

New Book on Truscott Case Reveals Hidden Evidence Kept from Defence, Jurors, and Supreme Court

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"Read this book. You will be jarred by the reality of our justice system. This excellent, in-depth compilation of Steven Truscott's very disturbing case keeps you absorbed and in disbelief: Where is the justice?" –Guy Paul Morin

TORONTO (October 9, 2001)—A new book on the Steven Truscott case reveals that the Crown withheld vital information from the jury and the defence in 1959 during Canada's most famous murder trial. Much of that evidence—as well as an "agonizing reappraisal" by the chief pathologist on the time of death—was also kept from the Supreme Court of Canada when it reviewed the case in 1966.

"How, given all that was kept from the jury, could a miscarriage of justice not have occurred?" asks author **Julian Sher** in *"Until You Are Dead": Steven Truscott's Long Ride into History* (\$37.95 cloth). The book, to be published on October 10 by **Knopf Canada**, will be launched at an event at **Nicholas Hoare Bookstore, 45 Front St. East, in Toronto on October 9 at 6:00 p.m.**

Sher, the producer of the award-winning documentary on the 1959 Truscott trial for CBC-TV's *the fifth estate*, spent four years investigating the case. Combing through boxes of police files and military records that for decades had remained hidden or buried in government vaults, and tracking down witnesses, surviving police officers and doctors, Sher and research associate Theresa Burke found disturbing evidence that the police investigation and the trial were gravely flawed.

Truscott, just 14 years old, was sentenced to hang for the rape and murder of 12-year-old classmate Lynne Harper, near an air force base in Clinton, Ontario. His sentence was commuted and he served ten years in prison, always maintaining his innocence. With the help of lawyers from the Association in Defence of the Wrongly Convicted (AIDWYC), Truscott is expected to file an application to the justice minister for a review of his case sometime in November, 2001.

The revelations in this book include:

Key missing witness:

Truscott claimed he gave Harper a lift on his bicycle to a highway intersection, where she hitched a ride. The jury disregarded testimony from two boys who said they saw Truscott and Harper approach the highway well away from the bush where Lynne's body was later found. *"Until You Are Dead"* reveals there was a secret, missing witness named Karen Daum who corroborated the boys' account. The nine-year-old girl told police that Truscott and Harper had also passed her well beyond the bush. If the children were correct, Steven Truscott could not have been the murderer. But the Crown kept her signed police statement from the defence and Daum was never called to testify.

Harper's hitchhiking:

A central principle of the Crown's case was that Harper was not the kind of girl who would hitch a ride; her mother testified on the stand to that effect. But Truscott's defence lawyer—and the jurors—were not told that three separate OPP and military police reports proved beyond a doubt that her parents told police the night she vanished "it was possible she was hitchhiking to her grandmother's."

Time of death:

The Crown's single most important piece of testimony was pathologist John Penistan's insistence that his analysis of Harper's stomach contents proved the girl died shortly after supper on Tuesday, June 9, between 7:15 and 7:45 p.m.—exactly when Truscott was last seen with her. Today, modern science dismisses such precision as unreliable and irresponsible. But the new book also suggests there are strong indications that Penistan doctored his evidence to help the police and the prosecution.

"Until You Are Dead" reveals that, according to police notes taken as Penistan completed his autopsy on June 11, the day Harper's body was found, he did not fix any precise time of death. A police bulletin issued that same evening, handwritten by OPP Inspector Harold Graham, first estimated the time of death at 9 p.m.—when Truscott was safe at home—and not around 7 p.m. Only weeks later, on the eve of court proceedings, did Penistan appear to adjust the time of death. Graham also testified in court that he had Truscott taken into custody largely because of a report he received by phone from the provincial laboratory confirming Lynne died "not more than two hours" after eating supper around 5:30 p.m. But the prosecution never entered a written copy of that crucial laboratory report into evidence. Only one page long, it never said a word about time of death. Jurors never saw that lab report, the police notebooks from the night of the autopsy or Graham's bulletin on the time of death.

The pathologist's "agonizing reappraisal":

In May of 1966, Dr. John Penistan wrote to Harold Graham—by now assistant commissioner of the OPP on his way to becoming the head of the force—to advise him of an "agonizing reappraisal" of his own medical evidence. In a draft article for a scientific journal, the pathologist who had pinpointed Harper's death to within a half an hour now concluded that his findings were "not incompatible with death a day previously or a day later."

Penistan's startling reversal of his trial testimony came as the Supreme Court of Canada began a controversial hearing into Truscott's case in late 1966. By 1967, the court upheld Truscott's guilty verdict based largely on the medical evidence. But prosecutors kept Penistan's views from the nine Supreme Court justices and never called on Penistan to testify.

Other suspects:

Police never seriously looked at other potential suspects in the case. *The fifth estate* documentary revealed the ominous presence of Alexander Kalichuk in the area. The book reveals more information about Sgt. Kalichuk, a "sexual deviant" according to secret air force reports, who lived near Clinton and was arrested for attempting to lure a young girl into his car less than three weeks before Harper's murder. The book also identifies other suspects police overlooked: among them a lifeguard at the air base who sexually abused his young daughters and a convicted rapist who knew Lynne Harper's father. Today, the OPP insists there were no errors in the case. But in a curious twist, Jim Wilson, the detective inspector in charge of the Truscott file says in an interview in the book that there are "ten to fifteen persons of interest" the police have looked at recently besides Truscott since the renewed controversy over his case. Some of whom, he says, the police cannot rule out as "capable of committing the murder."

The psychiatrists:

"Until You Are Dead" traces Truscott's 10-year battle behind bars with psychiatrists who insisted the boy exhibited "paranoid and moderate psychopathic tendencies" because he steadfastly maintained his innocence. They drugged him with LSD and truth serum hoping to secure a confession, but confidential reports from outside psychiatrists eventually determined there was no "evidence of sickness."

Life outside:

The book explores for the first time Steve Truscott's personal battle once released from prison to raise a family in safety and privacy. He is now the father of three children and three grandchildren. *"Until You Are Dead"* also takes readers inside the planning sessions of his lawyers as they prepare to launch a final appeal to the justice minister on his behalf this fall.

Julian Sher will be promoting *"Until You Are Dead"* on an extensive promotion tour across Canada this fall. **Beginning on Tuesday, October 9 at 6:30 a.m. EST**, Mr. Sher will be available for telephone interviews and in studio interviews.

For further information on author **Julian Sher** and *"Until You Are Dead": Steven Truscott's Long Ride into History*, please contact the following:

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