

*"Vengeance is mine sayeth the Lord."*

If this aint the most vengeful thing I've ever heard of -- well, almost, cuz the SF8 are suffering from the same vengefulness.

September 19, 2007

<http://www.nytimes.com/2007/09/19/us/19philadelphia.html?hp>

## New Murder Charge in '66 Shooting

By [IAN URBINA](#)

PHILADELPHIA, Sept. 13 William J. Barnes shot and partly paralyzed a Philadelphia police officer in 1966, and he served 20 years for it and related offenses.

But last month, 41 years after the shooting, the district attorney filed new charges of murder after the officer, Walter T. Barclay Jr., died of an infection she says stems from the shooting. Mr. Barnes, now 71, was sent back to prison.

"The law is that when you set in motion a chain of events," District Attorney Lynne M. Abraham said, "a perpetrator of a crime is responsible for every single thing that flows from that chain of events, no matter how distant, as long as we can prove the chain is unbroken."

She plans to prove that the bullet that lodged near Mr. Barclay's spine in 1966 led to the urinary tract infection that led to his death last month.

The case has drawn national attention as most legal experts say they have never seen an attempt to stretch causation medically across four decades, and some say they worry about the precedent the case could set concerning double jeopardy.

Moreover, establishing an unbroken chain could be difficult in light of Mr. Barclay's medical history.

After his initial paralysis, his condition improved significantly and he regained motion in his legs, walking with braces and riding short distances on a stationary bicycle. But he reinjured his spine repeatedly, in two car accidents and in a fall from his wheelchair, according to interviews with relatives and news reports from the era.

While paralyzed, Mr. Barclay also contracted hepatitis, according to his family, which medical experts say could have weakened his ability later to fight off infections. The district attorney's office has also confirmed that although the coroner's office ruled his death a homicide, no autopsy was done on Mr. Barclay, who was buried last month.

Mr. Barclay himself even spoke of the role his own actions played in worsening his medical condition.

"The guy started spraying bullets around, and I caught two of them in the back," Mr. Barclay said in a 1978 interview about the night he was shot. "I got over that pretty much, but then I had a car accident and hurt my back again. Then I had another and hurt my back some more."

Allen M. Hornblum, an urban studies professor at [Temple University](#) who researched Mr. Barclay's history and invited Mr. Barnes to speak to his class about having turned his life around after a career in crime, said the new charges were "vindictive, pure and simple."

“Barnes served his time, but the police and the city want him to pay extra because he shot one of their own,” he said, adding that even if the charge is dismissed, the case will probably take so long to get to that stage that Mr. Barnes, who has had two heart attacks in the last three years, will die waiting. Ms. Abraham has denied that the victim’s being a police officer played any role in her decision to file new charges.

Ms. Abraham also argues that double jeopardy, which means a person cannot be charged twice for the same crime, does not apply in this case because the original crime was aggravated assault and the current crime now that Mr. Barclay is dead is murder. Mr. Barnes’s court-appointed lawyer has not decided whether to challenge that view.

William Barclay, 59, the slain officer’s brother, feels the prosecution is justified. “Barnes deserves to be back in prison,” he said “He is 71, and that’s seven more years of life than my brother had.”

“This was murder delayed,” Mr. Barclay added, recounting his brother’s bouts of pneumonia, painful and constant bedsores and the full-body muscle spasms that threw him from bed. “The length of time since the shooting shouldn’t matter.”

Asked about the car accidents, Mr. Barclay, who has lived in California since the 1970s, said he was not aware of them.

Mr. Barnes is being held without bond, and he will not see a judge until his first court date in December, said his lawyer, Bobby Hoof.

In many states, the year-and-a-day rule, a 19th-century common law rule, prevents new charges from being filed if a victim dies more than 366 days after the initial injury. But Paul Wright, editor of Prison Legal News, an independent monthly, said that as medical advancements have prolonged the lives of injured people, at least 20 states, including Pennsylvania, have eliminated the rule. Medical and forensic advancements, however, have also increased the burden of proof on prosecutors to clearly show how an injury led directly to a victim’s later death, he said.

Such convictions, however, are not unprecedented. In Michigan, a man was convicted of assault with intent to murder in 1983 after shooting another man. Four years later, after sustaining head injuries in a fight, the shooting victim suffered seizures and died. Prosecutors filed new murder charges against the gunman, and using an autopsy were able to prove that the victim’s death resulted from damage to his heart from the shooting, not the head injuries.

Jeffrey M. Lindy, a former federal prosecutor in Philadelphia, said he believed Ms. Abraham was pursuing the case against Mr. Barnes to please the police, but he predicted it would probably not make it to trial. “A judge will first have a hearing, and at that hearing a doctor is going to say, ‘Look, the causation is not there,’ ” he said.

Sitting in a four-by-five-foot room at Graterford prison, 31 miles north of Philadelphia, Mr. Barnes said, “I was trying to start over.”

Having spent 48 of his 71 years in prison on multiple offenses and parole violations, he was released in 2005 and had started meeting family who never knew he existed as he lived in a halfway house and worked as a janitor at a drugstore.

“Nothing shames me more than what happened that night,” he said about the shooting. “I had a good family, a good life and bad morals. I’ll have to answer to my maker for the suffering that man went

through.”

“But I’m an old man now,” he said. “I paid my debt.”

Mr. Barnes earned that debt one cold November morning in 1966 as he tried to pry open the back door of a beauty parlor. Responding to a call about a prowler, Officer Barclay, 23 at the time, arrived to find Mr. Barnes, who says he was drunk. Mr. Barnes shot Officer Barclay twice, once in the left thigh and once in the shoulder, the second shot lodging an inch from Officer Barclay’s spine.

That bullet shattered his life, his family said. And yet he fought to recover. Within nine months, he was walking short distances with leg braces. He soon began driving a car with hand controls and moved into a ground-floor apartment to live on his own. He worked a desk job at police headquarters for a year or so.

Things took a turn for the worse, however. One morning while driving to work, Officer Barclay’s car skidded off an icy road. He reinjured his spine, and the Police Department put him on permanent disability, according to court documents and news reports from the time. In the mid-1970s, he became a clerk at the information booth at 30th Street Station in Philadelphia.

But “age began to tell on him,” said Rosalyn Barclay Harrison, Mr. Barclay’s 68-year-old sister. There were also various injuries along the way. In 1975, he fell from his wheelchair, which left him without use of his left arm, according to a column written by Mr. Barclay’s close friend Larry McMullen, a Philadelphia newspaper writer. In 1976, he was in a second car accident for which he underwent rehabilitation at Rolling Hill Hospital in Montgomery County, according to newspaper accounts.

Ms. Harrison said her brother’s life was pure “agony.”

She confirmed that Mr. Barclay was in at least one serious car accident and that in later years he got hepatitis. But she endorsed the new charges against Mr. Barnes. “In my own mind, I don’t see this as double jeopardy,” she said.

“I have no qualms about Barnes being recharged for murder,” she added, with a pause, “because I do feel it that way.”

Freedom Archives  
522 Valencia Street  
San Francisco, CA 94110

415 863-9977

[www.Freedomarchives.org](http://www.Freedomarchives.org)

Questions and comments may be sent to [claud@freedomarchives.org](mailto:claud@freedomarchives.org)