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OP-ED COLUMNIST

Fatal Mercies

By FRANK BRUNI Published: August 10, 2013 | 150 Comments

FEW of us get anything approaching the degree of control we'd like over our lives. Must we also be denied a reasonable measure over our deaths?

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Earl Wilson/The New York Times Frank Bruni

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That's all that Joseph Yourshaw, 93, seemingly wanted: to exit on his own terms, at home, without growing any weaker, without suffering any more. And that's all that one of his daughters, Barbara Mancini, 57, was trying to help him do, according to the police report that set her criminal prosecution in motion.

She's charged, under Pennsylvania law, with aiding a suicide, a felony punishable by up to 10 years in prison. Such a sentence would be ludicrous, but so, by all appearances, is the case against her: a waste of public resources, a needless infliction of pain on a family already grieving, and a senseless prioritization of a frequently ignored (and easily ignorable) law over logic, compassion, decency.

It would have been easy for prosecutors to walk away; that sort of thing happens all the time. That it didn't happen here suggests how conflicted, inconsistent and bullheaded we Americans can be when it comes to the very private, very intimate business of dying

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and news [reports](#):

Yourshaw was receiving [hospice care](#) at his home in the small central [Pennsylvania city](#) of Pottsville. A decorated World War II veteran who had gone on to run his own contracting business, he was terminally ill, with severe diabetes, heart disease and [kidney disease](#), among other ailments. He was frail and in pain, and had indicated a yearning for an end to it all.

On Feb. 7, he sought one, swallowing an unusually large measure of his morphine in the presence of Mancini, who did nothing about it. A hospice nurse who stopped by the house afterward found him unresponsive and later said that Mancini, herself a nurse, confessed to having provided him, at his request, a vial or bottle of his painkiller that contained a potentially lethal dose.

The hospice nurse called 911. The police and paramedics arrived. Although Mancini insisted that her father did not want to be revived, he was given medical attention and brought to a local hospital, where his condition stabilized. He nonetheless died there on Feb. 11. He did not get to spend his final days in his own home or his final hours in his own bed.

The statement of the [police officer](#) who interacted with Mancini on the day of the overdose says, “She told me that her father had asked her for all his morphine so he could [commit suicide](#), and she provided it.” Mancini, through her lawyers, later denied that she was deliberately enabling him to end his life. Trying to reconcile these conflicting claims is, for now, impossible: a judge has issued a gag order for the main players in the case, which is headed to trial, barring a plea agreement or a prosecutorial change of heart.

But nowhere can I find any dispute that Mancini’s 93-year-old father was fading and hurting. Nowhere can I find any insinuation that Mancini coaxed him toward suicide. Or poured the morphine down his throat. Or did anything more than hand it to him. That’s it.

And the lightness of this alleged assist, coupled with the ambiguity of its connection to his death *after* he’d rebounded from the overdose, has not only provoked outrage from [Compassion and Choices](#), an organization that supports more options in end-of-life care.

It has also prompted befuddlement on LI

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opponent of assisted suicide scratching his head about the way the case is being handled. “It is odd to see one like this prosecuted,” Stephen Drake, the research analyst for the advocacy group [Not Dead Yet](#), told me.

He added that the case worries him, because if it gets significant publicity and informs what many people believe assisted suicide is, they’ll see it as a more benign act than he believes they should. “It’s going to make it even harder to prosecute ones that really call out to be prosecuted,” he said.

Such prosecutions are rare all in all, even though assisted suicide — under medical supervision and specific circumstances — is legal in only four states: Oregon, Washington, Montana and, as of a few months ago, [Vermont](#).

Alan Meisel, the founder and director of the Center for Bioethics and Health Law at the University of Pittsburgh, said that that’s partly because “these kinds of things usually happen in secret.”

But that’s also because when they do come to light, the police and prosecutors exercise enormous discretion, knowing that there are all kinds of gray areas in which the law is a clumsy, crude instrument; that a jury may be loath to punish a gesture of apparent mercy; and that it’s not uncommon for death to be hastened by painkillers, even in hospitals.

Did Mancini break the law? If the accounts of both the hospice nurse and the police officer are accurate, probably so, but the Pennsylvania statute that forbids assisted suicide, like similar statutes in other states, is worded broadly and says nothing about what rises to the level of assistance.

That vagueness can be a blessing, allowing the police and prosecutors to filter the law through their own good judgment and sensitivity. No such filter has been applied here, at least based on the evidence presented at a preliminary court hearing early this month.

A SPOKESMAN for the Pennsylvania attorney general’s office, which is in charge of the prosecution, declined to comment for this column, citing the gag order. So I couldn’t ask anyone there how, in an era of severely limited government resources, the dedication of time and money to this case made any sense.

I couldn’t ask anyone how, precisely, Mancini had done her father wrong. I couldn’t point out that his widow — her mother — had spoken out in defense of her before everyone involved stopped talking. I couldn’t note the different exit made recently by a terminally ill journalist in Seattle, than

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Her name was Jane Lotter, and last week, in The Times, Michael Winerip [wrote](#) this of her last moments with her family, including her husband, Bob Marts:

“On July 18, the couple and their two children gathered in the parents’ bedroom. Ms. Lotter asked to keep in her contact lenses, in case a hummingbird came to the feeder Mr. Marts had hung outside their window. The last song she heard before pouring powdered barbiturates, provided by hospice officials, into a glass of grape juice was George Gershwin’s ‘Lullaby.’ Then she hugged and kissed them all goodbye, swallowed the drink and, within minutes, lapsed into a coma and died.”

No paramedics. No arrest. No need.

A version of this op-ed appeared in print on August 11, 2013, on page SR3 of the New York edition with the headline: Fatal Mercies.

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**surgres** usa

I am a health care professional who has seen loved ones suffer firsthand, and I strongly disagree with the tone of this article. Under the guise of "control," Frank Bruni is now advocating for euthanasia. If someone is going to write about this issue, they should at least put it in the proper context.

Trained medical professionals have a number of ways of providing compassion and relieving suffering. Barbara Mancini, a nurse, knew of those options and knew her decision to provide an overdose was illegal and against the code of practicing nursing care. I'm sorry, but as a medical professional I cannot defend her action.

There is no reason to have professional standards and laws if they are not enforced.

Aug. 11, 2013 at 7:16 a.m. [REPLY](#) [RECOMMEND](#) 1



**Janna** Talkeetna Alaska/Ava Missouri

When my mother had heart surgery at the age of 81, she expressed repeated concern that if she could not regain her strength and activity level, she did not want to linger. I promised her I would help her, if need be. She died an unassisted death a few days later, ~~and thus I was not required to follow~~ through on my promise. But I would have been. And I will make should they be faced with similar

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me. Freedom to choose life sometimes must include the freedom to chose death.

Aug. 11, 2013 at 9:10 a.m. [REPLY](#) [RECOMMEND](#) 6



**Dave** North Strabane, PA

As a senior, I would like to think that I could choose the time of my death if my health failed like the 93 year old man in this column did. Unfortunately, I live in Pennsylvania and not one of those faraway states that allow a person to die with dignity. A very thoughtful piece, Mr. Bruni.

Aug. 11, 2013 at 9:12 a.m. [REPLY](#) [RECOMMEND](#) 7



**Richard M** Los Angeles

As clear a case of the separation of law and morality if ever there was one.

If the state is so concerned about protecting people--as it should be--why not have local D.A.s interview the dying and the family as a matter of course, in order to distinguish between mercy and murder? A simple review of medical records, a chat with the people seeking end of life options, someone with power of attorney or the ability to sign, and then it's family business, and only family business.

This case stinks of religious bias intruding where it has no business.

Aug. 11, 2013 at 9:15 a.m. [REPLY](#) [RECOMMEND](#) 9



**newreview** Santa Barbara, CA

As someone who works in the aging field, I have to agree with all those whose first responses were, "Why did the hospice nurse call 911?" and "What about the DNR?" I was fortunate that the 911 responders honored my mother's DNR when her non-healthcare home companion called 911.

It seems ethically wrong and inhumane for the prosecutors to put Ms. Mancini and her family through this ordeal, especially after the healthcare system ignored her father's personal wishes to die with dignity.

Aug. 11, 2013 at 9:19 a.m. [REPLY](#) [RECOMMEND](#) 7



**Bell Clement** Washington, D.C.

The fact that I am forbidden - by the State ! - to choose the time, place, and means of my own death is terrifying to me.

Aug. 11, 2013 at 9:22 a.m. [REPLY](#) [RECOMMEND](#) 7



**dc lambert** nj

This is exactly my point: Here Larry is calling for the nurse to be fired, saying she 'deserves' to lose her job. What exactly was the nurse supposed to do? She is informed that the patient was deliberately poisoned and given a lethal dosage of morphine. That people to die.' Hospices most emp handing them lethal doses of pois

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I realize you are emotional about this topic--I am too. My mother died after suffering a great deal. But saying that a low level employee deserves to lose their job is not going to solve anything, and puts the blame at the lowest level when it should be at the highest. What would have happened if the nurse had \*not\* called 911 upon hearing of the poisoning? Someone else could easily have informed on her, and she could have been fired or sued, or lost her license. Who knows.

In order to solve this problem, those at the \*highest\* level of power need to take responsibility--our lawmakers and politicians. They could pass laws legalizing these kinds of deaths, which happen all over the country in secret all the time. The laws could protect nurses and doctors and loved ones who bear witness to this or who take action in well-defined situations. But I don't see courage and leadership any time soon.

In reply to Larry Aug. 11, 2013 at 9:24 a.m. RECOMMEND 2



**karyn zoldan** tucson

Our pets get to die with more dignity than our parents. That's so not right.

Aug. 11, 2013 at 9:30 a.m. REPLY RECOMMEND 8

**Barry Reitman** Blooming Grove, NY

Need we any further proof of how religions dictate the inhumanity of certain laws? There would be no such codification of the vicious withholding of a dignified death, an end to agony, without their influence.

Aug. 11, 2013 at 9:40 a.m. REPLY RECOMMEND 4

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**Barry Reitman** Blooming Grove, NY [Not You?](#)

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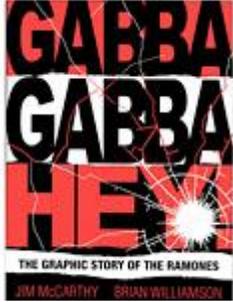
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