

# The double-edged sword of DNA: Man convicted of 1996 murder seeks review

Testing was used to put away Guy Rasmussen for the rape and murder of a 9-year-old girl. Now he hopes modern tests will set him free after 15 years.

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Rasmussen is led away from court after hearing his sentence of life in prison for the murder of Cindy Allinger. RUSS CARMACK/STAFF FILE





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DNA evidence helped convict Guy Rasmussen of one of the most notorious crimes in Pierce County history: the kidnapping, rape and murder of 9-year-old Cynthia “Cindy” Allinger in 1996.

Now, Rasmussen is hoping that same evidence will help set him free.

Lawyers representing Rasmussen, who is serving a prison sentence of life without parole after being convicted of aggravated first-degree murder, have asked a Pierce County Superior Court judge to allow DNA evidence collected in the case to be retested using modern technology.

Tests used at the time of his arrest and conviction were rudimentary, the attorneys argue in court pleadings.

“Mr. Rasmussen maintains he is innocent and seeks modern DNA testing that was unavailable at the time of his trial,” wrote lawyer Anna Tolin of the Innocence Project Northwest, which has taken Rasmussen’s case. “Requested testing has the potential to scientifically establish his innocence and conclusively identify the true perpetrator of this crime.”

Innocence Project Northwest is headquartered at the University of Washington Law School in Seattle and has been successful in freeing wrongfully convicted inmates, including a Pierce County man serving a 10-year sentence for robbery.

Rasmussen is incarcerated at the state prison in Monroe and was not immediately available to comment. Tolin declined to be interviewed, as did Cindy’s mother.

Current Pierce County prosecutors and a former one who prosecuted Rasmussen said they do not oppose retesting some of the evidence but are confident the outcome will be the same: Guilty as charged.

“The evidence of Mr. Rasmussen’s guilt was overwhelming, and I think further DNA evidence will confirm the truth of his guilt,” Prosecutor Mark Lindquist said this month.

Tolin and deputy prosecutor Lisa Wagner, who helped prosecute Rasmussen in 1996, are negotiating an agreement about what evidence will be retested and what to do depending on the outcome of those tests.

Lindquist said his office will not object to retesting blood evidence found on Rasmussen’s clothes. Prosecution experts contended at trial that the blood most likely was Cindy’s.

Anything after that would be subject to argument, Lindquist said.

“As prosecutors, we’re interested in anything that leads us closer to the truth,” he said. “We’re also interested in protecting the taxpayers’ money, so we’re going to object to any meaningless testing.”

A judge would need to authorize any agreement before the evidence would be shipped out to a lab. Rasmussen, 48, would remain incarcerated during the testing.

Superior Court Judge Bryan Chushcoff heard preliminary arguments in December. He seemed inclined to allow some testing to go forward, specifically on a small drop of blood found on a tie-dyed T-shirt of Rasmussen’s.

“If he is the perpetrator of the crime, the blood would probably prove it. The rest of this might just be a waste of time and expense,” the judge said in December. “On the other hand, if it shows he’s not, that’s an extremely powerful bit of evidence, and testing the rest of this stuff might make a whole lot more sense.”

## **MAJOR INVESTIGATION**

Cindy Allinger left her Lakewood home on foot the afternoon of July 4, 1996, to visit a friend. She never came back.

Her mother, Rhonda Plank, called 911 about 11 p.m. to report her missing.

“Plank told the dispatcher that a neighbor, a sex offender called ‘Razz’ might be involved,” according to Washington State Court of Appeals records.

The girl’s disappearance spawned a mammoth investigation.

Hundreds of investigators and volunteers searched the area where the girl lived near McChord Air Force Base, now part of Joint Base Lewis-McChord.

Authorities put up a \$5,000 reward for information leading to her discovery. Tips poured in, so many that there were “up to a dozen agents doing nothing but tip control,” appellate records show.

“It was huge,” said Barbara Corey, a Tacoma criminal defense attorney who worked as a deputy prosecutor in 1996 and helped to prosecute Rasmussen.

Lindquist said the case “was in the papers every day,” and at least two true-life crime TV shows later did episodes on the case.

Sheriff’s detectives also were out in the field, interviewing people.

On July 6, they talked to a woman who said that on July 4 she saw “a white male, tall, thin and with long curly hair, and he was walking with what she thought to be about a 7- to 8-year-old girl and he was holding her by the hand and they were coming through an opening in her fence,” appellate records show.

Also on July 6, a playmate of Cindy’s told a detective that “during the afternoon or the early evening of July 4th, she saw a white male hold Cindy’s hand and they were walking in front of her apartment complex.”

Rasmussen, who played bass guitar in a local band, was thin and had long, curly hair in July 1996. He also knew Cindy, having lived in her neighborhood and interacted with her more than once, court records show.

Rasmussen, who went by “Razz,” also had a criminal record that included a juvenile conviction for raping a 15-year-old girl and another for assaulting a 10-year-old girl.

Detectives wanted to talk to him and search his mobile home for evidence.

They got a search warrant July 7.

“When the officers searched Rasmussen’s trailer, they found various items of clothing that were later admitted at trial,” appellate records show. “Tests on some of those items revealed Cynthia’s DNA.”

Her body was not discovered until July 17. A sheriff’s deputy acting on a tip found her wrapped in a carpet remnant and left in a field. An autopsy showed she’d been raped, burned with cigarettes and strangled.

“It was brutal,” Corey said. “Her panties were stuffed down her throat.”

Detectives had a body and prime suspect in Rasmussen, but they had to wait nearly four months to make an arrest.

That's how long it took for the DNA testing to be done. Detectives kept Rasmussen under surveillance while they waited.

"When you send things like this out to a lab, you're at the lab's mercy," sheriff's spokesman Curt Benson said at the time. "It's frustrating for us, too, because we'd like to have the results yesterday."

## **THE TRIAL**

Rasmussen maintained his innocence and pleaded not guilty to aggravated first-degree murder, the state's highest crime.

"Mr. Rasmussen told the detectives (he) had not seen Cynthia Allinger on the 4th of July and had no involvement in her disappearance," Tolin wrote in recently filed court documents. "Mr. Rasmussen voluntarily gave samples of his hair, saliva and blood to detectives."

Family and friends stood by him, even as then-Prosecutor John Ladenburg considered whether to seek the death penalty for Rasmussen. Ladenburg ultimately decided to seek capital punishment.

Rasmussen's mother, Janet Vickerman, declined to be interviewed this month for this story.

Rasmussen's defense team, which included attorneys Fred Leatherman and Linda Sullivan, fought hard for their client.

They argued the search of his mobile home was illegal. They accused sheriff's detectives of misconduct. And they argued their client had an "air-tight" alibi.

During opening statements in Rasmussen's 1999 trial, Leatherman showed jurors a computerized time line in an attempt to show his client could not have been where prosecutors said he was. The time line traced Cindy's known sightings and Rasmussen's activities, gleaned from phone records, witness accounts and Rasmussen's statements to investigators.

"It is utterly impossible for Guy Rasmussen to have killed Cindy Allinger," Leatherman told jurors.

Prosecutors countered with a trail of circumstantial evidence and the clincher: DNA evidence.

"The critical piece of evidence was that her blood was found on his T-shirt," Corey said during a recent interview. "There was a little drop of blood found on the left, top quarter of the T-shirt."

The evidence was examined by Ed Blake, a renowned forensic scientist who went on to testify at the 2012 steroids-related trial of baseball great Roger Clemens and in other high-profile cases, Corey said.

"His reputation is impeccable," she said.

Blake, applying state-of-the-art techniques available at the time, concluded the blood most likely was Cindy's, prosecutors told the jury.

Jurors convicted Rasmussen as charged, but could not agree on the death penalty, and he was sentenced instead to life without parole.

He appealed his conviction, arguing among other things that the DNA testing used in his case was inadmissible at trial. The Court of Appeals for Division II, citing a U.S. Supreme Court decision in an earlier case, rejected that argument in 2003.

"The type of DNA testing in issue here is generally accepted in the scientific community, and therefore admissible over an objection," the court wrote in its opinion.

## **NEW LOOK AT DNA**

Innocence Project Northwest got involved in 2011 when an attorney for the group made a motion to preserve the evidence from Rasmussen's trial. Tolin renewed the motion in September 2013 and in December filed a 61-page motion asking for post-conviction DNA testing in Rasmussen's case.

A state law enacted in 2000 allows such requests. RCW 10.73.170 states in part that someone convicted of a crime can ask for new tests if "DNA testing now requested would be significantly more accurate than prior DNA testing or would provide significant new information."

Tolin argued in her motion that Rasmussen qualifies.

"New DNA technology offers the potential to establish the likelihood that Mr. Rasmussen is innocent," she wrote. "Additionally, (FBI) databases that house offender DNA profiles that did not exist at the time of this crime have the power to match DNA from the crime scene with state and national databases that could identify the true perpetrator of Cynthia Allinger's murder."

Testing used in Rasmussen's case — known as DQ-alpha and polymarker DNA testing — was of "limited discriminatory power," Tolin wrote, citing a scientific paper titled "The Genetics of Innocence: Analysis of 194 DNA Exonerations" published in the journal *Annual Review of Genomics and Human Genetics* in 2011.

Those tests could not exclude Cindy as the source of the blood found on his clothes, Tolin argued, but could not say definitively she was the source.

"The limits of this testing process leaves open the real possibility that the biological material belonged to someone else," she wrote. "In other words, multiple people could share the profile that was extracted from Mr. Rasmussen's clothing; the profile is not unique to Cynthia Allinger."

The discriminating power of DNA tests used today is "extremely high," Tolin argued.

“For example, if STR DNA analysis is conducted on Mr. Rasmussen’s clothing, it can determine to a scientific certainty whether Cynthia Allinger is the source of the biological material,” she said.

Other evidence used in the case, including hairs, nail clippings, sexual-assault kit swabs, also could be tested using state-of-the-art techniques, Tolin argued.

“Scientific advances provide the power to conclusively identify persons from miniscule samples of biological material from semen, saliva, blood or merely a few skin cells,” she wrote. “None of these opportunities were available at the time of Mr. Rasmussen’s trial.

“Mr. Rasmussen asks only that this court grant him the opportunity to re-examine this critical evidence.”

There were a record-setting 87 exonerations of wrongfully convicted people in the United States last year, according to The National Registry of Exonerations, a joint project between the University of Michigan Law School and the Center for Wrongful Convictions at Northwestern University School of Law.

Washington had the fourth-most exonerations with seven, the registry reported this month.

DNA exonerations made up about a fifth of the national total.

“The great majority of exonerations in every year we have studied were homicide and sexual assault cases,” according to the registry. “In 2013, we had 40 murder exonerations — including one exoneration of a prisoner who had been sentenced to death — and 18 exonerations that involved rape or other sexual assault.”

Corey does not oppose Rasmussen’s request for new DNA testing, but she doesn’t think he will be added to that list.

“Should he get DNA now? I say, ‘Absolutely,’” she said. “We have an interest in making sure that justice is done. I’m optimistic that it will affirm the justice of that conviction.”

Rodney Gratzner of Puyallup served on the jury that convicted Rasmussen. He told The News Tribune this month that he has no regrets about the verdict he and his fellow jurors reached 15 years ago.

“It wasn’t just the DNA,” he said. “There were so many pieces — time lines, witnesses, other evidence. The DNA was just a part of it.”

Gratzner said the jury worked hard to give Rasmussen “every benefit of the doubt.”

“I know that he did it, and I’m comfortable with the verdict we came away with,” he said. “Mistakes happen, but I don’t think we made one.”

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