

Law in Action
CD Pack: CD2
Truscott: The Children's Hour

Note: This program contains some sexually explicit material. Teachers should review it and use their discretion before playing for the class.

This CD contains an enactment of events surrounding the Steven Truscott trial from *The Scales of Justice* series with commentary by Edward L. Greenspan, a prominent Canadian lawyer. The program, which begins with a conversation between Steven Truscott and Lynn Harper on the evening of June 9, 1959, includes a depiction of the events leading to the discovery of Harper's body, the arrest of Truscott, and his subsequent trial and conviction. At intervals throughout the program, Mr. Greenspan refers to specific procedures and points of law that will give students insight into the justice system and the social values of that time.

Teaching Suggestions

Chapter 12 Criminal Law and Young People traces changes in the law regarding the treatment of young people accused of committing crimes. Steven Truscott's trial and conviction in 1959 is the focus of the Law in the Extreme on page 310 of the text. The audio program on CD2 is an excellent vehicle for illustrating the differences between the *Juvenile Delinquents Act*, the legislation at that time, and the *Youth Criminal Justice Act* of today. As a culminating activity for the chapter, encourage students to make notes of some of the differences as they listen to the program, for later classroom discussion.

The program is also a useful vehicle for reviewing the Criminal Law unit, since it contains material that relates to information in most chapters. The following are a number of ways the audio program might be used:

1. In Chapter 6, students were introduced to the idea that the *Criminal Code* is meant to reflect the social values of the majority of Canadians and that it is amended to reflect changes in those values. Challenge students to identify ways the *Criminal Code* had been amended since 1959.

Examples

- Steven Truscott was tried by an all-male jury. The *Criminal Code* was changed in 1972 to make it against the law to disqualify a person from jury duty because of gender.
 - The *Criminal Code* has been altered to provide for non-publication of evidence at the Preliminary stage and to provide legal assistance to those who require it to provide a proper defence.
 - In 1976, the death penalty was abolished for *Criminal Code* offences.
2. Engage students in discussion regarding the investigation procedures and the collection of forensic evidence in 1959. Challenge them to describe how such an investigation would be conducted today. (Chapter 8)

Examples

- Boundaries would be established to protect and preserve the centre and perimeter of the crime scene.
- Improvements in forensic science might point to other possible suspects.
- DNA testing, which was not discovered until 1984, might eliminate Truscott as a suspect.

3. Have students describe how arrest procedures today would differ from those employed in 1959. (Chapters 8 and 12)

Examples

- Truscott would now have a right to legal representation during questioning.
- A warrant would be required to search his person.
- Truscott's identity could not be published.

4. The trial segment of the program contains many of the topics discussed in Chapter 7. Challenge students to provide examples of such concepts as direct evidence, opinion statement, and *voir dire*.

Examples

- Direct evidence: Testimony of children, such as Douglas Oats and Gordon Logan, who supported Truscott's story that he had given Harper a lift on his bicycle to the highway and left her there.
- Opinion statement: Testimony of Dr. Penistan, the examining doctor, and Dr. Brown, the specialist in internal medicine regarding the lesions on Truscott's penis and the time of death based on the autopsy results.
- *Voir dire*: A *voir dire* was held to determine whether the doctor's conversation with Steven, in which he disclosed that the sores had been on his penis for four or five weeks and that he had broken the skin while masturbating, was admissible evidence.

5. There were several trial irregularities on which the Defence could base an appeal. Discuss these as a class. (Chapter 7)

Examples

- The Crown's prejudicial remarks in his opening statement, regarding Truscott's statement to police. Although the judge threatened to discharge the jury should the statement not be admitted into evidence, he failed to declare a mistrial when the statement was not admitted.
- The Crown's inflammatory closing arguments that included innuendo and speculation, unsupported by evidence, regarding Truscott's intent on the evening on June 9, 1959.
- The judge's charge to the jury in which he suggested that Truscott may have brought Harper back across the bridge, thereby implying the Defence's witnesses had no credence.

6. Have students conduct more research and prepare a position paper on whether or not Steven Truscott's application for exoneration made on November 29, 2001,

should be granted. An excellent source of information is the *fifth estate* web site at www.cbc.ca/fifth/truscott/index.html, which contains testimony and first-hand evidence regarding topics such as:

- controversy over the time of death
- Doctor Penistan's report on Truscott's alleged injuries
- footprints and bicycle tire marks
- Gord Logan and Jocelyn Gaudet's stories
- files on Kalichuk, a senior air force officer at the base and a sexual predator under psychiatric care