

**A six-part TV doco on this case, on Ch 7 from 30 January 2019, will not air in Tasmania.**

## **Does perverted justice prevail in Australia's deep south?**

*Book review by Bill Rowlings, CEO of Civil Liberties Australia*

Over the past 10 years, Tasmania's police, prosecutors, judges and politicians have perverted, deflected or delayed the proper course of justice in Tasmania.

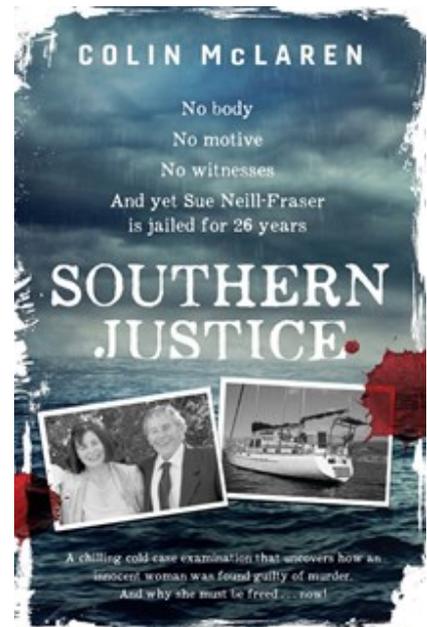
So says a new book which forensically strips bare a 'justice' system that proves unfit for purpose, where those in authority have their heads in the sand, according to the author.

'Southern Justice', by Colin McLaren, covers aspects of the original trial, but more importantly the recent saga of the past three years, of the Sue Neill-Fraser (Sue) case (Note 1).

It is a racy, readable book of constant twists and turns, in which the author becomes a double victim – of Tasmanian police bastardry, and of heart problems as he races to complete his end of a long-running investigation aimed at revealing a long-obfuscated truth.

Launched on 29 January 2019, author McLaren is due to give evidence in the Supreme Court of Tasmania on 5 February in Sue's last-ditch appeal for a fresh, fair appeal hearing that should set her free if dark forces of the southern state don't again combine to readjust reality.

Tasmania convicted Sue of killing her husband of 18 years, Bob Chappell, on Australia Day 2009 on their yacht (Note 2) and of dumping his body from a dinghy deep in the Derwent River. The jury decision was on entirely circumstantial evidence pushed by the police and prosecution to gullible jurors and judge. There was, and is, no body, no believable motive and no witnesses. There is also no chance that a competent jury, in a trial fairly facilitated by relevant facts from the prosecution and police with a reputable defence lawyer and heard before a mainland judge to mainland standards, would have convicted her. Or would again, if she succeeds in winning a fresh appeal. Her case is compelling. – BR





In his own handwriting to me, McLaren (photo) writes: *“Be prepared to be shocked!”*. The book blurb says: *“The guilty are still out there!”* Both statements are spot on.

It is a shocking book. Those with most to fear are the guilty, still walking Hobart’s streets, whom McLaren all but names.

But the police-legal-political establishment in Tasmania should also be alarmed – there is very little to their credit in the 300 pages. You would hope the book would galvanise people and politicians to corrective action: unlikely, judged on past performances recounted in the book.

McLaren shreds the Crown case against Sue. He casts a searchlight on rampant police incompetence at best, with overtones of selective investigation for possibly ulterior purposes not excluded. An example is the failure to interview, for three years, at least two prime suspects with criminal records, who were within metres of where the murder (if that is what it was) occurred on the night of Australia Day 2009.

*“...the tunnel vision, the missed leads, the lost opportunities...”*

He illustrates with crystal clarity how police, prosecutor and judge combined to stop a crucial witness giving evidence, even though her DNA – probably vomit residue or dry retch, and in a sample the size of a dinner plate – was found within centimetres of the likely murder scene. He is gobsmacked by how the police could fail to test other DNA samples, then lose the samples before they or anyone else could examine them.

The book goes a long way to explaining how a befuddled jury were coaxed down a confused path to a wrongful conviction, for which a 60-something, innocent woman, Sue, continues to pay the price. She languishes in her 10th year in Risdon prison, 13 still to go.

McLaren is a former top Victorian detective, who has written several previous books (Note 3), so he brings a racy, readable style to a miscarriage of justice with more angles than a bookie’s runner. In this investigation, he was aided by a fellow former Victorian detective, Charlie Bezzina, and the noted Australian barrister, Robert Richter QC...among many others, mainly from mainland Australia, who have sought justice for Sue.

McLaren and colleagues benefitted immensely from the foundational search (Note 4) for truth by former WA Assistant Commissioner of Police, qualified lawyer and chemist, Barbara Etter APM, who was Sue’s pro bono lawyer for more than five years. Behind them all is Eve Ash, a documentary producer-director who has been there from the outset of this sorry saga of injustice, since 2009 trying to capture truth in a camera and paying personally for much of the search for justice, out of pocket probably upwards of \$1m so far.

*Right: Eve Ash, Independent Federal MP for the Sandy Bay area, Andrew Wilkie, and Barbara Etter in December 2013. McLaren pays tribute to the work of both women.*

Ash’s six-part documentary series, *‘Undercurrent’*, starts airing on Channel 7 from 30 January 2019. Channel 7 is not showing the doco in Tasmania.

The book explains how Tasmania Police raided a film production house in Sydney and seized 500 hundreds hours of Ash’s footage being edited for the series, then



used it to try to prevent witnesses giving their pre-recorded statements in person before a Supreme Court appeal hearing, by charging them with thought crimes ('planning to give false evidence') and/or coercing them to change pre-signed statements.

This was a tactic unknown previously in the British legal system, according to some criminal and academic lawyers: they believe the action by police comprised a contempt of court. The unusual and underhand move, endorsed by the Office of the Director of Public Prosecutions, means Tasmanian Police have interfered with already-scheduled witnesses to prevent an already-sitting court hearing from them as originally intended. As McLaren puts it:

*"The long arm of the law had reached out and grabbed a fistful of witnesses and a lawyer and squeezed the daylights out of them".*

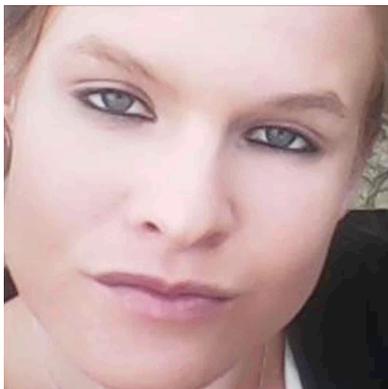
Manipulated injustice is as rampant as incompetence in this book. It oozes off the pages. McLaren identifies the guilty parties. Most are paid by the State of Tasmania.

He reveals that the people really guilty of killing Royal Hobart Hospital radiographer and yachtsman, Bob Chappell (photo), still walk the streets of Hobart. If Tasmanian Police concentrated on catching criminals more than protecting their own reputations, the state would be a safer place, he infers.



He uses code names to identify the prime suspects and the shady characters far more likely to have killed Chappell than the wife who loved him then, and still does. There's Dodger, the male slut and stealer from yachts. Pablo, the yachtie with a hardened criminal past. Snapper the bikie boss with a heart of gold who actively supports the search for justice in this case. Gabby, the biker's moll. Hairdresser, the man with interesting dog-walking companions. Sandy Bay was a seedy spot a decade ago, late on a very dark night.

And then there's Meaghan Vass, now aged 25, but a 15-year-old street kid, underfed and homeless, ghosting about the ill-lit waterfront and caught up with criminals back in 2009.



Vass (photo) tells McLaren personally something she has reportedly also told a number of others over the years: she was at the murder scene. At the original trial, she denied vehemently when questioned that she had ever been on board the yacht. A DNA sample strongly suggests otherwise.

McLaren organises a freely-made, signed statement from her saying she was on board at the relevant time. After seizing the film footage under warrant, Tasmanian Police get hold of the young woman and, suddenly, they are able to produce from her a different statement, more to their liking.

For the first time, McLaren in *'Southern Justice'* reveals publicly the details of the crucial DNA sample found at the murder scene. Police and the prosecutor strongly suggested to judge and jury in the original trial that the DNA sample, which came from Vass, was tiny, possibly transferred on the shoe of a police officer (Note 5). Only now do we learn publicly that the DNA sample was the size of a dinner-plate, or an A4 sheet of paper (26cm x 21cm), and is likely the result of vomit. If nothing else, McLaren's book has done a service to justice by this wider revelation.

*Right: Area of the yacht where the massive DNA sample was found on the deck, adjacent to the open 'gate' in the stanchions (midships starboard), about 2m behind the the open foredeck hatch centre of photo.*



Three other DNA samples, two swatches and one on a face towel probably of vomit and probably used to wipe someone's face around the time of the murder, simply disappear, without being tested. They also "vanish not only from storage from the forensic work sheets and final reports," the book reveals.

*"The handling of these key exhibits defies sound investigative and forensic techniques. There can be no explanation for hiding them from the court process and the defence lawyers," McLaren writes. "Odd place, Tasmania,"*

According to the former Victorian detective, Tasmanian police officers have:

- selectively ignored critical evidence pointing to the probable murderer(s);
- avoided taking statements from witnesses whose evidence doesn't suit them;
- coaxed witnesses to produce statements the police prefer;
- used standover tactics, threatening to charge potential witnesses if they didn't stop talking to McLaren, Ash and other team members;
- abused their powers to secretly telephone tap, to access bank accounts and to surveil innocent people simply and legally trying to right a miscarriage of justice, and work out why the wrong person is in jail;
- bent the legal system into a pretzel shape never previously seen in Australia; and
- failed to formally interview – for 10 years – someone who has said she was there at the site of the murder of Bob Chappell on the yacht 'Four Winds' in Sandy Bay Tasmania in the darkest hours of Australia Day night 2009.

But it should not be thought '*Southern Justice*' is solely a recital of police misbehaviour.

McLaren also gives a detailed account of how the current Tasmanian Premier, an acting Attorney-General and the Solicitor-General refused to take action inside or outside Parliament when alerted in May 2017, by a detailed, chapter and verse briefing, to the highly probable miscarriage of justice involved in Sue's case, caused by Tasmania's police and other elements of the state's legal system.

Barrister Robert Richter (photo) led the briefing (at Parliament House) to the trio in person and told them, in precise detail, how and where police had bungled, and the prosecution and judge had erred. The presentation included advising them of the "I was present when the murder occurred" statutory declaration from Vass, as well as her other confirmation: the person convicted of murder, Sue, wasn't present at the time of Chappell's death.

(Still, to this day, no-one in government or opposition or an



independent has raised the crux of the problems around this case in the Tasmanian Parliament, where speech is entirely protected. There's a conspiracy of silence, and the foul odour of cowardice, around Sue's case).

McLaren tells a convincing tale of how the same set of circumstances, and some facts, relied on by the Tasmanian Police have told an entirely different story to two experienced Victorian detectives. And he sums up the TasPol investigation of 2009 and 2010 – police had 18 months to prepare their case – as:

*“the worst major crime investigation I have ever seen”...“the sewer pipe that was the Tasmania Police investigation of Bob Chappell’s disappearance and likely murder. Funny place, Tasmania.”*

By presenting a paper to the Premier and colleagues, McLaren's analysis, passed to Tasmanian Police, gave them the chance to go over old ground, re-quizzing people and trying to shore up a case so flimsy that it was astonishing it ever resulted in a conviction.

McLaren and others have pointed to court transcripts which show that the prosecution:

- anointed speculation as 'evidence';
- misled the jury and failed to correct the error before a wrongful conviction resulted;
- twisted the absence of material and/or fact into circumstantial 'evidence' against an accused in a way that should have no place in a court of law; and
- 'leaked' DPP material to the TasPol, supposedly an independent entity.

His and other analyses of the management of the case demonstrate that judges have:

- shown an unwillingness to apply mandatory rules of evidence;
- demonstrated ignorance of sentencing rules (criticised by the appeal court);
- been unable to apply logic;
- denied the crucial nature of a massive volume of DNA evidence, and
- failed to avoid perceived bias for an extended period.

Among those long involved in Sue's case, there is also a strong suspicion – which cannot be proved or disproved – that societal envy and misogyny have been allowed to permeate Tasmania's 'justice' system. And bullies operate not only in school yards.

The great advantage that ex-detective McLaren has in recounting this depressing tale of rogue 'justice' is his cop's nose for sniffing out the in-house shortcuts, translating police-speak, identifying the tunnel vision and confirmation bias, and overturning claims that had enjoyed the status of 'gospel' because there was no-one who could counter the police-concocted misinterpretation of what happened one dark Australia Day night a decade ago.

Basically, the book explains how McLaren turned his mainland cop training to reviewing the police-gathered evidence presented to the original trial. He studied the crime scene for hours upon hours, and interviewed and took statements from the main players. He enlisted experienced and expert colleagues and friends from years as a top policeman to double-check the myriad anomalies thrown up by shoddy local police work.

One of the former co-workers is Charlie Bezzina (photo), also a retired top Victorian investigator who has handled hundreds of murder cases and been a trainer of detectives for Victoria Police.



In a telling words near the end of the book, McLaren writes:

*With the help of Charlie Bezzina, I have tried to remain impartial when examining the facts around Bob Chappell's probable murder. Together, we were unable to find one snippet of fact that suggested Sue Neill-Fraser killed her de facto husband. What we did uncover is the worst homicide investigation that either of us can recall.*

*No other city in Australian pursues the twin ideal of incompetence and corruption with quite the same enthusiasm as Hobart. When it comes to asinine administration, the Tasmanian government is in a league of its own.*

I think he means “corruption” of the Tasmanian Police as in the misnamed “noble” corruption”, or confirmation bias that inexperienced police are so prone to. That’s where youngish, incompetent police, without much yacht ‘murder’ experience, intuitively just “know” someone is guilty, and so they look for evidence only to prove their personal theory. They should, of course, keep an open mind and investigate a wide group of possible suspects until facts and hard evidence appear as to who is really guilty. There’s nothing “noble” about police who cannot and will not see the truth, or even look for it.

The Sue case is tunnel vision, “noble” corruption and confirmation bias writ large. McLaren gives chapter and verse of where and how the police allowed themselves to be engulfed by it. Later they abused the law to turn the tables on Ash and McLaren himself, who suddenly found themselves being investigated: followed, listening devices in hotel rooms, phones tapped, bank and financial information secretly gathered...then distributed publicly to do maximum damage to the reputations of innocent people seeking truth and justice.

McLaren says he has travelled as incognito as possible for a year, fearing he would be arrested at an airport somewhere in the world with the local constabulary doing Tasmania Police’s bidding. Usually, it’s only in third-world countries that civil liberties people, human rights campaigners, and those seeking to right (and write) wrongful convictions are harassed by police. And in Tasmania.

Sue Neill-Fraser’s (photo, in 2009) wrongful conviction is currently the ugliest festering sore on the Australian legal system. It deserves to replace Lindy Chamberlain in Australia’s psyche as THE national cause celebre – Chamberlain spent only three years wrongly in jail after the ‘Dingo Took My Baby’ case in the early 1980s: Neill-Fraser is into her 10th year in a new century wrongly in jail.

Sue is as innocent as Lindy was in the NT, as Henry Keogh was in SA, as David Eastman was in the ACT, as Andrew Mallard was in WA, as Graham Stafford was in Queensland, etc, etc, etc. McLaren’s book proves it. When will police learn that embellishing cases always comes unstuck, eventually?

Tasmania is the only state without a notable wrongful conviction case: that’s because, in Tasmania, police, prosecutors and judges seem to see themselves as incapable of making a mistake. That’s a gross error in itself.

McLaren writes:

*“It’s fair to say I had lost regard for the wonderful state of Tasmania and all the decent people who live there. People who deserve better, in my view.”*



You be the judge. 'Southern Justice' is a cracking read, and a wonderfully entertaining 'whodunnit' and crime story, even if you don't have a civil liberties or 'fair go' bone in your body. But beware, the goodies don't necessarily wear white hats, and the baddies can be badged to falsely resemble goodies.

Southern Justice, Colin McLaren, <https://www.hachette.com.au/colin-mclaren/southern-justice> ISBN 978-0-7336-4175-6 RRP: paperback \$32.99; e-book\$14.99.

### NOTES by the reviewer:

Sue's new bid for a new appeal – which began in court in October 2017 – continues on 5 February 2019 before Tasmanian judge Michael Brett (photo).

The prime witness on that day – summoned personally by judge Brett, but to give evidence by videolink from Melbourne – will be the book's author himself, Colin McLaren.

Judge Brett says McLaren's evidence may be "fresh" and "compelling", which it needs to be for Sue to get her chance at a new appeal before three judges under a law, introduced to Tasmania in 2015 (at the original request of Civil Liberties Australia) by the late Vanessa Goodwin, then Liberal Attorney-General.

Only a Royal Commission or a similar full, open and independent inquiry will eventually reveal the extent of the abuse of the rule of law, the legal system and the constitutionally guaranteed justice system of Tasmania by Tasmanian Police and other state entities. On Australia Day 2019, CLA formally asked the Attorney-General Elise Archer to announce such an inquiry for 2020 or 2021. Barrister Robert Richter QC has also asked the state to mount a Royal Commission.

The long-running campaign of 'Justice for Sue' continues to be backed by a strong and vocal supporters group originally led by Lynn Giddings, mother of the former Premier, Lara. They meet regularly for discussions and for protest rallies outside Parliament House in Hobart. They also enjoy strong backing from people in the rest of the state, and nationally.

ENDS

Notes:

- (1) Civil Liberties Australia has been supporting Sue Neill-Fraser's bid for justice for seven years: hers is the only individual case CLA has ever agreed to take on, which shows how unjust her conviction is, in our opinion. CLA President Dr Kristine Klugman and I initiated the lobbying that eventually resulted, with other people's subsequent help, in then-AG, the late Vanessa Goodwin, in mid-2015 passing the 'Right To Appeal' law under which SNF is now seeking a new full-court appeal.
- (2) The 16.1m twin-masted, Roberts motor-sailer yacht 'Four Winds'. Right: The photo shows the yacht with police aboard, taking photos.



- (3) His blurb says: “Colin McLaren was one of Australia's best detectives; he travelled the world on high-end investigations during the 1980s and 1990s. He faced down the underbelly of Australian crime and his work has been the subject of many police genre documentaries and television series. A film of his own life, based on his hugely successful first book ‘Infiltration’, the true story of his efforts as an undercover cop, was made in 2011. Colin writes constantly and is a regular advisor to TV and film productions. His book on John F. Kennedy's death, ‘JFK: The Smoking Gun’, was an Australian bestseller. He is an Emmy judge and highly respected in the US as well as Australia for his investigative journalism. ‘Southern Justice’ is his latest work – and his most important to date.”
- (4) He joined the broad-based Sue Neill-Fraser team three years ago, introduced to help doco maker Eve Ash, bringing his years of experience, recent work on cold cases, understanding of police methods and culture, and ability to talk “police speak”. Eve Ash has been the foundation team member seeking justice since the first year in 2009. Barbara Etter is the pro bono lawyer who carried the legal fight to Tasmania’s “justice” system, largely alone, for about six years. She ‘resigned’ suddenly from the unpaid role about 18 months ago for personal reasons. She now paints beautiful animal portraits: if you’d like your dog, cat, llama or lion immortalised on canvas, get in touch with her.
- (5) The shoes of police officers feature in forensics in this case. A long cook’s knife, discovered on the floorboards of the yacht’s cockpit, was found to have the footprint of a Tasmanian Police officer’s boot on it when analysed under the microscope. The finding illustrates the poor treatment of the crime scene, and forensic evidence in general, in this case.

ENDS NOTES