

The Killing of Bonnie Garland, WILLARD GAYLIN, M.D., Simon and Schuster, New York, New York, 1982, pp. 366.*

Willard Gaylin, a psychiatrist,¹ has long had an interest in jurisprudence, particularly in the relationship between psychiatry and the law.² That interest is reflected in his book, *The Killing of Bonnie Garland*, in which he asserts that Bonnie Garland was murdered twice: first by her jealous lover, Richard Herrin, and then by a legal and cultural process which attends to the criminal rather than the crime.

Sometime during the early morning hours of July 7, 1977, Richard Herrin smashed Bonnie Garland's skull with a claw hammer. Horrifically, she did not die immediately as Richard believed. Rather, she lingered on through the morning and was alive when the police, alerted by Herrin, arrived at the Garlands' sprawling tudor home. Bonnie was rushed into surgery, but died that evening.

In one sense, there is nothing unique about violent crime. Tuning in the morning's news, one is assaulted with sordid descriptions of the previous night's criminal carnage. In every large metropolitan area, children are abused or tortured, women are raped, and defenseless people are murdered. Yet, the victims and the perpetrators are generally cloaked in anonymity. Herrin's crime, however, was different—in spite of its relative insignificance, it gained national attention. Bonnie's murder was shocking for several reasons. First, because Richard Herrin had no history of criminal behavior. Moreover, the murder was particularly brutal. Finally, both the killer and his victim were "upper class." Bonnie was a Yale senior and the daughter of a wealthy Manhattan attorney. Richard, although an illegitimate child who was raised in a Los Angeles barrio, was a Yale alumnus and a graduate student at Texas Christian University.

But this murder also was special because it went beyond the initial newsworthiness, with controversy enveloping the events of the pre-trial, trial, and post-trial period. Indeed, controversy persists to the time of this writing, and is certain to continue as the time of Herrin's release from prison draws nearer. The murder and its aftermath have produced two books³ and a spate of articles.

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¹ Dr. Gaylin, a psychiatrist and psychoanalyst, is President of Hastings Center, which pioneered the study of society, ethics, and the life sciences. He is also Clinical Professor of Psychiatry at Columbia University's College of Physicians and Surgeons.

² See Gaylin, *Psychiatry and the Law: Partners in Crime*, 7 Colum. L.F. 23 (1965).

³ See also P. MEYER, *THE YALE MURDER* (1982).

Dr. Gaylin maintains that when society faces violent crime, it deals with two conflicting sets of emotions. First, there is anger, horror, and disgust at the event. Second, there is a desire for understanding so that something can be done to assuage the suffering of the victims and prevent reoccurrence of the criminal act.

Richard Herrin was the beneficiary of the latter emotion. There are few persons who would not consider the killing of an innocent girl in her sleep by bludgeoning her with a claw hammer to be an innately revolting and repugnant thing. Yet, immediately after the murder, a significant segment of the Yale community came to Richard's defense. Clergy, faculty members, administrative officers, and students offered assistance. Fifty thousand dollars were raised, and confessed murderer Herrin was quickly free on bail. Thirty-five days after he killed Bonnie, Richard was living with the Christian Brothers at the La Salle Academy in Albany, New York. He subsequently enrolled under an assumed name at a nearby branch of the State University of New York. Perhaps most significantly, Jack Litman, a prominent Manhattan criminal lawyer, was persuaded to defend Herrin.

Litman raised two legally incompatible arguments in Herrin's defense: not guilty by reason of insanity, and, if guilty, guilty only of manslaughter. Ultimately, he saved Herrin from severe punishment because he was able to persuade the jury of the validity of an essentially psychiatric defense. Litman was able to convince the jury that Herrin was under severe stress or trauma which produced "extreme emotional disturbances," a condition that justified a finding of first degree manslaughter instead of second degree murder.⁴

Herrin was sentenced to the maximum term allowable by law—eight and one-third to twenty-five years in prison. Dr. Gaylin raises the question whether such a brutal crime is appropriately punished by an eight year, four month stay in prison. According to Bonnie's parents, no punishment would be harsh enough. Bonnie's father, Paul Garland, maintains that Richard Herrin successfully got away with murder. Indeed, the Garlands have not been forgiving of Richard Herrin. After Herrin was convicted, the Garlands filed a two million dollar damage claim against him.⁵ Paul Garland related that the action was not brought for the money but rather to clarify the legal rights of crime victims and their families.⁶

That the Garlands are unforgiving is understandable; that they

⁴ See N.Y. PENAL LAW § 125.20 (McKinney 1975).

⁵ N.Y. Times, Dec. 18, 1983, at 50.

⁶ *Id.*

were enraged by the legal proceedings, notwithstanding Mr. Garland's position as an attorney, is also understandable. As Dr. Gaylin aptly points out, the defense of a defendant often requires an attack on the victim. In order to save Richard, Litman attacked Bonnie in what Dr. Gaylin describes as "a double murder."⁷ The clear suggestion by the defense was that Bonnie was somewhat responsible for her own fate—an accomplice to her own killing. Dr. Gaylin feels that while it is admirable to show concern and compassion for a criminal, it should not be done at the expense of the victim and society.

During the course of his research, Dr. Gaylin interviewed one of Richard Herrin's most ardent supporters. She told Gaylin that "Richard did not deny that he had killed Bonnie. We were involved in being horrified with him, not judging him . . . The girl is dead."⁸ Those words gave Dr. Gaylin an indication of how individuals and society can so quickly change their focus from an innocent victim to the criminal. Dr. Gaylin, however, is not ready to accept compassion as an alternative to facing the revulsion of such an enormous crime. It is his contention that Bonnie should have "been brought back to life"⁹ in the courtroom so that jurors could have appreciated the enormity of her death. He observes that "she was not incidental to the case. The jury should have been made to mourn for her."¹⁰ He further contends that our system of justice must consider the victim, even though he or she can no longer be helped, in order to protect others who may become victims.

It is not that Dr. Gaylin wants to dispatch compassion. He agrees that the insanity defense was introduced to bring a compassionate mitigating limit to the concept of responsibility. He seems to argue both for a narrower definition of insanity and for moral responsibility. He does, however, make a very persuasive case for allowing the insanity defense to be used only for the truly insane.

At times it appears that Dr. Gaylin has appointed himself Bonnie Garland's advocate. In fact, he states that Bonnie "deserved a requiem in the courtroom."¹¹ This attempt to establish the worth of a victim obviously has serious implications. While it is true that some people contribute more to society than do others, one can only

⁷ W. GAYLIN, *THE KILLING OF BONNIE GARLAND* 200 (1982).

⁸ *Id.* at 122.

⁹ *Id.* at 239.

¹⁰ *Id.* at 316.

¹¹ *Id.* at 329.

imagine the problems that would arise in a legal system in which the degree of guilt is based on the worth of the victim.

More cogent is Dr. Gaylin's argument that the killing of Bonnie Garland was not only the theft of a young life and the infliction of unimaginable psychic pain on her family and friends, but was also an assault on the social order that makes human life possible. He believes that justice in the killing of Bonnie Garland demands more than a concern for Richard and his fate. The community at large has a stake in the matter. It is his perception that in the twentieth century, society has begun to approach questions of right and wrong both sociologically and psychologically. Rules of conduct have become blurred by consideration of events that precede conduct: the state of mind of the individual and his perceptions of right and wrong. Dr. Gaylin perceives that we have begun to individualize our concepts of justice, and in so doing we have made them more subjective and relative. He believes that there is a growing public sense that there is an imbalance and that we have reached the limits of individualism.

Central to Dr. Gaylin's critique of the relationship of psychiatry and the courts is his plea for a very careful reconsideration of the limits of individualism. He maintains that "we must be prepared to face the issues of our responsibility to the individual and our responsibility to the social structure that supports and defines that individual."¹²

Even more important is Dr. Gaylin's analysis that although the insanity defense and other psychiatric defenses—such as "extreme emotional disturbance"—are employed in a minimal number of cases, their impact is enormous. Crimes such as the one Richard Herrin committed are highly visible and haunt the public consciousness with a fear that justice is not prevailing, that the system is not working, and that too many criminals are "getting off" by interposing psychiatric defenses.

*Jack Harrington**

¹² W. GAYLIN, *THE KILLING OF BONNIE GARLAND* 354 (paperback ed. 1983).

* B.A., King's College; M.S., University of Scranton; M.A., Fairleigh Dickinson University; J.D., Seton Hall University; Adjunct Professor of Law, Seton Hall University School of Law; Adjunct Professor of Psychology, Seton Hall University and Fairleigh Dickinson University. Professor Harrington is currently writing a book on the relationship between psychiatry and the law.