



# [FRAMED?]

Halfway through George Pitt's life sentence for the rape and murder of a young girl, the book on the New Brunswick man's case appeared to be closed. It wasn't until a growing legion of supporters got involved — and won a new round of DNA testing — that he began to look more and more like an innocent man

BY CHRISTOPHER SHULGAN PHOTOGRAPHS BY LORNE BRIDGMAN

**T**HE WORD IN SAINT JOHN, NEW BRUNSWICK, IS that the struggling neighbourhood of Indiantown has improved in recent years. But here on the east shore of the Saint John River, rusty cars still border city blocks. The area's three- and four-storey clapboard apartment buildings still shed their paint like so much architectural eczema. And the residents continue to react to visitors with a certain expression: hostility inflected with fear and distrust.

In Indiantown, the welfare culture remains so entrenched that some local bars order extra alcohol before the beginning of

each month, when the assistance cheques arrive. Things weren't much different almost thirteen years ago, when, on October 2, 1993, an Indiantown mother named Gloria Toole discovered that her six-year-old daughter, Samantha, had gone missing.

The night before, a Friday, had been a big one for Toole, a twenty-seven-year-old hourly labourer who ran a bush saw for a land-clearing crew. She and her boyfriend of three months, twenty-eight-year-old George Pitt, had moved the month before to a new apartment that overlooked the Saint John River. Friends from their old building, just three blocks away, were having a party, so when Pitt received his welfare cheque that morning, he paid Toole his share of the rent and then kicked in for a case of Moosehead Dry so they could have some Friday-night fun.

---

George Pitt, photographed in his cell this past January, is serving a life sentence at the Atlantic Institution, a maximum-security facility in New Brunswick.

Toole made arrangements to have Samantha and her fourteen-month-old sister, Ruthie, watched by her regular sitter and a friend, both adolescent girls, one fifteen, the other sixteen. The teenagers knew Samantha well; one of them used to live next door to Toole's previous apartment. After the first of the sitters arrived at about 6:30 p.m., Toole walked over to the party, no more than four minutes away. There, Pitt and several others were well into the beer.

Back home, the first sitter to arrive put the two girls to bed between 8 and 9 p.m.; two teenaged boys showed up around 9 p.m., followed shortly after by the other sitter. The sitters ended up passing out on the couch after drinking a couple of mickeys of hard liquor. The next time anyone checked on Samantha or her sister was just after 10 a.m. the next morning, when the two sitters were roused by Ruthie's crying. While changing Ruthie's diaper, they saw that Samantha's bed was neatly made, but the little girl wasn't in the apartment.

Neither teen worried. One of the sitters had seen George Pitt clomping around the apartment after he woke up, just before 10 a.m., a few minutes before Ruthie had started to cry, and the two sitters figured Pitt had taken Samantha with him. So no one worried about little Samantha for more than an hour, in fact, until Toole woke up just before noon on Saturday morning, after the sitters had left. Once she discovered Samantha was gone, Toole called the old apartment, where Pitt had returned and was well into another day's drinking. Samantha wasn't with him, nor, Toole discovered, was the girl with the sitters.

Toole's daughter had wandered away from the apartment in the past, but never in the

had no babysitter, no doubt," the car-unit officer replied. Later, police found more amusement in the fact that Toole didn't know what the daughter was wearing when she disappeared. "I didn't think it was that serious because the mother didn't really care," the officer said soon after Toole's second attempt to summon police; he had finished a report on a shoplifting incident rather than responding to Toole's pleas.

After her fourth call, the police dispatch realized the situation might actually be serious. By half past three, an officer finally met Toole at her apartment at 155 Bridge Street to take the missing-child report. Soon afterwards, he alerted all units, two hours and forty-seven minutes after Toole first called 911.

At sunset, a fisherman found Samantha, cold and close to death, on a tidal flat behind the house where she lived. She was wearing a nightie and socks and laying on her back. Her arms were extended straight out from her body, as though she had been hugging something, or reaching out. Police noticed trauma around her genitalia; later, a forensic pathologist discovered the girl's vaginal canal had been perforated – by a penis, possibly, or some other object, like a broom handle. She had also been choked. Her wrist was broken. Both eyes were bruised. Swelling on the right side of her face indicated a serious head injury.

In a last-ditch effort to save Samantha's life, the doctors at the hospital she was rushed to attempted to raise her body temperature with warm fluids that were injected intravenously, but it was too late. Ninety-nine minutes after she was found, a hospital doctor declared six-year-old Samantha Toole dead. According to the pathologist who performed an autopsy the next day, the sexual assault and

one of the most horrific crimes imaginable, the rape and murder of a six-year-old girl. The local press was fixated on his character: "Pitt yawns as murder charge laid" ran one headline. And according to police records, Pitt wasn't exactly squeaky clean. He'd had a long history of run-ins with the law, including a couple of assault convictions in the early 1990s.

So when Pitt's murder trial began on June 7, 1994, the Crown didn't bother trying to establish a motive; with Pitt's record and history, they could be forgiven for thinking they might not need one. Instead, the Crown's case revolved around a comforter Pitt had been washing when Samantha's mother, Gloria Toole, returned home at 4 a.m. early Saturday morning.

The night Samantha disappeared, the front and back entrances of Toole and Pitt's apartment were essentially revolving doors. The babysitters' two adolescent male friends came and went. Before she finally settled in at home for the night, at 4 a.m., Toole herself returned home twice, once with a friend of Pitt's, Steve Miller; during that first visit, just after 9 p.m., Toole – playing the role of the cool aunt – arranged to have a taxi bring the two teenage babysitters a mickey of rum, because they wanted to keep up with the boys, who had their own bottle. After drinking at a local bar, she stopped at home again around 1 a.m., intending to go to bed, then changing her mind after a friend's phone call.

As Toole was tying her shoelaces to go and visit some friends near her old place for one last drink, Pitt arrived home at about 1:25 a.m. The two bickered for a bit because Toole felt Pitt had ignored her that night, a feeling Pitt reciprocated, and Toole left at 1:30 a.m. At that point, one of the babysitters was passed out on the living-room couch. Pitt spoke pleasantly with the other babysitter until 1:55 a.m. while he fried hamburgers on the stove. The sitter excused herself to talk on the phone in the living room, and Pitt took his hamburgers into the master bedroom.

Around that time, Pitt says, Steve Miller showed up with four beers. Because one of the sitters was sleeping on the couch in the living room, Pitt and Miller sat on the mattress in the master bedroom. At some point, Pitt says, he and Miller passed out, spilling a small quantity of beer on the comforter. Pitt says Miller bugged him until he agreed to wash the blanket, and that's why Pitt was standing in his blue housecoat waiting by the washer for the spin cycle to finish when Toole arrived home at 4 a.m. Pitt and Toole then had sex on their bed and went to sleep.

the head injury had endangered the little girl's life, but the official cause of death was drowning. The pathologist couldn't be specific about the time of death; the incident, he said, could have happened anytime after Samantha was last seen alive, when she went to bed at 9 p.m. the evening before.

IN A SMALL CITY OF 126,000 PEOPLE, A place where murders are relatively rare, Gloria Toole's boyfriend, George Pitt, was tried for

## WHEN PITT'S TRIAL BEGAN IN JUNE 1994, THE CROWN DIDN'T BOTHER TRYING TO ESTABLISH A MOTIVE. WITH HIS POLICE RECORD AND HISTORY, THEY DIDN'T THINK THEY NEEDED ONE

morning. Worried, Toole called the police at 12:48 p.m. She called again at 1:46 p.m., and 2:03 p.m. and finally, at 3:21 p.m., in a panic, asking the police to come immediately – and to bring the search dogs.

Transcripts of the calls between dispatch and motor units display a callous apathy to Toole's plight. One dispatcher joked about how "fucking typical" it was that an Indiantown mother would call in so late after not seeing her daughter since the night before. "I bet she



Pitt and Gloria Toole rented the third-floor apartment of this Indiantown dwelling, from which six-year-old Samantha Toole disappeared before being found dead.

Presumably, Miller had left by that time. Miller testified that he was so drunk he blacked out most of the night and doesn't remember ever being at the Toole house, either early in the evening, at 9:30 p.m., when many witnesses corroborate his visit with Toole, or later in the evening, when the only witness to his presence is George Pitt. Regardless, Miller wasn't around the next morning, when Pitt was the first adult to wake up, just before 10 a.m.

Pitt didn't testify at his own trial, in part because his lawyer believed the Crown's case was too flimsy to result in a conviction. Key evidence cited at the trial included DNA analysis of a centimetre-square spot of Samantha's blood on the comforter; police also

found on the comforter plant material similar to vegetation that grew near the tidal flat where Samantha's body was found. Most dramatically, on the day after the trial judge's opening statements, and eight months after the crime happened, a new witness emerged to say she had seen Pitt with wet pants walking around the area where Samantha's body was found at 9:30 a.m. the morning Samantha went missing.

As a result, the Crown's argument went like this: Pitt went into Samantha and Ruthie's room sometime after 2:30 a.m. on the morning of October 2, assaulted and raped Samantha, choked her into unconsciousness, wrapped her in a comforter, and then exited the apartment through the back door. He proceeded to climb down a fifty-foot cliff with Samantha's body, walk the short distance to the shores of the Saint John River, and throw Samantha's body into the water. After that, Pitt rushed

back to the apartment with the comforter, allowing him to get the blanket to the spin cycle by the time Samantha's mother returned home at 4 a.m.

"Everything is bound around the comforter," Crown counsel James McAvity said during his closing arguments at the trial in 1994. "The DNA binds it, wraps tightly . . . just like a coil of rope going around and around and around so that there's no . . . possible inference to be drawn other than George Pitt is the person that's responsible."

After a three-week trial and eight hours of deliberation, the jury found Pitt guilty of first-degree murder. The trial judge sentenced Pitt to life in prison without possibility of parole for twenty-five years. To this day, Pitt denies any involvement in the murder.

LAST DECEMBER, JUST A WEEK BEFORE Christmas, I visited the Atlantic Institution, a maximum-security prison set on 1,800 acres in the coniferous wilderness of the Miramichi River valley, a three-and-a-half-hour drive north of Saint John. What everyone refers to as "Renous," after the closest village, houses 216 inmates that are considered the most dangerous in the Maritimes – sex offenders, violent recidivists, homicidal escape risks. But the prison areas I witnessed felt more like a high-security school, with cinder-block walls in primary colours and ornately beautiful barriers of steel ribbons woven together in a pattern to disguise their impermeability.

The intense security – metal detectors, slow-moving metal gates, distress buttons – seemed a bit wasted on George Pitt, who I met in a windowless boardroom that sometimes doubles as an interview room for media. At no more than five-foot-four, he's forty-one now, with a belly, no discernible biceps, and thick wavy-brown hair that matches his neatly trimmed moustache. Otherwise clean-shaven, Pitt was clothed in comfort wear – sneakers, black nylon windbreaker pants, and a dark hooded sweatshirt.

He shook my hand with a loose grip. The assistant warden sat on the boardroom's other side to give us some privacy, and immediately Pitt began discussing the recently uncovered DNA evidence that he hopes will exonerate him from his 1994 conviction for the first-degree murder of Samantha Toole. These key exhibits were sent to a lab for testing in June, he explained, and he was told to expect the results in four to six weeks. Half a year later he was still waiting. Speaking in a low but clear voice, he confessed that he thought he'd be home for Christmas.

George Pitt was born in Saint John, New Brunswick, in 1964 to a former Canadian Air Force private, Ron Pitt, and his wife, Elizabeth, who were then both unemployed and struggling to support their five children. Ron disappeared for weeks at a time on drinking binges. When the patriarch was around, George was often physically abused. After a fire destroyed their home when George was ten, the Pitt family broke up. The three youngest children, including George, lived in an orphanage for a year. Truancy problems sent George to a juvenile detention centre when he was eleven, where he was abused by a guard. (Years later, the guard, Karl Toft, now known as the Maritimes' most notorious pedophile, would be convicted of sexual abuse and serve his time in Renous, a few cell blocks away from Pitt.)

Pitt was convicted of assault causing bodily harm in 1990 after an alcohol-fueled encounter with a woman over a debt allegedly incurred by the victim's boyfriend. In mid-1992, less than a year after Pitt had been released on parole after five months behind bars, he got into another scuffle with a woman. This time, Pitt was upset with his then-wife, Melissa, over rumours he'd heard that she was cheating on him with a guy named John. The two reconciled, but in the throes of post-make-up passion, Melissa screamed out John's name. Pitt didn't take it well.

Charles Wilcox, one of the many police officers in Saint John who Pitt had come to know and, in his spare time, nickname – Wilcox was “Humpty Dumpty” – happened to be in the car that responded to Melissa's 911 call, which landed Pitt another assault charge. Pitt soon left his wife and was handed a suspended sentence plus two years of probation.

By the summer of 1993, though, things were turning around for George Pitt. He fell in

## A LOCAL REPORTER PROMISED TO LOOK INTO PITT'S CASE BUT SAID HE WOULD KILL PITT IF HIS INVESTIGATION PROVED THE CONVICT'S PLEAS OF INNOCENCE WERE A LIE

love and moved in with Gloria Toole, and both felt the relationship was working. She later told police that Pitt made her feel beautiful – buying her flowers for no reason, drawing her bath at the end of the day. He talked about adopting her children, Samantha and baby Ruthie. After a couple of months together, they moved from the place Toole shared with a roommate to their own two-bedroom apartment on the third floor of 155 Bridge Street.



And then, after a month in their new home came Samantha's disappearance.

Barred from drinking alcohol because he was still on probation from the 1992 assault against his wife, and conscious that he was committing welfare fraud because he was collecting government assistance at his old residence while living with Toole, Pitt avoided his apartment as soon as the police began looking for Samantha. It didn't help. About two hours after the fisherman found her body, police were filing documents that listed Pitt as their main suspect in Samantha's murder. The investigating officer was none other than Pitt's long-time nemesis, Constable Charles Wilcox.

Having heard that the police wanted him for questioning, and ever distrustful of authority, Pitt hid out in a vacant apartment for three days before the police finally captured him at 4

a.m. the following Tuesday, during a rainstorm in a phone booth outside a Tim Hortons. The local newspaper splashed a large photo across its front page that day; with his rain-soaked curls and a furtive look in his eyes, Pitt resembled just the sort of man who might have been capable of Samantha's murder.

BEFORE VISITING GEORGE PITT IN RENOUS, I drove to Indiantown to visit the crime scene

Elizabeth Pitt, George's mother, with newspaper clippings about Pitt's requests for further forensic testing in his case

at 155 Bridge Street, a wood-sided three-storey structure painted yellow with white trim. The building still had all the hallmarks of apathetic tenants. The front door was a few inches ajar to reveal waste paper strewn about the entrance. The unswept steps were beaten up from decades of wear and covered in a layer of antique street grit. Apartment five, where Pitt and Toole lived, was up on the third floor. I climbed two flights of creaky wooden steps to attempt to convince the current tenant to let me have a look inside.

My knocks resonated throughout the building. Standing, hoping for a response, I could hear each word of a daytime infomercial playing from the front apartment on the floor below. The walls were thin; the floor vibrated with each step. After two more sets of knocks I tried the downstairs apartment, where a TV blared. No one answered, but I could hear someone approaching the front door who then stood still on the other side. For the first time, I understood how difficult it would be to commit rape and murder in a building this flimsy while two babysitters slept on a couch, a single, cardboard-thin wall away.

A litany of other factors make the Crown's theory implausible. Between Toole and Pitt's apartment and the shores of the Saint John River there's a steep bedrock ridge. Sober and unencumbered, it took me about ten minutes to climb to its bottom; I fell several times.

Believing the Crown's theory also requires you to accept some incredibly risky behaviour



on Pitt's part. For instance, when Toole left the apartment shortly after 1 a.m., she told Pitt she'd return “in a bit.” The still-awake babysitter corroborated Pitt's story that he cooked hamburgers for another half-hour. After talking on the phone, the babysitter fell asleep at about 2:30 a.m. That leaves only an hour before Pitt must have placed the comforter in the washing machine in order to get the cycle to spin by the time Toole returned at 4 a.m.

It's important to remember that just before that hour-long opportunity, Pitt had been engaged in a cordial conversation with the fifteen-year-old babysitter. According to the Crown's account of what happened, once the intoxicated Pitt finished his burgers, he would have had to creep into the children's bedroom without waking the baby. The Crown doesn't really specify where they think the assault took place – in Samantha's room while the baby slept, perhaps, or in the master bedroom, just down the hall from the sleeping babysitters. There's even the possibility Pitt could have done it outside. Whatever the location, whoever assaulted Samantha left her with “severely traumatized” genitals. All this, without either of the babysitters or any of the neighbours hearing the little girl's cries.

At some point, likely once the assault was over, Pitt would have had to gather up Samantha's body, tote her down the apartment building's back steps, then descend the fifty-foot ridge, where the Crown's theory has him throwing Samantha's body into the river. The comforter had to be back in the apartment and into the washing machine by about 3:30 a.m., so that the washing machine would be



in its spin cycle by the time Gloria Toole returned home. That leaves Pitt with about an hour to sexually assault the six-year-old, brutally and in several ways, traverse a hazardous and harrowing route to drown her, and then figure out he needed to wash the comforter.

And recall, the witnesses who bookend this hour – Toole and one of the babysitters – report that Pitt wasn't acting erratically or behaving as though anything was amiss during all that time. In fact, immediately after the Crown says Pitt had sexually assaulted the daughter, Toole and Pitt both say they reconciled over their earlier argument with a round of makeup sex. Pitt slept in the next morning until 10 a.m., and left the apartment after telling Toole he was going back to the old place to drink some more beer.

Even if one accepts that Pitt had time to carry out the crime – and that's doubtful – other elements of the Crown's case have serious problems. To start, there's the lack of motive. Pitt was sometimes left alone with Samantha while Toole was at work; if he harboured a sexual desire for the child – and Pitt, who maintained cordial relations with the four sons he'd fathered with his wife Melissa and a previous common-law girlfriend, had no such history – why would he choose such a risky time to consummate it? The apartment was full of people. Toole was due home any second.

Then there's the blood on the comforter. Considering the amount of trauma the police observed to Samantha's genitals, shouldn't they have found more blood? Samantha was also a normal six-year-old; she cut her lip in the days before she disappeared. She also

Left: The fifty-foot cliff Pitt allegedly carried Samatha Toole down before dumping her in the Saint John River. Right: The bay where the young girl's body was discovered

skinned her knee – either of which could explain the blood spot. It's conceivable that the vegetation on the comforter could have also come from Toole's job clearing bush.

None of the other tenants in the building heard anyone go down the back steps, which is significant because Pitt would have used that exit if he wanted to get Samantha's body out of the apartment without alerting the sitters in the living room, by the front door. And the eyewitness who placed Pitt at the water's edge with wet pants on Saturday morning contradicts the considerably more reliable evidence of Toole and the babysitters.

PITT SUPPORTERS – AND THERE ARE MANY – have several different theories about what could have happened to Samantha. Two are particularly interesting. During the trial, a friend of Toole's, Carol Ann Fisher, testified that when she spoke with Toole two weeks after the disappearance, Toole had told Fisher that she actually had checked on the girls at 4 a.m. that morning, and at the time, Samantha had been sleeping peacefully. According to Fisher, Toole also said she put a blanket on Samantha. The evidence raises the possibility that no one heard anything in the apartment because the sexual assault didn't happen there.

It seems strange that baby Ruthie didn't wake until 10 a.m. – an unusually late rising for such a young infant. But perhaps the infant did wake earlier; perhaps Samantha quieted

her down the first time, and then, bored, wandered out of the apartment and the building earlier in the morning, when she was abducted by a pedophile. After all, when the babysitters first entered the room they said Samantha's bed had been made. And soon after police began looking for Samantha, another young girl in the neighbourhood told police she saw Samantha alive that morning and walking toward a local park. The police also noted that Samantha's socks were dirty when they found her, as though she had been walking outside.

Another theory presented itself in the days leading up to Pitt's appeal hearing. In April 1996, two days before the court of appeal was to consider the case, Pitt's appellate lawyer, Gary Miller (no relation to Pitt's onetime friend, Steve Miller), heard that a new witness had come forward, one whose emergence would strengthen his client's defence. Witnesses frequently emerge long after a trial, and their evidence often turns out to have no import on the case. But Gary Miller was excited about this new evidence because of the person who was bringing it forward: one of the most experienced veterans of the Saint John police force, a man whose investigative powers were so respected he would eventually serve as the force's chief of police for seven years, from 1997 until his retirement in 2004.

Clarence "Butch" Cogswell began with the Saint John police in 1962, and over the years he proved himself an admired and widely liked police officer. "He was always the good cop," recalls Pitt's first lawyer, Henrik Tønning. Cogswell was foremost among the Saint John cops who liked to volunteer each summer at a charity camp for disadvantaged kids that he founded, and it was during one of these idyllic vacations that Cogswell first met George Pitt. Then only eleven, Pitt was already a troubled youth, with truancy problems at school, but the young boy bonded with Cogswell. "He was the only authority figure I ever trusted," Pitt recalls. After several summers at the camp, Pitt quit going, but he kept in touch with Cogswell, relying on the police officer for advice, or to extricate him from the occasional scrape.

By the mid-'90s, Cogswell was one of the Saint John police force's highest-ranking officers. Despite his senior position in the organization that conducted the investigation, Cogswell's actions indicate that he had doubts about the case. Two months after Pitt's conviction, Cogswell told Pitt's penitentiary case manager he suspected someone else to be guilty of the murder. Further, police records show Steve Miller and Gloria Toole were



In the yard at the Atlantic Institution, where Pitt remains a convicted murderer, ineligible for parole until 2019

tailed several weeks after Pitt was captured in 1993, and Pitt has always figured it was Cogswell who was responsible for that round of surveillance. (The surveillance didn't turn up anything.)

But Cogswell's biggest gambit for Pitt took place in April 1996, days prior to Pitt's scheduled appeal hearing. By that point the officer had risen to deputy chief but was in the midst of what turned out to be a short-lived retirement. Cogswell took the extraordinary step of orchestrating an interview with Georgina Kincaide, Steve Miller's ex-girlfriend. In an affidavit sworn on April 17, 1996, Kincaide claimed that Miller had told her he was going to look for Samantha several hours before anyone knew the little girl was missing. Kincaide also claimed in her affidavit that Steve Miller had said he was going away to prison.

Gary Miller and Pitt's first lawyer, Henrik Tønning, both hoped Kincaide's statement would be enough to lead to a new trial for Pitt. But a week later, after news of the fresh evidence hit the local media, Kincaide recanted her story. Kincaide now claimed she hadn't spoken to Steve Miller that day, only to his mother; she also accused Gary Miller, the lawyer, of coercing the statement from her. Because she recanted, the appeals court unanimously voted not to accept the affidavit as evidence.

After hearing Gary Miller's arguments in June 1996, the New Brunswick Court of Appeal decided to dismiss the case two months later. Pitt almost immediately appealed to the

Supreme Court of Canada, which declined to hear the case in February 1997, leaving Pitt in Renous to serve a sentence likely to last the rest of his life.

GARY DIMMOCK IS A THROWBACK TO hard-bitten, fast-typing crime reporters of yore, a scoop-hungry digger who knew of the George Pitt case because he spent much of the '90s working at the New Brunswick *Telegraph-Journal*. One day in 1996, Dimmock was visiting a Renous prisoner on an unrelated story when the interview subject handed him a crumpled paper ball. "Don't look at it until you get outside," the prisoner told Dimmock.

The note was from Pitt. Written in blue ink with block letters, it read, "Hi my name is George. If you want proof that I didn't kill that six-year-old girl, find a report from the St. [sic] John Police Department that says they are still investigating the case."

The note was enough to pique Dimmock's interest. "Had George just come out and said he was innocent, the note probably wouldn't have meant that much," Dimmock told me. "What intrigued me was the way George pointed to other evidence, independent evidence, that suggested he didn't commit the murder."

Dimmock met with Pitt at Renous shortly after receiving the note. "If it turns out that you did kill this little girl, George, I'm going to kill you," Dimmock told him while the men were on opposite sides of a glass barrier in a visitor's booth. "But if it turns out you didn't, and one of these days you get out, I'm going to take you fishing."

"Well, then," Pitt replied, "one of these days, we're going fishing."

Dimmock's investigations led him to believe that the case against Pitt was flawed, and that it should be heard once again by the courts. The reporter promised the convict that he'd write about his plight until he received a fair trial. True to his word, Dimmock has continued to investigate; he's returned to Renous several times over the years and spent dozens of hours on the phone with Pitt, even after he moved away from New Brunswick in 1998 to work at the *Ottawa Citizen*. And while Dimmock didn't find anything back in 1996 to suggest the police were still investigating the case officially, the reporter's persistent digging has turned up some potentially case-altering elements, including four hairs found on Samantha's body that never underwent DNA testing.

In 2004, Pitt's case attracted the attention of a Newfoundland criminal defence lawyer named Jerome Kennedy, one of a handful of Canadian barristers – others include Toronto's

James Lockyer and Manitoba's Hersh Wolch – with a history of successfully proving wrongful convictions. Some of Kennedy's triumphs have been particularly notable for their injustice: the 1997 freeing of fellow Newfoundlander Ronald Dalton, for instance, who spent nearly nine years in prison after the 1988 death of his wife because the investigating forensic pathologist incorrectly decided Dalton's wife had died after having been assaulted; two other pathologists later concluded her death was the result of having accidentally choked on some food. Kennedy also helped another Newfoundlander, bodybuilder Greg Parsons, who was convicted of the 1991 stabbing murder of his mother, thanks to such circumstantial evidence as his punk band's recording of a song called "Kill Your Parents." Later, DNA evidence found under his mother's fingernail eventually implicated a childhood friend turned petty thief, Brian Joseph Doyle, who pleaded guilty to second-degree murder in 2002.

Kennedy and his legal team turned up more evidence that was, in their opinion, crying out to be tested using more advanced methods of DNA analysis, including vaginal and anal swabs taken from Samantha's body during the investigation, as well as her nightie, and material from a brownish-red smear with a fingerprint in it that the police had found on a door frame inside 155 Bridge Street. Last June, Kennedy's appeals, possibly combined with the bad publicity triggered by Dimmock's stories, convinced the New Brunswick government to send the untested exhibits to a crime lab for analysis. Back home in Saint John, seventy-two-year-old Elizabeth Pitt, George's mother, began wondering whether she might allow herself to hope her son might be free in her lifetime. "It's hard to go up to Renous and know you have to leave without him," she says. "He calls me every weekend. He has grandchildren he's never seen. And after the DNA evidence went out, I started to think maybe he'd be home for Christmas dinner."

Unfortunately, this case would prove more complicated. During the past decade, DNA analysis has been the sledgehammer many wrongfully convicted prisoners have used to extricate themselves from their cinder-block cells. We've become accustomed to hearing about the activists who have sifted through court transcripts and delved into dusty evidence bins to discover the speck of blood or drop of semen that proves the innocence of the penitentiary inmate. The illusion of certainty is bolstered by police procedural franchises on television, such as *Law & Order* and *CSI*, which depict a world in which even the thorniest

crime-related conundrum can be solved before the drama's forty-eight-minute run time has elapsed.

In George Pitt's true-life case, when reports from the latest round of DNA analysis began trickling from the lab this December, each result was inconclusive. The four strands of hair found on Samantha's body were either Samantha's or her mother's. Analysis didn't discover any foreign DNA – George Pitt's or anyone else's – on the nightdress, or the swabs taken from Samantha's anus and vagina. Finally, the brownish-red material found on a doorjamb at 155 Bridge Street turned out not to be blood.

Meanwhile, the fight to free George Pitt continues. His lawyer, Jerome Kennedy, plans to meet with New Brunswick justice officials to argue for another round of testing on the blood-stained comforter that formed the Pitt trial's most incriminating evidence. Kennedy hopes this testing will result in the discovery of some foreign DNA – blood or any other bodily fluid from someone other than Pitt or the Toole females. Still, Kennedy acknowledges that conclusive evidence may never be found to prove who killed six-year-old Samantha Toole.

Most others with any involvement in the case have moved on. Today, Gloria Toole works at a Swiss Chalet and lives with her daughter, Ruthie, now in her mid-teens, on the ground floor of a four-floor clapboard apartment building on the opposite side of town from the crime scene.

"I don't think about those times at all," she told me over the phone recently. Then she reconsidered. "Wait. I do. I think about my little girl. I have lots of thoughts about my little girl. But I don't have thoughts about George."

Pitt still keeps former police chief Butch Cogswell informed by telephone when there's progress in his case. Geography likely prevents Cogswell from ever forgetting the case anyway. The chief's home is a two-minute walk from the apartment building where Toole and Pitt lived at the time of the murder. From the second floor of his brick and vinyl-siding home, the chief can see the bay where Samantha Toole's body was found.

Pitt's first lawyer, Henrik Tønning, is now a New Brunswick judge; Gary Miller still practises criminal law. The case continues to rankle both men. "I've forgotten lots of homicide cases I've tried," says Tønning. "But not this one." ■

*For the Winter issue, Christopher Shulgan wrote about the American Minutemen who patrol the border with Canada in Washington State.*