore and descriptions of his looks and wardrobe.

In March, the Manhattan district attorney charged Franzese with being the "muscle man" in a \$10 million Garment District bookmaking ring. The Daily News described him as "ruggedly handsome."

“They all come after me like I was the last gangster in the world.”

-John (Sonny) Franzese

In April, the U.S. Attorney's Office charged him with conspiring to rob the banks. The front-page Newsday headline read, "FBI Nabs Franzese as Super-Dillinger."

In October, the Queens district attorney indicted him in the Rupolo homicide, along with the four men who allegedly carried it out on his orders, including Florio. After his arrest, Newsday said, Franzese looked more "like an executive posing for an Esquire clothing ad than a man charged with first-degree murder."

And in December, the Nassau district attorney accused him of engineering the home invasion of an Oceanside jukebox company owner whose two teenage sons were handcuffed and gagged.

Looking back at the indictment blitz, Franzese said, "I was in the limelight too much and they resented it."

He said it seemed personal. "They all come after me like I was the last gangster in the world."

Bank robbery trial

Franzese was arraigned on the bank robbery charges on April 12, 1966. There he met the man who would become his lifelong nemesis, U.S. District Court Judge Jacob Mishler, a no-nonsense jurist who

had a reputation for evenhandedness keeping control of his courtroom.

When Franzese's lawyer objected to the \$150,000 bail — the equivalent of \$1,187,000 today — Mishler took note of Franzese's suit. He estimated it cost \$500, or about \$4,000 in today's dollars. The bail stood, but Franzese made it.



Franzese, center, makes his way to the courtroom in Brooklyn Federal Court in 1966. Photo credit: Newsday/Marvin Sussman



Federal Court Judge Jacob Mishler in his chambers in Central Islip in 2001. Photo credit: Newsday/Dick Kraus

Nine months later, in January 1967, the trial got off to a false start in Brooklyn. Mishler deemed the press coverage so overheated he declared a mistrial and approved a defense motion to move the proceedings to Albany. Franzese said recently that his lawyers' motion was "the biggest mistake they ever made."

It ensured the case would be heard far from Franzese's home turf, where Mafia intimidation and

influence was pervasive.

In Albany, the prosecution sought to put the Mafia itself on trial. Assistant U.S. Attorney Michael Gillen argued that while Franzese hadn't held up the banks, he planned robberies, gave the do-or-die orders that they be carried out and claimed half the proceeds.

Gillen's first witness, James Smith of Brooklyn, ticked off a litany of mob violence. Asked about conversations with Franzese about murders and assaults, he responded, "Well, he had told Mr. Parks in front of me, he says, 'When I tell you to do something, you do it. If I tell you to pipe somebody, you pipe them. If I tell you to kill somebody, you kill somebody.'"

Asked what it meant to "pipe somebody," Smith replied, "That is to hit somebody over the head with a pipe."

Franzese's attorney, Maurice Edelbaum, a ruffled, theatrical lawyer often used by mobsters, indignantly pointed out the witnesses' criminal pasts and history of lies to investigators.

Through his questioning, he got Smith to acknowledge that he initially told the FBI Polisi directed the robberies.

Smith explained that he had been too afraid to name Franzese. "There's no place you can hide in jail," he said.

Smith's fears, and those of his fellow bank robbers, hung in the air, as each recalled receiving death threats from Franzese emissaries.

Zaher testified that the head jail cook told him that Franzese said it was fine if he testified against any of his co-defendants, "but if you go any further, you're dead."

Gillen, in his summation, underscored the palpable terror of his witnesses. "You could smell the fear," he shouted. "These men knew that death could follow them into jail."

Edelbaum tried to defuse it: "Fear was dragged into this trial to prejudice you."

The jury rendered its verdict just after midnight on March 3: Guilty.

Franzese remained composed. His wife, Tina, buried her face in her hands and wept, according to news accounts.

“They wanted me to roll all the time. I couldn’t do that because it’s my principle.”

-John (Sonny) Franzese

The impact of the verdict, after decades in which he thwarted prosecutors at virtually every turn, was compounded a few months later when Mishler handed down his sentence: 50 years.

There was also a \$20,000 fine and the judge’s stipulation that the sentence be indeterminate, meaning that authorities could grant parole if, say, he agreed to give up other mobsters, which FBI agents were trying to get him to do in vain.

“They wanted me to roll all the time. I couldn’t do that because it’s my principle,” he said recently.

Franzese was freed on bail pending appeal.

Despite the seeming finality of the sentence, he was so confident of winning his appeal that, family members said, he didn’t designate a trusted hand to succeed him.

And they believed in his innocence. As one friend, Tony Napoli, said in an interview, Franzese never would have allowed low-rung criminals to know he was behind the bank robberies. If they knew, he would have had them killed.

Homicide trial

Franzese’s legal drama extended through three more cases and nine appeals, with his fate uncertain amid twists and turns of every sort.

Special security measures were taken when the Rupolo homicide trial began on Nov. 2, 1967, and “there were no seats in the courtroom,” recalled Serphin Maltese, who was deputy homicide chief of the Queens District Attorney’s office.

Rupolo’s murder was as grisly as his life. Cops said he once bragged that he made his living by “stabbing, killing, burglary or any other crime I get paid for.”

The slaying took place outside the Skyway Motel near Kennedy Airport, according to Parks, who said he happened upon it while doing an errand for the mob. He later told investigators he saw four men lifting a

body from a car, when it came to life and began struggling. One man grabbed a gun but was warned it would be too noisy. He then grabbed a knife and stabbed the victim until he stopped moving.

When they put the body in the trunk, his head rolled, and Parks recognized him. The patch over his right eye – which Rupolo, according to later news accounts, had lost in a shootout – fell off.

Parks saved it as a souvenir.

A little more than two weeks later, Rupolo's body was discovered.

The case consumed the district attorney's office, Maltese said. Rupolo's widow, Eleanor, who never testified, camped out there, directing people to bring her soda and sandwiches. And the prosecutors indulged in macabre humor: They used one of the concrete blocks that had been tied to Rupolo's body as a doorstep.

Three of the bank robbers – Zaher, Cordero and Parks – queued up against Franzese. They were more agitated than they had been during the bank robbery trial. They had been moved from prison to prison and kept in virtual solitary confinement to keep them safe. They became petulant and demanding, asking for conjugal visits and better food.

Although most of the court records are unavailable, the trial was well-documented in newspapers and a Life magazine article.

Zaher came to the stand first and testified that he heard Franzese say "I ordered the Hawk hit" at the Aqueduct Motel sit-down.

The defense pushed back, prodding Zaher to recount his history as a bank robber, car thief and drug addict. He admitted he shot up a few hours before the sit-down.

Cordero was next and said he, too, heard Franzese say he ordered the hit. As he testified, Tina put her right hand to her temple and extended her forefinger as if it were a gun. Cordero saw it, paused and took a sip of water.

Parks calmly recounted what he saw of the murder, even as Edelbaum screamed skeptical questions at him.

The bank robbers had come through, but the prosecutor, James Mosley, knew he needed someone outside this clique for corroboration. He found him in John Rapacki, the first of dueling jailhouse

witnesses who claimed to have heard critical and conflicting conversations.

Rapacki testified that Franzese's co-defendant, William (Red) Crabbe, had told him in jail that Franzese's crew killed Rupolo: "We took care of him. The boss ordered it."

Nervous and intense, Rapacki seemed desperate to convince jurors he was telling the truth. Mosley was feeling confident when jury deliberations began. But Parks, familiar with the ways of the Mafia, warned him: "They're gonna come up with a story."

It came in a last-minute letter to the judge.

An inmate on Sing Sing's death row named Walter Sher had briefly shared a cell in the Nassau County Jail with Rapacki. He testified that Rapacki told him he had killed Rupolo. Mosley was furious, but unable to shake him from his story.

"How in the hell could they have ever gotten to this guy in the death house at the last minute?" Maltese asked recently.

The answer was simple, said Sal Polisi, a former mob associate who is Anthony Polisi's nephew: "The mob ran the prisons."

Frantic, Rapacki demanded truth serum and screamed at the prosecution team, "I thought they'd kill me. But I never thought they'd do this. If Sonny hits the street, he'll kill my wife. I know they'll kill her!"

Within hours, the jury returned with a verdict: Not guilty. Franzese smiled for photographers as a younger man helped him on with his silk-lined overcoat. Tina sobbed hoarsely, saying, "He did it, he did it," meaning he beat the charge, Newsday reported.

That night, Franzese said recently, he celebrated at the Copa.

Mosley, meanwhile, headed for a courthouse bar frequented by cops, angry and dejected. The case had taken a year of his life, working round-the-clock, baby-sitting recalcitrant witnesses and facing death threats, two of his children said recently.



Prosecutor James Mosley, second from right, and other members of his team gather at Luigi's Bar in Queens after Franzese's acquittal in 1967 of the homicide of Ernest (The Hawk) Rupolo. Photo credit: Bob Peterson



Home invasion trial

The Nassau home invasion case started in March 1969, with three of the same witnesses: Cordero, Parks and Smith.

It was a chilling story, told through news accounts and recent interviews with two brothers who were the victims.

Abraham (Al) Ezrati had a jukebox company, an all-cash business. His car had been stolen in June 1963. A week later, a man called his Oceanside home to say he had insurance forms for him to sign. Ezrati's 18-year-old son, Milton, answered and said his parents wouldn't be home until 5 p.m. The man assured him he was "old enough" to sign.

Several men, wearing sunglasses and mustaches drawn on with eyebrow pencil, arrived. Milton opened the door. They showed him a gun. And heeding his father's warning to never risk his life for money, he put up no fight.

They handcuffed Milton and his 14-year-old brother, Lester, to poles in the basement — denying Lester's request to leave the TV on — and duct-taped their mouths. The men left with sacks of money and Ezrati's cuff links, worth about \$3,000 in total. The teens were freed when their grandmother discovered them.

The link to Franzese came first via Smith, who testified that they were acting on orders from him. Then Cordero testified that after the incident, he heard Franzese call Ezrati.

"He said to Al, 'We have our differences that I don't understand, but I don't want your kids to identify anybody,'" Cordero said.

They didn't.

Lester, now 70, said in an interview that he couldn't pick out the robbers. Milton, now 74, didn't, either.

Franzese's lawyers painted Cordero, Smith and Parks as liars. And, as in the Rupolo case, they produced a surprise witness – another convict who heard a jailhouse confession.

Edward Winkle testified that while he was in the Nassau County jail, he overheard Smith telling Cordero, "(Nassau District Attorney) Cahn knows we did it and wants to know if we want to get out of here."

On April 17, 1969, after deliberating four hours, the jury acquitted Franzese. A joyous scene followed with Franzese hugging his family and thanking the judge.

Milton wrote a short story in college about the experience but said he didn't get a good grade: "Not enough drama."

Appeals

The following year, the betting-ring case was resolved. Franzese pleaded guilty to a misdemeanor charge of aiding and abetting bookmaking and received a 1-year sentence – peanuts compared to what he had been facing and nothing that would disrupt his enterprises.

"I beat them in three and I couldn't beat them in the bank robbery," he said recently. "They should have admired me for it. I mean, I fought them and I beat them. Who the hell does that?"

Franzese's lawyers immediately appealed the bank robbery conviction, ultimately taking it to the U.S. Supreme Court. In March 1969, they got welcome news: It ordered a hearing to determine whether bugs installed in Franzese's kitchen tainted evidence at trial.

The case went back to Mishler. He ruled that because the tapes had not been used in the case, the conviction stood.

By Easter 1970, Franzese couldn't stave off prison any longer. He entered the U.S. Penitentiary at Leavenworth, Kansas.



The U.S. Penitentiary in Leavenworth, Kansas, in 2012. Photo credit: Julie Denesha



His lawyers filed two more motions. Each time, Mishler denied them.

Now, it was Tina's turn. She wrote letters to Mishler, harangued prosecutors and proclaimed Franzese's innocence to anyone who would listen.

"She was a fighter," Franzese said recently. "Listen, I've seen her, I've seen her fight like a maniac for me."

In 1973, she taped a body recorder to Jerome Zimmerman, a car salesman who worked with her husband and son Michael. He claimed that an IRS agent in a separate investigation offered to give him documents that would help Franzese. In return, he said, Zimmerman would have to lie to help the agent in the other case.

Wearing the recorder, Zimmerman met the agent at a Holiday Inn in Westbury, with Tina and a friend sitting nearby, according to Newsday reports.

She took Zimmerman's tapes to prosecutors, who had a forensic expert examine them. He found something damning: They had been tampered with.

Zimmerman was charged with perjury and found guilty.

Undaunted, the family continued its efforts. Michael approached Eleanor Cordero, who had changed her story and said that Franzese was framed.

Her affidavit spurred a motion for a new trial in March 1975.

At the hearing there was testimony from FBI agents that Michael paid for her new story.

Mishler, who eventually denied the request, oversaw the hearing and noted without emotion that there had been a threat to kidnap a relative of his, but, with a pointed reference to Tina, said this would not influence him:

“Each time, Franzese’s motion has been before me, Mrs. Franzese has been in the courtroom, caused a disturbance, made general threats; and I just wanted her to know that this is on the merits – no amount of threats is going to make a difference to me.”

The FBI reported there was another threat a month later after Mishler denied Franzese’s motion.

At 5 p.m. on Jan. 21, 1976, Mishler’s law clerk got an anonymous call, according to an FBI memo: “Just tell the judge he made a fatal mistake in the Franzese motion today.”

How the threat was investigated is not clear from files, and most of the people involved have died.

Tina, in a seven-page letter to Mishler dated Feb. 18, 1976, denied making the call or telling anyone to do it. She went on to describe her fight for her husband’s freedom:

“The last six years have been a long and lonely vigil for my family and myself. It has just been myself against a whole administration.”

As his family continued to fight for his release, Franzese made the best of his time in prison but bridled against his incarceration.

In November 1977, he took an unimaginable step, writing a strikingly deferential letter to a man he has promised to meet in Hell.

“I realize you are a very busy man and have no time for answering foolish letters,” he began. “On the other hand, I feel certain you will not mind taking a few minutes out to ease the mind of a confused man serving fifty years in prison. Therefore, I trust you will be able to unravel a few things for me that have caused me to stay awake many nights in the near eight years I have been incarcerated.”

He asked Mishler to help him “get at the truth” because he was no longer a young man. “I am in the winter of my life where every year counts,” he wrote.

He was 60 years old.

< Part 2: The High Life

Part 4: Family Fractured >