

Murder case put in doubt

■ Prosecutors are expected to withdraw charges against former FBI agent after tapes reveal contradictions in witness' testimony

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Brooklyn prosecutors are expected to ask this morning for the dismissal of the murder indictment against an ex-FBI agent after tapes surfaced of a key witness giving earlier statements that contradicted her testimony, said legal and law enforcement sources.

Lawyers for Brooklyn District Attorney Charles Hynes are expected, the sources said, to ask Brooklyn State Supreme Court Justice Gustin Reichbach to dismiss the four-count murder indictment after doubts were raised about the credibility of star witness Linda Schiro. Reichbach is hearing the case without a jury.

A series of stunning developments yesterday forced the postponement of the trial of Roy Lindley DeVecchio, who is accused of leaking information that allowed mobster and informant Gregory Scarpa to engineer four killings from 1984 to 1992. The delay was called to allow prosecutors and defense attorneys time to examine tapes made by journalists Tom Robbins and Jerry Capeci during their interview with Schiro in 1997 in preparation for a po-

tential book deal which never materialized.

During a brief hearing before Reichbach yesterday, assistant district attorney Michael Vecchione stated that if the tape recordings confirmed the substance of a Village Voice story, which contradicted Schiro's testimony, that his office was prepared to move to dismiss the case. Both prosecutors and defense attorneys had subpoenaed the tapes from Robbins, whose attorney turned them over so that both sides could listen to relevant portions.

Before adjourning, Reichbach told Schiro, 61, to get a lawyer because she was at risk to be charged with perjury. The mistress of Scarpa for over 30 years, Schiro began testifying in the case Monday.

Vecchione, who is one of the chief architects of the prosecution's case, couldn't be reached late yesterday. But defense attorney Mark Bederow said the tapes contradicted Schiro.

"It is wholly inconsistent with her sworn testimony in this case," he told Newsday.

Asked if prosecutors had said they were planning to move to dismiss the indict-



Linda Schiro's court testimony is now in doubt.

ment, Bederow would only say, "No one has told us officially."

In a story that appeared online in The Village Voice on Tuesday evening, Robbins disclosed that Schiro told him and Capeci — who runs the popular Gangland News Web site — that DeVecchio had nothing to do with three of the four homicides in the case. In regard to the fourth murder, of Patrick Porco in May 1990, Robbins wrote that in 1997 Schiro stated — as she did in the current trial — that DeVecchio had told Scarpa that Porco was getting ready to implicate the mobster's son in a homicide. But Robbins wrote that Schiro tried to make DeVecchio look bad in her court testimony by saying he later told Scarpa that his son shouldn't shed tears over his dead friend.

While a close look at Schiro's taped statements indicate that not everything she said in 1997 contradicted her testimony, the

recordings as reported by Robbins omitted a number of things she stated as a witness. That creates a real credibility problem, said Manhattan defense attorney Gerald Shargel, who is not connected with the case.

"It seems like a death knell to the state's case," said Shargel. "Trying to sell a book deal, she wanted to make things as salacious as possible. Murders are hardly the kind of stuff you don't have a recollection about [for a book]."

Schiro has been a problematic witness for years. In 1994 during an FBI probe of DeVecchio's handling of Scarpa as an informant, she denied knowing about the mobster's dealings. She also said she wasn't privy to Scarpa's talks with DeVecchio. But in the current trial, she said she sat next to Scarpa around their kitchen table many times as he talked with DeVecchio about crimes and murders.