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EVERY FAMILY'S NIGHTMARE

Lies, deception and the high cost of justice

A film by Michael Muntz, Ed Punchard and Julia Redwood

Narrated by Pamela Rabe

For images and interviews please contact publicist Lizzy Kingston at SBS
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<http://www.screenaustralia.gov.au/showcases/nightmare>

A Screen Australia National Documentary Program in association with Prospero
Productions. Produced with the assistance of ScreenWest, Lotterywest and SBS.
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SCREEN
AUSTRALIA



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Key Credits

A film by - MICHAEL MUNTZ, ED PUNCHARD, JULIA REDWOOD
Narrator - PAMELA RABE
Producers - JULIA REDWOOD, ED PUNCHARD
Co-Producer - MICHAEL MUNTZ
Editors - ANDI CAMPBELL-WAITE, BECKETT BRODA
Writers - JOHN MCCOURT, JULIA REDWOOD, RHIAN SKIRVING
Post-Production Direction - JULIA REDWOOD, ANDI CAMPBELL-WAITE, RHIAN SKIRVING
Observational Footage Filmed & Directed by - MICHAEL MUNTZ
Dramatic Re-Enactments Director - HELGA BERRY
SBS Commissioning Editor - ANNA MIRALIS
SBS Executive Producer - JOHN GODFREY
Executive Producers for Prospero Productions - ED PUNCHARD, JULIA REDWOOD
Executive Producer for Screen Australia - PENNY ROBINS
Duration - 52 MINUTES
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Key Cast

Patrick Waring	ADAM SOLLIS
Tom Percy	GREG MCNEILL
Jonathan Davies	IAN TOYNE
Prosecutor	KATE HALL
Judge	JAMES HAGAN
Clerk of Arraignment	IGOR SAS
Girl	SIAN EWERS
Pathwest Scientist	STEPHANIE POWERS
Police Interviewer	HELEN DOIG
Michael Waring	BEN RUSSELL
Detective	PAUL BARKER

Experts interviewed for the documentary

Independent Forensic Investigator	ROBIN NAPPER
Western Australia Director of Public Prosecutions	ROBERT COCK QC
Patrick Waring's QC	TOM PERCY QC
Patrick Waring's Barrister	JONATHAN DAVIES
Forensic scientist	PROF. DAVID BARCLAY
DNA Consultant	DR BRIAN MCDONALD

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Synopses

One line

This is the shocking inside story of a family's fight to free their 15-year-old son after he is wrongly accused of rape.

One paragraph

This is the shocking inside story of a family's fight to free their 15-year-old son after he is wrongly accused of rape. A horrifying tale of lies, deception and the high cost of justice, *Every Family's Nightmare* exposes serious systemic, procedural and cultural flaws in Australia's criminal justice system by investigating the case of Perth schoolboy Patrick Waring. Patrick was jailed for a year while his family battled to prove his innocence.

One page

This is the shocking inside story of a family's fight to free their 15-year-old son after he is wrongly accused of rape.

A horrifying tale of lies, deception and the high cost of justice, *Every Family's Nightmare* raises questions about systemic, procedural and cultural flaws in Australia's criminal justice system by investigating the case of Perth schoolboy Patrick Waring.

Patrick was jailed for a year while his family battled to prove his innocence.

From the time he was accused of raping a teenage girl on 30 March 2006, the Western Australian police were convinced Patrick Waring was guilty. His family knew they were wrong.

Over the next year, the Waring family assembled an international team of experts to help defend their son, exposing deep flaws in the police investigation and the legal battle that followed.

Every Family's Nightmare uses observational footage, reenactments and interviews with key participants to document the Warings' ordeal from the time the allegations were made to the outcome of the trial.

But while Patrick is eventually acquitted, his life will never be the same. The fight to clear his name and regain his freedom has cost his family everything and Patrick has lost a year of his childhood while in jail.

Alarming, experts say that the same situation could arise at any time, involving any family, in any Australian state.

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Background to the case

On the night of 30 March 2006, Western Australian schoolboy Patrick Waring was arrested and charged with a horrific sex attack on a teenage girl.

Because of the severity of the alleged attack, Patrick was denied bail and remanded in juvenile detention to await trial.

Over the next year, Patrick's parents, Terry and Marie, poured all of their resources into the fight to free their son.

"Twelve months ago I turned on a tap financially – we haven't turned it off yet," Terry Waring says. "It's costing us everything, literally. We've mortgaged the house to the hilt. It's a lot of money. It's a huge amount of money. We're going to have to pay this money back. But what price do you put on one of your own kids?"

The Warings engaged a former British detective and forensics expert, Robin Napper, who uncovered mistakes, discrepancies and shortfalls in the police forensic investigation, handling of evidence, interviews and DNA testing.

"Forensic science is vitally important in modern crime-scene investigations because it is neutral and it is independent," Napper says. "It is the silent witness. Provided the samples have been taken correctly, provided they've been analysed correctly and haven't been contaminated, they will only give you the truth... From day one this was a very shallow investigation. They seemed to just take the girl's word for what happened and run with it."

Napper's view is supported by Waring's legal team, including barristers Jonathan Davies and Tom Percy QC, who are convinced that Patrick is innocent.

"It's not unusual for me to visit the scene of a crime," Percy says. "After seeing it, I was convinced what she said had occurred could never have occurred ... violently raping a girl for the best part of 20 minutes, as she would have it, in an open-air situation with people teeming past in full view. It was an affront to my common sense to think that it might have happened as she'd described."

Davies concurred: "When appraising the evidence of this complainant [the police] did not submit it to a sufficient degree of stringent analysis and they did not submit her to a sufficient degree of stringency in questioning, and had they done so, they might – not necessarily but they just might – have started to smell a rat."

Despite the discovery of errors in the investigation, the Western Australian Director of Public Prosecutions, Robert Cock QC, decided to proceed to trial.

"There's no face-saving by me by running worthless trials," Cock says. "I stand by my conviction rates. As long as I'm achieving conviction rates that are above the national average it seems to me that my office is properly evaluating those cases that are worthless."

After a three-week trial, Patrick Waring eventually was found not guilty of all four charges but the ordeal cost his family everything – their house and their life savings – and all their lives have been irrevocably changed.

For eminent Scottish forensic scientist Professor David Barclay, who assisted the Warings' defence team with their forensic investigation, the case raises important issues about the right for both parties in a criminal trial to have equal access to expensive investigative resources.

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“One of the key factors in any justice system is what’s called equality of arms. It’s absolutely necessary that the defence should have equal rights and ability to purchase analysis as has the prosecution. Anything that the prosecution can do, the defence should be able to do and should be able to do free.”

And the cost is not just financial.

“It’s a common misconception ... that life just resumes as normal [after a not-guilty verdict] but life never resumes as normal for someone who’s been through this sort of ordeal,” Percy says. “The enormity of having to sit and wait while a jury of 12 of your peers decides your future, and all that’s gone before it, is something that leaves an indelible impression and I’ve never met anyone who’s come out of it the same person as when they went in, let alone a child.”

As Patrick Waring says: “The amount of damage that this whole ordeal has done to not just me but to my family, the fact that my parents are going to have to sell their house, the fact that my dad and my mum have given up so much just to be able to prove that someone was lying in the first place, this sort of thing can destroy people.”

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Production story

For filmmakers Julia Redwood and Ed Punchard, the breakthrough moment in filming *Every Family's Nightmare* came when they saw footage shot inside the office of Tom Percy QC.

The scene occurs as Percy explains to Terry and Marie Waring that their 15-year-old son Patrick may be eligible for bail after almost a year in jail after the girl who had accused him of rape changes her story and admits she has been lying.

“Surprisingly the parents resist this golden opportunity and the QC is shocked and angered,” Redwood says. “It’s a tense scene as the parents try to explain their fears for his safety if he is released. They have been so traumatised by the whole experience that their faith in the system is so utterly destroyed.”

Along with filmmaker Michael Muntz, who had alerted them to the story of a well brought-up Perth teenager caught up in a legal nightmare, they set out to make a film that asked how this could happen.

“It was a shattering scene to witness and it still is for me,” she says. “From that moment on, Ed Punchard and I knew we had to make this film. Not a film just about Patrick Waring and his family, but a film that asks the question, ‘how could this happen?’ It led us to examine fundamental systemic failures in our judicial system.”

Muntz introduced the producers to forensics expert Robin Napper, who identified deep flaws in the police and judicial system, repeated around Australia.

They knew that it was imperative to weave a “big-picture” narrative throughout, so the audience could understand the significance of the Waring family’s plight.

“Sadly Patrick’s story is repeated across Australia many, many times. Patrick could so easily have been anyone’s son, brother, friend,” says Muntz.

Filming took place over several months as developments in the case unfolded, including an intensive five-week shoot towards the end.

There were numerous challenges, including uncertainty about how the story might conclude, legal sensitivity in telling the story of a child facing court, and personal sensitivity in telling a story involving children and accusations of rape.

“We took great care in our approach. It was uppermost in our mind at all times,” says Redwood.

“We took great care to ensure that the focus remained on the big picture and not on the minutiae of why the complainant lied. That wasn’t the story for us; the story was why the system failed Patrick Waring.

“We were very sensitive to the family and their needs. This has been a hugely traumatic experience for them all so we didn’t want the filming to impact on them in a negative way.”

Redwood hopes the film will give viewers a greater understanding of the flaws inherent in Australia’s policing and judicial systems and the vulnerability of those caught up in them.

“I also hope the viewers can see that there are better methods available to our policing and judicial systems, and that a cultural shift might bring about change.”

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And if Patrick Waring had been found guilty?

“I suspect we would have followed the appeal process to free him, though thankfully that didn't happen. You just go with the story wherever it takes you until hopefully there is some sort of resolution!”

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About the filmmakers

Julia Redwood

Julia Redwood established Prospero Productions with Ed Punchard in Perth in 1991 and the company is now one of the leading independent documentary production companies in Australia. Julia is a multi award-winning producer, director and writer. In 1998 her directorial debut *Paying for the Piper* was nominated for two Australian Film Institute awards and won the Golden Spire Award at the 2000 San Francisco Film Festival for Best Television in Current Events. The programs she has produced and directed have also traditionally received high critical praise and high ratings. Her passion is to tell stories in an emotionally engaging way. Julia has produced numerous films, including: *Hutan - Wildlife of the Malaysian Rainforest* (Silver Medal, New York Festivals); *Diving School* (Western Australian Screen Awards, Outstanding Achievement); *Selling Australia* (2001 Chicago International Television Competition, Certificate of Merit) the series *Aussie Animal Rescue* and *Shipwreck Detectives*; *Kindness of Strangers* (Eureka Prize for Science Journalism); *Eco House Challenge* (ATOM award Best Multi Modal Production); *Navy Divers* and *Death of the Megabeasts*.

Ed Punchard

Ed Punchard established Prospero Productions with Julia Redwood in Perth in 1991 and the company is now one of the leading independent documentary production companies in Australia. He has produced many internationally award-winning documentaries. Ed began his career as a documentary filmmaker after surviving a horrific oil-rig disaster in the North Sea in 1988. He advised in the making of programs for World in Action for ITV, First Tuesday for ITV, Yorkshire Television and BBC Panorama. Ed has produced numerous films, including: *Hutan - Wildlife of the Malaysian Rainforest* (Silver Medal, New York Festivals); *Diving School* (Western Australian Screen Awards, Outstanding Achievement); *Selling Australia* (2001 Chicago International Television Competition, Certificate of Merit); the series *Aussie Animal Rescue* and *Shipwreck Detectives*; *Kindness of Strangers* (Eureka Prize for Science Journalism); *Eco House Challenge* (ATOM award Best Multi Modal Production); *Navy Divers* and *Death of the Megabeasts*.

Michael Muntz

A graduate of the National Institute of Dramatic Arts, Michael Muntz has enjoyed an extensive acting career. His first role was playing Dr Cris Kouros in *A Country Practice*, followed by lead roles in *Farewell to Song Ba* and *Bay City*. Michael has also performed guest roles in TV drama series such as *Sea Change*, *State Coroner* and *Time Trax*. In 2003, Michael stepped behind the camera, producing and directing the Australian re-enactments for *Catalpa*, *Escape From Fremantle*, a US documentary about the rescue of six Irish Fenians from Fremantle prison in Western Australia in 1876. He then directed *Saving Andrew Mallard*, which screened on ABC Television in 2006. The film was nominated for a Walkley Award and won Outstanding Achievement in Direction at the WA Screen Awards. Michael has since directed segments for the BBC series *Medical Mavericks*, featuring Perth's Nobel Laureates Professor Barry Marshall and Robin Warren, and segments for the ABC's *Catalyst*.