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WRONGLY ACCUSED

A 15-YEAR-OLD SPENT A YEAR BEHIND
BARS FOR SOMETHING HE DIDN'T DO

MONEY CAN'T BUY LOVE | GLADIATOR GRAVEYARD | METABOLIC PROFILING



Patrick Waring enjoys time at home with his dad Terry and sister Danielle after spending a year in jail when he was falsely accused of rape.

Photo: *The West Australian*

Damned by DNA

Every Family's Nightmare is the true story of a schoolboy jailed on a false rape charge, **Estelle Blackburn** writes

A documentary to be shown on SBS tomorrow night focuses on another case where DNA evidence could have produced the wrong verdict.

In the case of Perth schoolboy Patrick Waring, charged with raping a girl many times after he'd dragged her into bushes in broad daylight at a TAFE campus in 2006, the DNA evidence presented by the prosecution could well have led to his conviction.

But the defence sought the expertise of an independent DNA consultant in Sydney, Dr Brian McDonald, who found DNA evidence that excluded Patrick Waring and he was acquitted. The analysis of the DNA found by the state government's DNA test laboratory, PathWest, had been that Waring could not be excluded. With the presumption that DNA is absolute, a jury could well have not realised the weakness of that and that it meant that they, too, or the judge, could not be excluded.

After a three-week trial, the horror for the Catholic school boy and his family was over. But the 15-year-old had spent 11 months in juvenile detention awaiting trial and his parents had spent their life savings on legal fees. Not to mention the emotional toll.

The documentary *Every Family's Nightmare* brings that emotional toll into the viewer's home, with heart-rending "fly on the wall" vision by documentary-maker Michael Muntz, who made the award-winning ABC documentary

Saving Andrew Mallard on another WA injustice. Muntz gets right in there with the family as they suffer a year of horror and the high cost of justice.

In the Waring case, the 17-year-old accuser claimed to have been a virgin when attacked. It wasn't until McDonald found male DNA in her underwear - DNA that excluded Patrick Waring - and she was faced with this a week before the trial, that she admitted she had lied - to police, the Sexual Assault Resource Centre, the doctor, and the prosecutor.

She then admitted she had been having sex with her boyfriend for the previous three months and had had sex at the back of a cinema with a man she had met over the internet, claiming that too was rape, just two hours before the alleged rape.

Her allegations against Patrick Waring resulted in what is surely every parent's nightmare - on a short holiday on the coast five hours' drive from home, Terry and Marie Waring were rung in the middle of the night and told that their schoolboy son had been accused of rape and the police had taken him from home.

He was charged before they finished their 2am dash home, refused bail because he "was so dangerous" and locked up for almost a year. "The accusations came out of left field," Terry Waring said. "We are a very close family, and he had never been involved in anything."

"I'm not saying he was an angel, but the biggest issue we had with him before was that he cycled to

school without waiting for his mother to see him across a main road, and he was grounded for two weeks.

"There is not one person who knew him who believed for one moment that he did it or was even capable of doing this. But that was nothing against the dearth of evidence against him.

"It was so overwhelming. I don't think Marie and I have cried that much ever before. I didn't cry that much when my brother died in Vietnam or when my parents died.

"It was soul-destroying. You have people in positions of authority telling you your youngest child has committed this heinous crime and there is no doubt as to his guilt.

"You know your child couldn't do this, but you are faced with this avalanche from people in authority, saying exactly the opposite. We were brought up to trust policemen.

"It was a shock to learn that you can be visited by police in the middle of the night, even if you are a juvenile, interrogated, accused of a crime, arrested, told to sleep on a concrete floor, subject to truly invasive personal indignities in the process of obtaining evidence, charged and locked up, all on the basis of one person's unsubstantiated word.

"And, although our 15-year-old child had an unblemished record, the prosecution painted him as a heinous monster who shouldn't have bail, despite our reassurance that we would be with him 24 hours a day."

The Warings had to put up with



Documentary-maker Michael Muntz inspects the "rape" site with consultant Robin Napper.

Photo: Rances Andrijich

hearing in court in further bail applications that they couldn't control the boy, and a newspaper article headed "Privileged boy's plea fails to win bail".

The one thing the frightened schoolboy did wrong was at first deny he had even met the girl, when he had met her in the street and they had talked for a while and exchanged phone numbers. Former Britain detective and now private consultant, Robin Napper, who did some work for the Warings, cajoled the truth from him.

It was Napper who brought in the NSW DNA expert. Napper was also responsible for introducing the DNA testing that caught the Wee Waa rapist in 2000.

Interviewed in the documentary, Napper is critical of police forensic techniques.

Waring's parents moved house to be nearer their son to visit every day, Waring's father had to take leave from work because of the trauma, and his mother left her hospital job to do nightshift agency nursing work "because I couldn't sleep, anyway".

"It was the finish of school for Patrick," Terry Waring said. "He lost virtually all of Year 11 and the start of Year 12 - and he had to grow up very fast. He lost his youth in there."

When the girl's lies became known, Patrick Waring was granted bail on the eve of his trial.

The exclusive footage Muntz obtained shows his return home from "prison" and the harrowing days of the trial and the wait for the verdict.

As the family walks out of court after the not-guilty verdict, the year-long nightmare is over. But what will really never be over for the Waring family, who received no compensation, is a warning for others about charges laid on the say-so of one person - and a warning to the general public that DNA testing does not give an objective, absolute answer, but an interpretation.

■ *Every Family's Nightmare*, produced by Muntz with Prospero Productions, won two Gold Remi Awards in April at the 43rd Annual World Fest Houston International Film Fest, and has been sold to 13 countries. It will be shown on SBS tomorrow at 8.30pm.