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THE URBAN CRIMINAL JUSTICE SYSTEM: A CASE FOR FAIRNESS

John F. Keenan*

Most of the writer's professional career has been spent in positions that provided him the opportunity to attempt to answer the two questions of whether the urban criminal justice system is fair and whether it appears fair. The answer to the first question is that the American process of determining whether an accused is guilty or not guilty is probably the finest system ever devised by human beings. However, the fact is that the public perception of criminal justice is that some cases are not fairly decided. This is perhaps due to the fact that the media will always sensationalize the rare case where an apparently unfair result is reached. The public's perception is often heavily influenced by the case that gets high publicity treatment, even though such cases are the exception, not the norm. Face it — dog bites man — no story. Man bites dog — headlines!

Implicit in the first question, because of its focus on urban criminal justice, is the issue of whether racial and ethnic minorities are treated evenly in our large cities. The preferable way to address that question is to refer to a specific case, rather than to make sweeping generalizations.

I vividly recall one case that I believe stands for the proposition that, although certainly some individuals who work in urban criminal justice fail the fairness test, the overall system or process does not. On August 28, 1963, two young women, Janice Wylie and Emily Hoffert, were brutally murdered, literally hacked to death, in their apartment on the third floor of 57 East 88th Street in Manhattan. They were young career women, children of wealthy parents. Miss Wylie was the niece of a Pulitzer prize, winning novelist. The case received front-page headlines, even in the *New York Times*, and came to be known as the "Career Girl Murders." For months special squads of detectives from all over New York City, including the outer bor-

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oughs, investigated the case, questioning hundreds of people and running down countless leads. The case remained unsolved.

The following April a black woman named Minnie Edmonds was stabbed to death on Chester Street in Brooklyn, many miles from East 88th Street in Manhattan. Approximately ten days after the slaying of Ms. Edmonds, a nurse named Elba Borrero was returning home from work late at night in the Brownsville section of Brooklyn, where she was attacked at knifepoint. Although the assault was interrupted, it was clear that her assailant sought to rape her. A young black man, nineteen-year-old George Whitmore, was arrested the next day, brought to the 73rd Precinct Station House in Brooklyn and charged with the attack. Mr. Whitmore, something of a drifter, originally from southern New Jersey, allegedly admitted the attempted rape.¹

Because of the close geographic proximity of the Borrero assault to the Edmonds homicide, detectives from the Brooklyn Homicide Squad were called in to question Mr. Whitmore about that crime. He was a very cooperative subject: he confessed to the Edmonds murder also. The trouble was that he described the victim in the Edmonds case as being white. This disparity did not seem to trouble the detectives.²

One of the Brooklyn homicide detectives present at the 73rd Detective Squad that day was among the large group of New York City investigators who had been assigned to the still unsolved Wylie-Hoffert murders the preceding summer and fall. He saw that the contents of the Whitmore wallet, which had been taken from the suspect's possession, included a photograph of two young women in an open car. The one more clearly depicted was a young blonde woman seated on top of the rear seat of the open convertible. The photograph showed that the car was in a wooded area. The Brooklyn detective then made a serious error, which in that era of capital punishment could ultimately have cost George Whitmore his life. Based on photographs of Janice Wylie that he had seen during the double murder probe, the detective thought the blonde woman was Miss Wylie.

When first questioned as to how he came into possession of the photograph, Whitmore said that he had found it in a dump in his hometown of Wildwood, New Jersey. Under the "spell" of the detective, who mistakenly believed the photograph to be of Janice Wylie, Whitmore's story changed — he had gotten the photograph from the living room of apartment 3C of 57 East 88th Street in Manhattan, the apartment where the career girls were murdered. By the time Whit-

1. The charges in the Borrero case were ultimately dismissed many years later.

2. The charges in the Edmonds murder were also dismissed, years later.

more's stay in the interrogation room at the 73rd Detective Squad was completed, he had confessed not only to the Borrero attack and the Edmonds homicide, but also to the slayings of Janice Wylie and Emily Hoffert in a sixty-three-page statement.

George Whitmore was indicted in all three cases and newspaper headlines proclaimed that the Career Girl Murders had been solved. Most fortunately for Whitmore, a young New York County Assistant District Attorney in the office of the legendary "Mr. District Attorney" Frank S. Hogan, became interested in Whitmore's case and began to analyze the sixty-three-page confession. To Assistant District Attorney Melvin D. Glass,³ much of it did not seem to fit some of the objectively known facts of the twin murders.⁴

With the approval of Mr. Hogan, young Glass began an investigation into the circumstances of the Whitmore confession to the Wylie-Hoffert slayings and into Whitmore's background. The Hogan office had no jurisdiction over either the Borrero attempted rape or the Edmonds homicide because those crimes had been committed in Kings County. But rest assured that the investigation by Assistant District Attorney Glass unsettled and disturbed many in the Brooklyn District Attorney's Office, as well as the high-ranking brass of the New York City Police Department. If Glass proved the Wylie-Hoffert confession false, it would have a grave impact on the Borrero and Edmonds cases. While New York City has five district attorneys, one for each of its five boroughs or counties, it has only one police department, and much of its prestige was at stake because of Glass's insistence on ferreting out the truth.

Assistant District Attorney Glass correctly reasoned that the photograph of the young woman on the back of the car was the key to the case. If the woman in the picture could be found, Glass believed that Whitmore could be exonerated. Thus began one of the most difficult and painstaking investigations in law enforcement history. Manhattan detectives were assigned to Glass's office with one task to accomplish: to find the woman on the back of the car. For much of the summer and into the early fall of 1964, the detectives combed forest

3. Melvin D. Glass was an honors graduate of the University of Pennsylvania Law School and a member of its Law Review. He later became a distinguished Criminal Court Judge of the City of New York and is now retired from the bench on which he served for 20 years.

4. The false Whitmore confession was instrumental in causing the Supreme Court's landmark ruling in *Miranda v. Arizona*, 384 U.S. 436, 456 n.24 (1966) (citing the Whitmore case as an example of how interrogation procedures may give rise to a false confession).

areas of southern New Jersey in an effort to find the place where the photograph had been taken and to locate and identify the subjects.

Finally, they found the area where the photograph was taken, the Belle Plain New Jersey State Park, some thirty miles from Wildwood. In late September 1964, the young blonde woman in the picture miraculously was identified and interviewed. She lived in Wildwood, New Jersey. She recounted the circumstances under which the photograph had been taken more than eight years earlier. She also established the identity of the second woman in the picture. The photograph had been taken at a picnic the day after the Wildwood High School Prom in May 1956. The Manhattan detectives, under Assistant District Attorney Glass's brilliant direction, traced the second girl to Philadelphia where she was then a schoolteacher. The photograph had been taken with her camera and had been in her photograph album. When that woman, Barbara Mitchell, had entered the Peace Corps in 1961, the photograph album had been discarded in the Wildwood Municipal dump. That was where George Whitmore, on April 24, 1964, had first told the Brooklyn detectives he found the picture.

Neither Barbara Mitchell nor Arlene Stocker, the young blonde woman, knew Janice Wylie or Emily Hoffert nor had either of them ever been to apartment 3C at 57 East 88th Street in Manhattan or its environs. The cornerstone of the case against Whitmore had been demolished by Glass's careful work. The photograph had nothing to do with the murders and it was the only arguable connection George Whitmore had to the murder scene.⁵

The investigation of the Career Girl Murders shifted back to the Upper East Side of Manhattan. Robert Cruz, a drug seller, had been slain in a dispute over the quality of drugs he had sold to a customer. The killing was in the northern end of the 23rd Precinct in Manhattan, the same precinct that encompassed 57 East 88th Street. The customer, Nathan Delaney, had three prior felony convictions and faced a life sentence if convicted of killing the drug dealer. Delaney was arrested for the Cruz killing on October 6, 1964, and he quickly informed the arresting detectives in his case that he had knowledge of the Wylie-Hoffert slayings.

At that stage, very few people in law enforcement knew that the Whitmore confession had been invalidated because of the Glass inves-

5. The exoneration of George Whitmore and the subsequent arrest and trial of Richard Robles were the subjects of the pilot program of the famous "Kojak" television series. The television name of the case was the "Marcus-Nelson" murders. See also BERNARD LEFKOWITZ & KENNETH G. GROSS, *THE VICTIMS* (1969).

tigation. Those few included select detectives in the 23rd Precinct where the Wylie-Hoffert murders were committed. Delaney was brought to Glass's office, where he carefully recounted how one Richard Robles had come to his apartment at 330 East 84th Street, just a few blocks from 57 East 88th Street, at midday on August 28, 1963.

Robles told Delaney and Delaney's wife Margie how he had brutally slain two young women in their apartment on East 88th Street earlier that day. Delaney's story, corroborated by his wife, coincided with the known facts of the Wylie-Hoffert murders. It also added some previously unknown details that were consistent with the objectively known facts of the killings.

Glass and his detectives immediately went to work on the Delaney revelations. Earlier in the investigation, Robles had been considered a possible suspect in the Wylie-Hoffert slayings because of his previous convictions for sexual attacks in the neighborhood. However, the word of two drug addicts was thin material on which to base a major murder prosecution. With the Delaneys' consent, their apartment was wired with a hidden recording device and Robles visited there several times. He made several incriminating statements that were recorded. On January 26, 1965, Richard Robles was arrested and taken to the 23rd Detective Squad. His attorney was notified and was present in the police station.

There, Robles confessed to the murders of Janice Wylie and Emily Hoffert. Robles was tried in the fall of 1965 for the slayings and was convicted of two counts of murder in the first degree on December 1, 1965.⁶ The New York Court of Appeals affirmed his convictions.⁷ Robles, who had recanted his confession, protesting his innocence, began serving his twenty-five-year to life sentences. Finally, in August 1988, while in prison, he publicly acknowledged his guilt in the case in a televised interview.

George Whitmore would probably have been convicted of the twin killings were it not for the dedication, professionalism and intelligence of Melvin D. Glass. In this case not only was urban criminal justice fair, but the ultimate result made it appear fair to any objective observer. Our system of urban criminal justice is set up to be fair, however, fair outcomes are significantly dependent upon the individuals who work within the system. District attorneys have an ethical duty to seek justice and, as demonstrated by Mr. Glass in the *Robles* case, when they pursue this duty to the full extent, fairness will result.

6. The author prosecuted this case.

7. *People v. Robles*, 263 N.E.2d 304 (N.Y. 1970).

