

JUSTICE HUNTERS: A strategy for change

CLANT CONFERENCE BALI, JUNE 2015

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FAST CHANGE

Air crash investigations teach important lessons for safety. Recommendations are implemented immediately and we fly more safely.

Medical research, digital revolution and technology developments have rapidly enhanced lives.

TOO SLOW

Miscarriages of justice teach us lessons...

Righting the wrongs takes too long.

Suffering continues beyond acceptability.

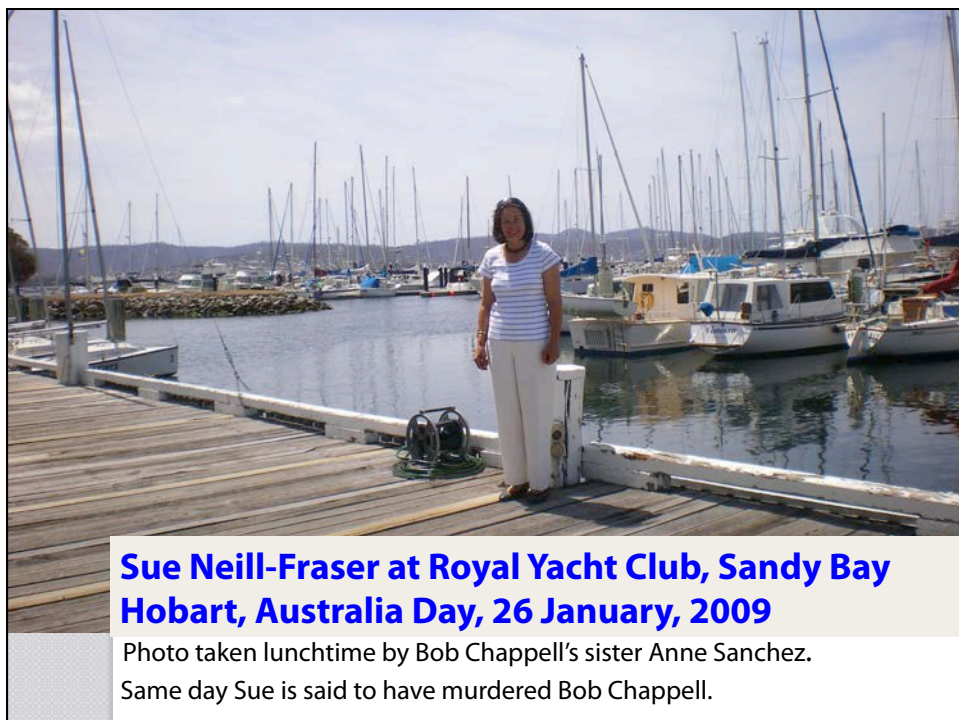
MEDIA – Powerful Influence

Media exacerbates injustice.
Then media helps right the wrongs.

We must tell the stories.
Show mistakes. Inform factually. Explain simply.

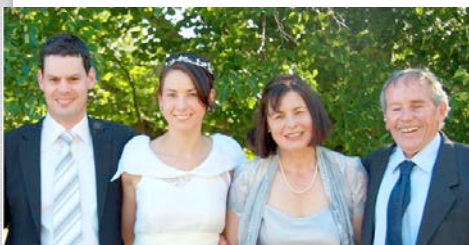
Blogs, tweets, talks, networks...
Films and TV have very powerful role.

Miscarriages of justice are NOT ACCEPTABLE





Bob Chappell, physicist, VANISHED on 26-27 January, 2009. He was last seen working on the Four Winds Yacht moored on Derwent River, Sandy Bay, Tasmania. He and his partner of 18 years, Sue Neill-Fraser, had recently bought the yacht in QLD and sailed it to Hobart a month before... for their dream retirement. During the journey Bob had severe and unusual nose bleeds - so bad he ended up in hospital in QLD.



Bob stayed on board overnight, to work on the electrical system. Sue took the dinghy to shore, leaving it at the Royal Yacht Club. Early morning 27 Jan 2009 – Four Winds yacht was sinking, Bob was missing. Marine police and others went on board to rescue the yacht... contaminating what later became the 'crime' scene.



Nearby, the Four Winds dinghy was found floating near rocks next to the Sandy Bay Rowing Club, BUT Sue left it tied up at Royal Yacht Club.



Sue was adamant that she did not move the Four Winds Dinghy after leaving the RYC. The dinghy was later tested with Luminol, and in fact was over-treated with luminol.

There was no blood found in the dinghy, yet the jury was led to believe there was blood in the dinghy.



Something very wrong

Look at this ...Look at that...Maybe this...Maybe that...



The yacht was towed to Constitution Dock. Police handed back the boat to Sue after some forensic testing was conducted. But Sue was worried about things not right. It was Sue's questioning and suggestions that made the police take the boat back for further forensic examination.



Sabotage, blood & DNA - contaminated crime scene



There was only a small amount of fresh blood on the steps. Ropes were cut. Toilet hose cut.



Four witnesses saw GREY dinghy at Four Winds yacht between 4-5.30pm Australia Day. Leads never followed up.



DINGHY AT CRIME SCENE - SPOT THE DIFFERENCE

4 witnesses saw a grey dinghy

NOT Sue Neill-Fraser's white dinghy!

JANUARY 26, 2009 4PM - 5.30PM

Lead investigator: "sometimes white looks grey"
Gary Smith. witness found later, saw grey scruffy dinghy in days prior

Sue Neill-Fraser arrested 20 Aug 2009
Sue vehemently denies any knowledge of Bob's disappearance.
NO BAIL. Convicted Oct 15 2010

Cold, calculated murder
26 YEARS

THE VOICE OF TASMANIA
MERCURY

www.mercury.com.au THURSDAY, OCTOBER 26, 2010 \$2.50 (incl GST)

No body.
No motive.
No weapon.
No confession.
No proof of murder.
No witnesses to the 'murder'.
No other logical suspects investigated.
No history of aggression or convictions.

No forensic evidence
linking Sue to the crime.

JUSTICE BLOW Sentencing Remarks 27 October 2010

Ms Neill-Fraser is now 56 years old. She has no prior convictions. She apparently led a blameless life until she murdered Mr Chappell. Otherwise, there is almost nothing that counts in her favour for sentencing purposes. She did not plead guilty. She has shown no remorse. She has not said or done anything that would assist in the finding of the body. There is no suggestion that Mr Chappell said or did anything to provoke this crime, or even to warrant hostility on the part of Ms Neill-Fraser. It was a deliberate killing for the purpose of some sort of personal gain. It warrants a heavier sentence than most murders.

Miscarriages of Justice... Wrongful Convictions

IT'S ALL TOO SLOW!

30 YEARS LATER LESSONS NOT LEARNED

1980



No body. No eyewitnesses. Flawed forensics.
Gossip and speculation.
Lindy Chamberlain wrongfully convicted.

2010



No body. No eyewitnesses. Flawed forensics.
Gossip and speculation.
Sue Neill-Fraser wrongfully convicted.

Timeline: Sue Neill-Fraser

- 26 Jan 2009** Australia Day Bob Chappell last seen on Four Winds
- 27 Jan 2009** Four Winds found sinking, Bob missing
- 20 Aug 2009** Sue arrested for murder, no bail
- 21 Sept- 15 Oct 2010** Trial - GUILTY
- 27 Oct 2010** Sue sentenced to 26 years (18 yr min)
- 11 August 2011** - Appeal heard in CCA TAS
- 6 March 2012** – Appeal dismissed, sentence reduced 23 yrs (13 yr min)
- 7 Sept 2012** – Special leave to appeal to High Court denied
- July 2013** – *SHADOW OF DOUBT* feature documentary released
- 17 Jan 2014** – Coroner endorses criminal conviction, 'Sue acted alone'
- 9 Sept 2014** – AG TAS announces new Right to Appeal Legislation
- 20 Aug 2015** – 6 years in prison
- Update! **OCT 2015** – New Right to Appeal legislation passed in TAS

Background - Sue

- Reserved, stoic – doesn't show feelings
- Friends spoke of warm loving woman, never aggressive
- Kept offering scenarios – fire extinguisher, drugs
- Annoyed by police not searching for Bob
- Wanted police to put out reward
- Unnerved by stranger's phone call
- Upset by Clare Chappell's mental state
- Never questioned ex husband
- NO defence witnesses called – just Sue

Phillip Triffett: "Murder plots"

Critical crown witness had police history

- Jan 2009 just before Bob went missing TRIFFETT busted by police for stolen ammunition and possession of goods suspected of being stolen
- 1080 rounds of ammunition hidden in a fuel tank
- In 2001 Sue complained to police about threats
- Sue wrote letter saying if she or Bob went missing Triffett to be investigated

28 Jan 2009 ONE DAY after Bob missing, TRIFFETT offered information that over a decade before, Sue wanted to kill her brother Patrick, then later Bob ... by throwing them overboard
Triffett tried to negotiate on his own charges

Triffett's evidence was central to establish pre-meditated 'murder'.



Why they thought she was guilty



- Phillip Triffett offered as credible witness re previous plots that Sue she wanted to kill her brother and Bob 10-15 years before.

Sue vehemently denies, and stories flawed.

- Sue went down to foreshore that night but at first said she was at home.

Sue was upset by strange late night call from stranger re Bob's disturbed daughter saying something bad would happen to Bob on the boat.

- Sue said at Bunnings in afternoon – not on CCTV

Sue regularly went and was confused about which days.

- Sue shown red jacket – at first said not hers

Was old one from yacht she didn't at first recognise

- Peter Lorraine 'saw' Bob alive at 5pm so grey dinghy sightings not investigated

Now proved he was looking at wrong yacht.

- Relationship said to be cool/split – reports by boat crew

Evidence to the contrary from Bob's sister who stayed with them, and since from friends and family.

- Phone call to check messages *10# at 3:08am from their home phone

Bob had Sue's mobile phone. Sue doesn't remember this.

- Outline of 'woman' seen in dinghy that night

Witness can't remember if he was in or out of his car, couldn't see colour, wasn't sure... and evidence of direction of dinghy changed in court to be towards the yacht

Why they thought she was guilty (cont.)

- Looking on internet at Galapagos Islands – suggested she wanted to go alone
- Sue says they looked together because Bob's sister lived in Ecuador
- Suggested motive: wanted boat they co-owned for herself and Bob's money, super/house \$900k.
- Sue independently wealthy with property. Why sink boat if she wanted it for herself?
- Bandaid and later report of cut to thumb (*never photographed, logged weeks later*)
- "Unique" knowledge of how boat can be sunk (*not unique*)
- Bob's "blood" in dinghy and on boat (*None in dinghy and only small amount of fresh blood on boat*)
- Winching hypothesis (*Police reconstruction flawed, Sue had back problems*)
- Alleged weapon – wrench or screwdriver, DPP suggested 'marks on body'

No evidence of weapon and no body with marks

- Fire extinguisher missing (*May have been taken off boat in clean up by Bob*)

- ATM footage of car 'looked like Sue's' at 12:25am

No number plate, impossible to be in 2 places same time period

- Allegedly arguing with Bob that morning

It was Bob and his sister (not Sue) the day before, the witness later realised, but was not clear to jury

- Latex glove used to 'clean up crime' said DPP

Glove had Bob's son's DNA in it, not Sue's.

- DPP implied involvement in disappearance of a young man
- In 2015 a Coroner confirmed young man suicided 35 yrs before, nothing to do with Sue*



Wrong woman! Wrong day! It was Bob's sister seen arguing with Bob.



Witness (the late Barbara Zochling) thought she saw Bob (she recognised) arguing with 'partner' that day. But in court realised it was Bob's sister she saw, and they were together the day before.

So you, from behind, struck him with some – one of the tools –
.....Oh –

5 - or some other implement and killed him, isn't that right?.....(no reply)

And that left injuries behind him, didn't it, to the back, which could only have been done by someone he knew was there and therefore would not look – have looked around to?.....Mr Ellis, I have no idea what happened on that boat.

10 You, having done that, sought to cover up what you had done, you got out some latex gloves and left them on the stove top and put them on – and put the box on the stove top and put out the latex gloves to cover up what you had done?

15 HIS HONOUR: What do you say to that?

20 MR ELLIS SC: (Resuming): What do you say to that?.....No, absolutely not.

The latex glove
had Bob's son's DNA on the
inside, not Sue's.



5 unsinkable as she's told you. She knows, so long as the hatches are closed. Someone who sought with a pair of latex gloves which she had forgotten that she'd left on the stove top to clear up as best she could and perhaps abandon that idea. It was all getting too late or getting too hard, and instead started sinking the boat or perhaps she started doing that earlier in the day, earlier in the afternoon at the time that she had done the awful thing that she did, at the time that she killed Mr Chappell. But these, I suggest, ladies and gentlemen, the winches, the sea cock, the manner of sinking, what was cut, are all the work of someone intimately connected with that boat, with intimate knowledge of it, someone who did not want to be connected with the body that had been left, and someone who was none other than Sue Neill-Fraser, the Accused in this Court, and is guilty beyond reasonable doubt of murder, I suggest. Thank you.

<END OF CLOSING ADDRESS

Witness Peter Lorraine **looking at wrong yacht**

JUSTICE BLOW
Sentencing Speech 24 March 2011

A witness named Peter Lorraine gave evidence of observing a man on a yacht moored off Marieville Esplanade at about 5pm on 26 January. From his description of the yacht and the man, I am satisfied that at that time he observed Mr Chappell on the deck of the Four Winds. He gave evidence that he saw a dinghy tied up to the yacht at that time...

Peter Lorraine on Derwent Lane jetty, described a yacht 80-100m straight out in front of him, older taller man on deck at 5pm... BUT a totally different dinghy in his initial report. **Four Winds was 300+M away and off to the right**, impossible to describe such detail of person on deck.
 Why didn't **anyone** – police, prosecution, defence, judge – realise he was looking at wrong yacht?



DPP closing address – where did this come from?

- 10 wasn't the case, is that what motivated her, is that what spurred her, maybe there are a lot of things. People don't always act for just one reason, maybe there was some sense of giving him some sort of burial at sea, we don't know, she won't tell us, but maybe, I suggest, the dominant factor was to make things less clear. Very hard she would
- 15 have thought with her involvement with the disappearing young Mr O'Day and what had happened to him, no one knew, disappeared, no body. To make things harder hide clear evidence on the body of how Mr Chappell was killed and maybe – maybe there are other reasons, maybe it's just this sort of get him away, maybe to preserve his body
- 20 from the horrors of a post mortem autopsy that she didn't have to think about happening – who knows, it might have been many things. But one thing I suggest doesn't add up, and that is why would a complete stranger go to that trouble? If a complete stranger had got on board and killed Mr Chappell for no reason that we can think of
- 25 except smuggling, why would they go to the trouble of disposing of the body? It doesn't make any sense.

35 years later

MAGISTRATES COURT OF TASMANIA

Decisions | Forms | Publications | Glossary | A-Z Index | Useful Links | [PRINT](#) [Enter Search Details](#)

Magistrates Court > Decisions > Coronial findings > O > O'DAY, Dennis James 2015 TASCD 109 [Contact](#)

Record of Investigation into Death (Without Inquest)

Coroners Act 1995
Coroners Rules 2006
Rule 11

I, Simon Cooper, Coroner, having investigated the suspected death of Dennis James O'Day

Find That:

- (a) The identity of the deceased is Dennis James O'Day;
- (b) Mr O'Day died in the circumstances described in this finding;
- (c) Mr O'Day died on or about 23 August 1980 at Hobart, Tasmania;
- (d) Mr O'Day died as a result of jumping from the Tasman Bridge;
- (e) Mr O'Day was born in Melbourne on 1 September 1961 and was aged 18 years at the time of his death; he was a single man whose occupation at the date of death was a security investigation agent; and
- (f) No person contributed to the cause of Mr O'Day's death.

The bandaid



Evidence reported weeks after the disappearance, yet noted as huge concern on the relevant date. No photos taken, not reported at the time.



Scenarios not excluded

- Meaghan Vass (DNA found on yacht) & friends
- Homeless men on foreshore, criminal records
- Bob Chappell suicide
- Intentional disappearance
- Drug smugglers (*huge drug bust from same marina Four Winds came from*)
- Man who made significant threat *"Did bloke on yacht for cash but will do you for free"*
- Weatherbeaten man seen near Four Winds 7.45pm not properly investigated
- Serial killer (other unexplained deaths)
- Grey dinghy seen by 4 people and in days leading up to Bob's disappearance
- Some unidentified DNA yet to be matched



CONTAGIOUS TUNNEL VISION → CASCADING ERRORS

- Driven by desire to convict vs solve crime
- Blame and punish ASAP
- Pack mentality, us vs them
- Protecting our patch
- Fuelled by gossip and media
- **Lazy, inferior, uncorrected work**



STOP AVOIDING SUE NEILL-FRASER'S WRONGFUL CONVICTION

Postcards for Sue – to raise awareness




DNA IN SUE NEILL-FRASER CASE

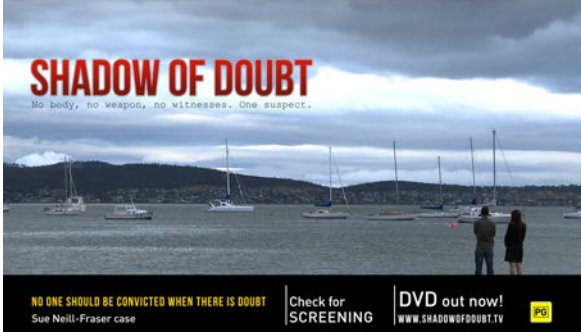
MISTAKE: Latex glove 'used to clean up crime' had **another person's DNA** inside the glove, not Sue's. Jury told it was Sue's DNA.

DISMISSED: DNA found at crime scene matched to teenage girl months after Sue arrested – **not considered important.**

From MISCARRIAGE OF JUSTICE to MOSAIC OF JUSTICE

Weird! Wrong! Why? → Ask! Ask! Ask!
Investigate & test hypotheses → interviews → FILM





SHADOW OF DOUBT
No body, no weapon, no witnesses. One suspect.

NO ONE SHOULD BE CONVICTED WHEN THERE IS DOUBT
Sue Neill-Fraser case

Check for SCREENING | DVD out now! | WWW.SHADOWOFDOUBT.TV | PG

Some question, most don't



23 YEARS
BUT WHERE IS THE

EVIDENCE?

Lawyers can get it wrong. Judges can get it wrong. Juries can get it wrong.

Police are not always right.

I sometimes question whether the media is right

I believe the media

I trust police

I trust our legal system

I have total trust in juries

© Eve Ash eveash.com www.7d-tv.com

Lead Investigator

Interview for Shadow of Doubt



"When she's dressed up she comes across as a very smart woman, very articulate and butter wouldn't melt in her mouth and that's the way she came across. She's full of talk and wants to talk about all sorts of issues. Certainly down the track I could see why Sue could take a lot of people in, if you don't know her very well I think there is a lot about Sue that is very manipulative...I think Sue is a very manipulative woman"

ENGAGE + EDUCATE + EXPOSE

SUE NEILL-FRASER'S WRONGFUL CONVICTION - HOW THE JURY WAS MISLED






"She's walking backwards and forwards and delivers blow - a blow or blows, or maybe stabs him with a screwdriver, I don't know, he doesn't look round, and so the body doesn't have any marks of what you'd expect if someone had come down there, a stranger, intent on doing him harm, the body I suggest would have marks consistent only with being delivered by someone who he knew to be there, who he knew and expected to be behind him."

TIM ELLIS, DPP. Closing address to jury.

STATE v. NEILL-FRASER. HOBART 13.10.10.

**BUT THERE WAS NO BODY. NO WEAPON. NO EYE WITNESSES.
NO FORENSIC EVIDENCE LINKING SUE TO THE CRIME.**


One of the 'Postcards for Sue' campaign exposes DPP quotes

Articles


Sue Neill-Fraser: the sentencing. blow by blow
Andrew L. Urban, Editor & Publisher <http://www.pursuit15.com>
15/10/14 2:43 am
105 comments

Tasmanian Times.com



NEED MEDIA CHAMPIONS

Build relationships & trust
Ensure factual base
e.g. Charles Wooley, 60 MINS, ACA
Andrew Urban, Lindsay Tuffin Tas Times
Blogging with facts and analyses
eg Barbara Etter APM
Lawyers cautious | Late is too late



SUSAN NEILL-FRASER MURDER CASE

I'M NOT GUILTY!

Five years after Sue Neill-Fraser was jailed for murder, a documentary casts doubt over the conviction

was jailed for murder, a documentary casts doubt over the conviction

PUBLIC AWARENES

one by one, group by group, case by case, audience by audience

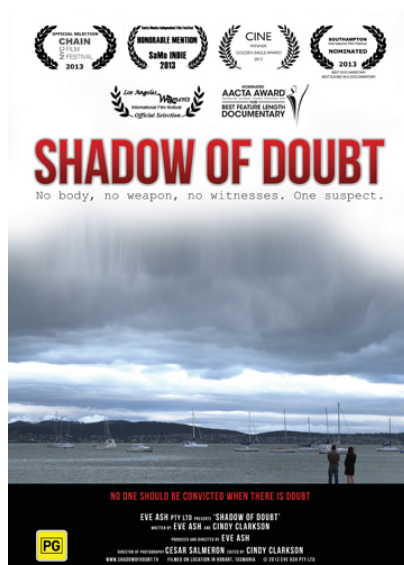
SHADOW OF DOUBT

feature documentary and
Dig Deeper videos

www.shadowofdoubt.tv

Catch phrase (log line):

No body, no weapon, no witnesses. One suspect.



PUBLIC AWARENES

In Sue Neill-Fraser Case

Films and videos to educate and inform
for PUBLIC, LAW, POLICE, GOVT

Film screenings
Talks, case study Q&A,
BLOGS eg Barbara Etter
Websites, Facebook, Twitter

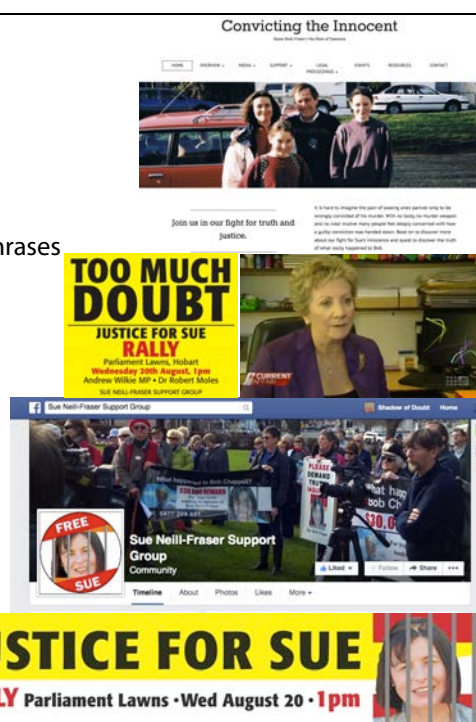
Factual short versions, catch phrases

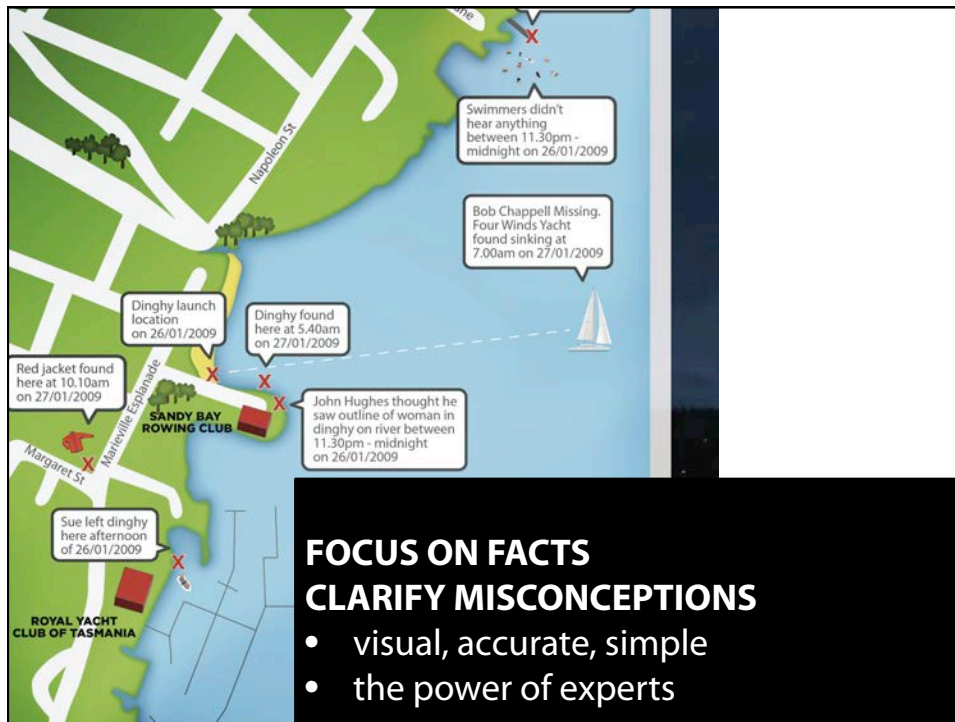
Political, legal & media champions
Support group, visits to Sue in prison

Postcards for Sue
Buttons, bumper stickers, billboards
Posters, flyers, T shirts

Rallies, vigils, songs
GRAND JURY band & music videos
REWARD \$40,000 for info

Networking, inform one by one
NEWS! Journalists...
Current Affair, 60 Minutes x 2
Feature Stories – New Idea, AWW, WHO
DVDs, CDs, TV, Foxtel
Petitions, Change.org
Lobby, change laws, push for CCRC
Book, Play, Podcasts (like Serial)
More TV, radio
INNOCENCE PROJECTS





MESSAGES MUST GET TRACTION

- Strong
- Factual
- Clear
- Catchy
- Short
- Consistent
- Memorable

So others repeat and word spreads

Causes of wrongful convictions

Educate the public – YES this happens

- ✓ Eyewitness misidentification
- ✓ Non-disclosure
- ✓ Tunnel vision
- ✓ Incompetent police investigations / criminal police behaviour
- ✓ False confessions/admissions
- ✓ Inadequate legal representation
- ✓ Informants and snitches doing deals
- ✓ Flawed forensic science or expert evidence
- ✓ Trial by media
- ✓ Prosecutorial misconduct
- ✓ Erroneous Judge's instructions
- ✓ Issues of race, class or ethnicity

Miscarriages of Justice: Bad lawyering



Is it fair that innocent people should be in prison as a result of incompetence?
The justice system has a duty to fix the problems colleagues may have created.



@ZellnerLaw
A must follow!

Kathleen Zellner

Role model. A remarkable fearless justice warrior in Chicago

18 exonerations in USA! as at OCT 2015

Chicago Lawyer Magazine's Person of the Year in 2014

Convinced witnesses to come clean about lying. Got confessions from a serial killer.

In 20 years, Kathleen Zellner had righted more wrongful convictions than any private attorney in America.

STRATEGIC INNOVATIONS FOR BEST PRACTICE JUSTICE

1. Criminal Case Review Commission

- JIT - **Justice Investigation Teams** to fast track MoJs – eg 3 acclaimed experts
- Random audits of cases by all law schools

2. Jury induction programs

3. Police investigations of major crimes – what about...

- Team 1 – major team (75% resource)
- Team 2 – alternate hypotheses/strategies/cold-case process while hot, diff leader (25%)

4. Regular peer reviews – all disciplines

5. Greater accountability, especially after MoJ uncovered

- Identify errors and misconduct
- Judges, prosecutors, appeals courts, forensic scientists – reviewed
- Police investigation review
- Misconduct – people held accountable

MEDIA INNOVATION IDEAS

TV Series – **CATASTROPHIC JUSTICE**

- Miscarriages of justice – air crash investigation type format
- **JUST– Justice Under Scrutiny Taskforce** – to analyse Catastrophic mistakes

REALITY SERIAL: CLASS ACTION

- Exonerees, impacted clans and Pro bono heroes join forces

COMING SOON

Justice Hunters

Learning from miscarriages of justice



This series features interviews with lawyers, forensic experts, psychologists and academics.

It provides a valuable teaching and learning resources for students and practitioners in law, policing and forensics.