

# This defense doesn't rest

Relentless in his pursuit of justice 

**By Vivian Wakefield**

**Times-Union staff writer,**

Using dental molds to illustrate bite marks, removing the kitchen sink from a charred house where six people died, or placing chickens contained in a crab trap to illustrate how long a body could have stayed in the water.

They are all methods Assistant Public Defender Patrick McGuinness has used to free clients charged with murder.

The 23-year veteran of the Public Defender's Office in Duval County even tried unsuccessfully to figure out a scientific way to detect tears on a statement signed by teenager Brenton Butler. The 16-year-old was recently acquitted of murdering a Georgia woman at a local hotel. Butler had told McGuinness he was crying when he signed the statement.

"This was one I had very strong feelings about," McGuinness said.

"Because I thought the kid was innocent from the first day."

The case drew much publicity, including from a group of French producers doing a documentary on the American judicial system. It's also another notch in the career of McGuinness, whose prominence as a

public defender continues to grow.

Having handled about 400 murder cases over the last 20 years, McGuinness has tried innovative tactics in representing his clients. They include using dental molds to prove his client didn't kill a child who had been bitten, or using burnt pots and pans and a burnt kitchen sink that was left in the on position to prove the victims in a deadly fire ferried water to a sofa to try to put it out.

McGuinness' client, who could have been sentenced to death, had been accused of using gasoline to set the fire. But it was later determined that the man's 3-year-old son started it by playing with matches.

In both cases, the murder charges were dropped.

In the case of a man accused of killing a female Navy airman who was found in the Intracoastal Waterway nine days after she was last seen, McGuinness and Assistant Public Defender Ann Finnell placed dead chickens in a crab trap in the water where the body had been discovered.

When they went back to check on the chickens, crabs had eaten them. "We didn't think she'd been dead for nine days," McGuinness said. "The condition of the body was not consistent with being in the water for that length of time. We thought she'd only been dead a few days when she was found."

The defense attorneys used the chickens to place doubt in the jurors' minds as to the validity of a statement that the defendant put the body in the water nine days before it was found.

Their client, Peter Johnstone, was acquitted of the murder charge.

'A healthy skepticism'

Finnell calls McGuinness' investigative skills his strengths.

"No stone is unturned, so to speak," she said. "He does an excellent job of spotting legal issues. He has a very healthy skepticism about what people say."

Chief Assistant Public Defender Bill White said McGuinness has the kind of mind that can take a case, break it apart and analyze it to find a weakness in the prosecution.

"And he's got a special ability to deal with forensic evidence and to find the flaws in something that looks like it's solid evidence but it isn't," White said. "And he's basically fearless when it comes to defending his clients."

Believing that innocent people can get pushed around in the judicial system is what drove McGuinness to enter the legal profession.

Although he admits he could make more money in private practice, he doesn't think he'd enjoy the work as much.

"We have the opportunity of just practicing law," he said of working in the Public Defender's Office. "We don't have to go out and drum up clients or spend our hours trying to get paying clients in the door or worry about billing. Our job is to defend those accused of crimes, and we get to do it every day."

One of nine children, McGuinness attended Bishop Kenny High School for three years before moving with his family to the Stamford-Greenwich, Conn., area where he completed high school.

After graduating from the University of Connecticut, McGuinness headed back to Florida to attend law school at the University of Miami.

Since graduating in 1977, he's been working at the local Public

Defender's Office.

When he has a trial, McGuinness spends a lot of time in his cluttered office, where the dental impressions adorn the top of a bookshelf. He often sleeps only four hours a night when the trial is in progress.

"I sleep whenever I'm too tired to continue working," said McGuinness, who turns 50 on Christmas Day.

The east Arlington resident becomes so preoccupied with the trial that he usually doesn't see his wife, Alice, who works for Victim Services, and 10-year-old son, Sean. He sleeps at his brother's house or an old house the couple still owns so he can continue working on the trial into the night.

He studies for weeks to gain whatever special knowledge he needs to prepare for a trial or deposition.

"He becomes very knowledgeable in certain areas involving various scientists," said Assistant State Attorney Laura Starrett, who is 0-for-2 against McGuinness in trials. "That seems to be an area he likes to concentrate on. Pat is known for being able to communicate with his clients, and he can be very persuasive in conveying plea offers."

Not all of McGuinness' hunches pan out.

Once he and investigators from his office dug 10 feet into a Springfield back yard to look for bodies. McGuinness had received tips in a case that neighbors had seen a man burying something in his back yard during the middle of the night.

"We dug for about six hours," said investigator Andrew Ewing III. "We were sweating, it was hot."

No bodies were found, but episodes like that don't discourage

McGuinness.

"When I get my teeth into something, I work on it," he said. "I do have a certain tenacity."

Tireless worker

When Gerald Lewis told McGuinness he didn't commit the fire he was accused of setting, McGuinness took investigators to the scene on Lime Street and combed through the entire house, piece by piece.

"That was the most thorough crime scene investigation I've ever been a part of," Ewing said. "We went through every room, and anything that we found that we thought could be relevant or some of the things that we found that we were told about by the client, we catalogued and reserved and took in for evidence.

"He's definitely not shy about going out into the field."

Andre Butler, father of Brenton Butler, said McGuinness worked tirelessly on his son's case. He said he was initially concerned as to whether McGuinness would have time to prepare sufficiently for Butler's trial because public defenders are known for having heavy caseloads.

But the Butlers heard from McGuinness several times a week, even many times during the same day. He also stopped by on Sundays to go over details of the case.

"He's so meticulous when it comes to detail," Andre Butler said. "His staff is tremendous. We knew they didn't just have the case and was doing the minimum amount just to appease us. Pat, he's the best."