

Ontario Justice Education Network

Timeline of Events for the Steven Truscott Case



June 9, 1959

- During the evening, Steven Truscott gave a ride to Lynne Harper on his bicycle from their school down the main County Road to Highway 8.
- Steven was age 14 and Lynne was 12.
- Around 11:20pm, Lynne had not returned home and her father reported her missing.

June 11, 1959

- Ms. Harper's body was found near Lawson's Bush, an area located next to the County Road.
- She had been strangled and sexually assaulted.

June 12-13, 1959

- Mr. Truscott was taken into custody on Clinton Air Force base.
- An arrest warrant as signed by Mabel Gray, a Justice of the Peace.
- At approximately 2:30am on June 13th, Mr. Truscott was formally charged with the first-degree murder of Lynne Harper.

June 20, 1959

- Mr. Truscott attended Juvenile Court in Goderich, Ontario under the *Juvenile Delinquents Act* (1908).
- Magistrate Dudley Holmes considered whether the case should be heard in Juvenile Court or in an "ordinary court".
- The Crown Attorney argued that the Juvenile Court was not experienced in the legal issues raised and should not handle the case.
- Defence Counsel argued that as a youth, Mr. Truscott's interests outweighed the community interest and so Juvenile Court should hear the case.
- The Magistrate decided that Mr. Truscott should stand trial in the "ordinary court" as an adult.

July 13-14, 1959

- The preliminary hearing was held to determine if the Crown had enough evidence to proceed with the trial.
- Over two days, the court heard from 31 witnesses and was presented with 21 pieces of evidence for examination, and the Magistrate decided it should proceed to trial.

September 16-30, 1959

- Justice Robert Ferguson heard the trial in Goderich.
- Mr. Truscott plead not guilty to the charge of first degree murder.
- The Crown questioned 59 witnesses and introduced 76 pieces of evidence, including:
 - The coroner, Dr. Pennistan, testified that Ms. Harper had died between 7:00pm and 7:45pm on June 9th, 1959.
 - Time of death was determined through examination of Ms. Harper's stomach contents by placing them into a glass jar and then holding it up to a window for light. The coroner used this evidence to determine the time of death based on Ms. Harper's last known meal.
 - Eyewitness testimony and Mr. Truscott's statement established that Ms. Harper's was with Mr. Truscott that evening.
 - Another child saw Mr. Truscott cross a bridge with Ms. Harper on his bicycle and later saw Mr. Truscott cross the bridge again without her.
 - Physical examination of Mr. Truscott three days after Ms. Harper's death found two lesions on his penis. The lesions were used as evidence that he had raped Ms. Harper.
 - No one else was seen with Ms Harper that evening.
- Defence Counsel Frank Donnelly presented 15 witnesses to the court including:
 - Evidence which challenged the test of the stomach contents and disputed the time of death presented by Dr. Pennistan.
 - Accounts that Mr. Truscott had met Ms. Harper in the school yard after 7:00pm on June 9th to give her a ride to Highway 8 on his bicycle
 - Eyewitness testimony about Mr. Truscott returning across the bridge alone, which placed him far from the area of Lawson's Bush.
 - Physical evidence of Ms. Harper's body and the location where it was found indicated that she had been strangled and raped.
- The jury was sent to deliberate the trial at 10:45pm and returned at 10:55pm on September 30 1959 to deliver a guilty verdict
- The judge sentenced Mr. Truscott to death by hanging. At the time, the death penalty was a mandatory sentence for first degree murder.

November 20, 1959

- Mr. Truscott appealed his case to the Ontario Court of Appeal.
- Mr. Truscott's execution was postponed until February 1960 to provide time for the Appeal.

January 21, 1960

- The Ontario Court of Appeal unanimously dismissed Mr. Truscott's appeal.
- The Government of Canada, under Prime Minister John G. Diefenbaker, commuted (reduced) Mr. Truscott's sentence from death to life imprisonment.

February 1960

- Mr. Truscott was sent to the Penitentiary in Kingston, Ontario for assessment.
- After an assessment, he was moved to the Ontario Training School for Boys in Guelph, Ontario

February 24, 1960

- Mr. Truscott applied for a leave to appeal to the Supreme Court of Canada.
- His application was denied because the case did not raise an issue of public importance.

January 1963

- At 18, Mr. Truscott was moved from to the Collins Bay Penitentiary in Kingston, Ontario.

January 1966

- A Toronto journalist, Isabel LeBourdais, released the book The Trial of Steven Truscott, returning the case to public attention by raising questions about the trial and the conviction.

April 1966

- As a result of the renewed public debate about the case, the Government of Canada referred the case to the Supreme Court of Canada (SCC) for consideration
- The Court reviewed the trial record and a book of fresh evidence, including testimony given by Mr. Truscott.

May 1967

- Based on this evidence, eight of the nine Judges agreed that the jury's original verdict should stand. There was nothing in the new evidence to overturn the jury's decision.
- No new trial was ordered.
- Justice Hall wrote a dissent, stating that he would order a new trial based on highly prejudicial evidence, improperly admitted evidence, and incorrect directions in the Judge's charge to the jury.

October 21, 1969

- Following the Supreme Court's decision, Mr. Truscott was held for two more years at Collins Bay Penitentiary in Kingston.
- On October 21st, Mr. Truscott was released on parole with an unblemished record from his time in prison.
- Mr. Truscott relocated and started a new life under a new name.

September 1997

- Mr. Truscott agreed to have DNA testing performed as it had exonerated others who had been convicted of murder.
- Defence lawyer, James Lockyer, involved in other wrongful conviction cases, agreed to take on Mr. Truscott's case.

March 29, 2000

- After years of anonymity and silence, Mr. Truscott again asserted his innocence in a documentary on CBC's *The Fifth Estate*.
- The documentary described new evidence and suggested the original police arrest may have been done in haste.
- *Watch Online: <http://www.cbc.ca/fifth/truscott/multimedia.html>*

November 2000

- The Association in Defence of the Wrongfully Convicted (AIDWYC), a group which works to establish the innocence of wrongfully convicted individuals, began assisting Mr. Truscott in the fight to clear his name. (<http://www.aidwyc.org>)

November 2001

- Mr. Truscott applied to the federal Minister of Justice for a review of his case on the grounds that the conviction was a miscarriage of justice. This kind of application can be made under s. 686 of the Criminal Code. It is different than an appeal.

January 2002

- The Minister of Justice ordered an investigation into the matter and the Honourable Justice Fred Kaufman was appointed to review the case.
- Justice Kaufman reviewed the historical record and a substantial amount of fresh evidence including the testimony of over 20 witnesses.

April 2004

- Justice Kaufman delivered a report of over 700 pages, in which he concluded that "...there was 'clearly a reasonable basis for concluding that a miscarriage of justice...likely occurred'" (Ministry of the Attorney General. Robins Report: Advisory Opinion on the Issue of Compensation.)
- Justice Kaufman's report looked at evidence that had been collected at the time of Ms. Harper's death, including the analysis of stomach contents, the decomposition of her body, and the amount of rigor mortis (stiffening of muscles after death), which had been crucial factors in the conviction.
- Since the original trial, both stomach content analysis and the amount of rigor mortis had been found to be highly unreliable scientific evidence of time-of-death.
- Justice Kaufman recommended that the case be referred to the Ontario Court of Appeal.

October 28, 2004

- The Minister of Justice referred the case to the Ontario Court of Appeal, to determine if new evidence would alter the original conviction.

June 19, 2006

- The Ontario Court of Appeal began a three-week hearing based on the fresh evidence. The original coroner stated that Ms. Harper died between 7:00pm and 7:45pm therefore, the Crown argued that if Ms. Harper died between 7:00pm and 8:00pm that Mr. Truscott was the murderer yet if she died after 8:00pm he was not.
- The new evidence included:
 - Expert witness evidence about determining the time of death and the use of stomach contents.
 - The witnesses concluded that the time of death noted on Dr. Pennistan's autopsy was not scientifically valid:
 - Stomach contents suggested a time of death closer to the evening or night of June 9, 1959

- The stage of body, histology, and weather suggested a time of death toward the day or night of June 10, 1959
- Two previously undisclosed reports by Dr. Pennistan which indicated different times of death. These were not included in the 1959 and the 1966 Supreme Court reference.
- Testimony from a dermatologist who indicated that lesions on Mr. Truscott's penis were consistent with a pre-existing skin condition not injury.
- The court was presented with the following options:
 - Dismiss the reference.
 - Order a new trial.
 - Enter an acquittal.
 - Declaration of innocence.

January 31, 2007

- In a very rare move, the Ontario Court of Appeal allowed the admission of oral arguments into the appeal.
- Between the original trial in 1959 and the 2007 reference, many scientific advancements had been made which allowed more accurate determination of time of death.

August 28, 2007

- The Ontario Court of Appeal determined that the original verdict was a miscarriage of justice and must be quashed
- Based on the miscarriage of justice found by the court, it was determined that Steven should be acquitted
- Mr. Truscott requested a declaration of innocence, not just an acquittal.
- The court refused, not having heard any evidence that provide that Mr. Truscott could not have been the murderer.
- However, with so much time passing, there would be no chance of a conviction and so a new trial would be pointless.

March 28, 2008

- The Robins Report was completed and provided a recommendation for the amount of compensation that Mr. Truscott was to be given.
(www.aidwyc.org/library/attachment.127326)
- The Report concluded that Mr. Truscott should receive \$6.5 million dollars for his suffering since his original conviction. Mr. Truscott's wife was also provided compensation of \$100,000 for lost income.

Questions for Consideration

- 1) At two different points during Steven Truscott's legal battle, the media played an important role in bringing attention to the various issues which surrounded Mr. Truscott's original case. How much of an impact do the media have when it comes to legal issues and the court system? Should the media have more or less power and influence? How should society attempt to control or enhance the media's power over important issues in society?
- 2) Since Mr. Truscott's original trial in 1959, many scientific and medical advancements have been made for determining time of death. These revealed inconsistencies in Dr. Pennistan's methods, evidence and testimony. Based on these new advancements, should trials where stomach content and amount of rigor mortis were used as evidence be re-opened to check for wrongful convictions? Should technological advancements result in all past cases bring re-examined to reassess the evidence? What are the disadvantages of examining historical cases?
- 3) The Ontario Court of Appeal determined that Steven Truscott's original trial was a "miscarriage of justice" and acquitted Mr. Truscott of the charges. How would you define the term "miscarriage of justice"? Do you think Steven was entitled to the compensation provided to him by the Ontario government after this verdict was handed down?
- 4) Review the AIDWYC website (www.aidwyc.org) and investigate other cases of wrongful conviction. Consider the following questions:
 - a. What does the term "wrongful conviction" mean?
 - b. What are the principles that AIDWYC is based on?
 - c. What role does AIDWYC play in the Canadian legal system? Do you think it plays an important role?

Timeline Summary

In the boxes below, highlight the key points for each of Steven Truscott’s court cases, starting from his original trial and conviction to the final Ontario Court of Appeal ruling in 2007. Focus on the issues raised in each step of Steven’s legal history including evidence presented in previous court decisions.

