

At Murder Trial, Prosecutors Doubt Police and Each Other

By MICHAEL BRICK

"Curiouser and curiouser," cried the judge, Gustin L. Reichbach, channeling "Alice's Adventures in Wonderland" as he surveyed the spectacle in State Supreme Court in Brooklyn yesterday.

To his right, a defense lawyer argued that his client should have been investigated for murder more than 10 years ago. To his left, a recently retired prosecutor sat on the witness stand, trying to salvage one of his last big cases by disparaging his own investigators. Before him stood that prosecutor's successor, pursuing the same goal by impugning decade-old police work.

In any other case, this would be considered a twist. The police ("who investigate crime," as every schoolchild knows from watching "Law & Order") and district attorneys ("who prosecute the offenders," *ibid.*) usually try to maintain the appearance of getting along, at least in the courtroom.

Not so in the legal pretzel that has evolved from the prosecution of Roy Lindley DeVecchio, a retired Federal Bureau of Investigation supervisor charged with helping a prized Mafia informant commit murders in the late 1980s and early 1990s.

Justice Reichbach has separated the cases against Mr. DeVecchio's co-defendants, reputed Mafia hangers-on accused of carrying out the killings, and has compelled prosecutors to show a good reason for failing to bring charges in the mid-1990s. Over the last week, prosecutors have disclosed more and more documents showing that the Brooklyn district attorney's office and the Police Department have known of accusations against the defendants since then.

During testimony yesterday, Justice Reichbach accepted into evidence a decade-old investigative memorandum listing the name of one defendant, John Sinagra, and a cooperating witness against him, John Navoa. An investigator from the district attorney's office, Alfonse Lombardo, making his second appearance on the witness stand during these hearings, testified that the memorandum had come from his case file, but said he had no idea who had given it to him or when it was placed in the file.

Justice Reichbach termed that development "one of the many mysteries that have risen from this hearing."

Turning to the prosecution table, the judge called for some explana-

tion of a decision in 1996 to close the case in the killing of an 18-year-old named Patrick Porco. Prosecutors say Mr. Porco, a witness to an earlier killing, was fatally shot after Mr. DeVecchio told his mob informant, Gregory Scarpa Sr., that Mr. Porco was planning to cooperate with the police.

Mr. Sinagra has now been charged in the Porco killing.

The prosecutor, Kevin S. Richardson, noted that his office did not close the case; the police did. The police, he suggested, had attributed the killing to a dead man and closed the case "for statistical purposes."

"Is there a policy in place to monitor what the New York Police Department does with that information?" Mr. Richardson asked, interviewing himself in open court.

Earlier investigators' work is impugned, and a judge is astounded.

"There may come to be one in the future."

But Mr. Richardson could not hang all the mistakes on the Police Department. An investigator for the district attorney's office, Thomas Dades, swore in an affidavit that witnesses never implicated Mr. Sinagra in 1995. Documents later emerged to contradict that account. And a retired investigator for the office, Joseph Malewich, has testified that he removed important documents from the office and took them home.

So Mr. Richardson called his predecessor, Noel Downey, to explain exactly how he had built the broader case against Mr. DeVecchio before retiring earlier this year. Aside from strange, this development was also something of a windfall for Mr. DeVecchio's defense lawyers, who have dispatched aides to take notes at the hearing.

On the witness stand, Mr. Downey recounted several meetings with witnesses. Prompted by Mr. Richardson, he speculated that he would not have brought charges against Mr. Sinagra based on the information given to prosecutors in the 1990s. Then he was asked what else would have been required to make the case.

"Rolling up your sleeves," Mr. Downey said, "and conducting an investigation."