## **EVIL ANGELS**

## Twenty-five years after Michael and Lindy Chamberlain's baby Azaria vanished, we still have a lot to learn about justice.

## BY JOHN BRYSON

OT LONG AGO WE READ THIS sorrowful cry in our newspapers: "I feel like my heart has broken into a thousand pieces," sobbed Maria Menezes on the death of her son, shot dead in London, suspected of being a terrorist.

The officer who killed him was diligently carrying through orders issued by the chief constable, on command from government. At war, peacetime levels of certainty of guilt are judged too ponderous by governments whose need is to be seen to be taking purposeful action. No time for a trial. And even when we have time, when the suspects are in custody, in a terrifying age chances of a fair trial are low. At a lesser level, in civilian criminal trials, if the cause is celebrated, the chances of an aberration in the delivery of what we like to call justice is higher than the plainer run of trials. Often this is because prosecution teams and government are under public pressure.

Why, in the peacetime early 1980s, in Australia, would someone in government, or in its bureaucracy, strive to deny fairness in a trial to parents suspected of the murder of their swaddling baby Azaria? And why would a government like that be so applauded on radio, in newspapers, in sports clubs, in hotel bars?

Much of the answer lies with the progression of a celebrated story on television. Radio broke the news: a baby taken by a dingo from a tent on August 17, 1980, never found, voice interviews with police, with searchers, then quickly to TV, reconstructions of the activity at the Uluru campsite, interviews with rangers, then the heart-rending shock of an interview with the bewildered parents. Then TV took control of the story, while word of mouth carried the rumours.

The first, and most decisive rumours for the rest of the story, were "dingoes don't behave like that" and "a dingo couldn't run with such weight in its mouth". These were certainly believed by most of the first reporters on the scene, and began to affect the slant of TV reports, even the camera angles. Close shots of the Chamberlains in interviews came nearer and nearer.

Then "Seventh-day Adventists believe in child sacrifice". And, "Baby Azaria was always dressed in black to represent a devil's child". And, "The Chamberlains' bible has a child sacrifice passage underlined in red". And, "The name Azaria means Sacrifice in the Wilderness". And on and on.

The first of these was important in the scheme of the developing TV storyline. The initial suspect was not Lindy Chamberlain but Pastor Michael. The first scenario to come through to the capital cities had baby Azaria slaughtered on the Rock at Uluru as a sacrifice for the sins of the world. Some believe it to this day.

Bigotry was in full cry now. TV crews had become fluent in the techniques of filming this drama, which had already established its central characters, held a satanic storyline, and it's not unimportant to the popular culture receiving it that the '70s and early '80s had seen a saturating number of satanic horror films, including *The Exorcist* series. We were familiar with horror entertainment.

The Chamberlain case had entered more than our world of news; it had entered our world of TV drama, and would he ruled by drama's conventions. From here on, most of us judged the Chamberlains according to the judgments we would make watching drama. We who live in the modern social world are now trained to use a particular "grid of recognition" watching the characters in drama according to particular conventions, which we and directors and actors agree upon. We know whom to distrust, who is good or evil, and that "murder will out". Away from the stage or the screen, face to face in the true social world, we judge character and events using a far more sophisticated set of skills.

Looking back, it seems we judged these parents, particularly Lindy, using judgment and evaluations appropriate to drama, rather than social human judgment, because we watched these events as TV drama.

Public opinion was so hot by the time of the inquest that security was increased, the tension peaking with death threats to the Chamberlains and their lawyers, then

a threat to bomb the courthouse. Coroner Denis Barritt was so moved by the plight of the Chamberlains, and by public hatred, that he arranged for TV to broadcast his findings live. His identification of the dingo as the slaver, his criticism of bureaucrats for failing to protect visitors from dingoes, and his apology to the Chamberlains for appalling public bigotry, went out to the living rooms of the nation. His words angered many in government, bureaucrats, police and Territorians. Is it fancy to suppose, soon after, a decision at some quickly called meeting to press on with suspicions against the Chamberlains? Certainly a forensic scientist was sent to London with the baby's clothing, seeking out the celebrated pathology professor James Cameron at Scotland Yard.

We now know that a task force was set up, dubbed Operation Ochre to disguise its purpose. The expense account covered salaries, interstate and international travel, the commissioning of private pathology firms, and interstate forensic specialists. One of these was commissioned to locate a file recording child abuse by the Chamberlains when living in Tasmania, a folder rumoured to be as fat as a briefcase. He spent a long time fruitlessly searching.

Should we suspect expenditure this size may have been expressly authorised by Cabinet? And as Cameron pronounced, in secret, that Azaria's singlet bore the bloodied mark of a hand the size of Lindy Chamberlain's, and a bloodflow which showed the baby's throat had been cut through with a small weapon (all this disclosed at some meeting of inner

government), may we imagine some brief spatter of applause?

The energy with which Cabinet and the Ochre team chased after the Chamberlains was in reaction to two forces: their deep belief in the guilt of these parents, which is as strong today as ever it was, and the insistence every celebrity case carries, always, that it be brought to a conclusion. It's at this time we come to feel the presence of a supremely interesting character in the shaping of the case against the Chamberlains, someone we never quite see, other than the movement of a hand behind the curtain. We will not know if he or she is a member of Ochre or outside, or is the one person throughout, or a succession.

This is the Tactician.

The Tactician is here to secure a conviction. This was a popular cause, but the task must have seemed daunting. The Chamberlain case is remarkable particularly for this dimension: every witness to the happenings at the Uluru campsite knew Azaria to have been taken by a dingo. Every one of them to be called to the witness stand by a prosecution was a witness for a defence.

From this it followed that a jury must be offered evidence to justify rejecting the campsite group. Only science could provide a plausible alternative. No Australian scientist would agree to the handprint and the cut throat, so the load must be borne by exotic sources. Did it occur to the Tactician that the most

effective way to convince a jury beyond all reasonable doubt was to first convince the public beyond all reasonable doubt?

he Barritt inquest ended the TV show we could call The Disappearance of Azaria No 1. Secretly the sequel was in the making.

In a murder mystery the development is to be intriguing: the seeding of clues to arrest our attention, the possibility we might miss something important, and discovering leads to a gripping solution.

Was it the Tactician's decision to have detectives invite a TV team to a search for remains in the sewer of a motel room where the family had slept after the loss of Azaria? Next, to prove that a baby's clothes would have collected burrs and debris if the body were rushed through bush by a dingo, a small effigy was dragged through on a lanyard, paced by a news camera and bathed in its floodlights.

The Chamberlains discovered all this activity like everyone else, through TV and newspapers. Their alarmed lawyers asked detectives for information. They were refused. They asked Crown law for it. They were refused. Rumours of Cameron's analysis of bloodstains began to make an appearance in the news, and the Ochre team conceded some evidence like this did exist. Chamberlain lawyers flew to London and Cameron, who said he was forbidden from speaking.

Confiscation of the family car, and removal for blood tests, began rumour that

the sedan was "awash with blood", again wrong but useful in reassuring public prejudice.

Secrecy as a tactic to weaken the Chamberlains was by now quite clear. The irony was, since leaks flowed to gossip columnists and radio jocks, it seemed the world knew more than did the Chamberlains.

The most spectacular early success for the Tactician, whoever that was now, took place in the Supreme Court. Operation Ochre now wished to reopen the inquest. A method must be designed which would not alert the Chamberlains' lawyers, which could take place without notice to any other party - especially the next of kin of the deceased, would not air

any reasons for the proceeding or disclose any evidence on which it was based, would remove the incumbent coroner Barritt who might insist on giving notice to Chamberlain lawyers, and must proceed entirely in secret. It was a tall order.

How it succeeded we may not know until freedom of information deadlines pass. The Crown's application was made to the Supreme Court. No notice of it appeared in court lists, it was heard in secret and it was successful on every count. What arguments persuaded Justice Toohey to grant those orders we must wait to find.

The Chamberlain family was given notice that the case was reopened by the arrival of a TV crew in a helicopter over the house. Barritt was assigned to urgent work in Darwin and magistrate Gerry Galvin appointed coroner in Alice Springs.

Usual practice in inquests is for all parties, including the next of kin of the deceased, to see copies of statements to be given in evidence. This was refused. Usually all parties have access to interview witnesses. This was refused. The Crown applied to have the coroner import evidence from the Barritt inquest into this inquest by accepting the transcript. Only the new evidence would be given in person. Direct evidence from campsite witnesses would not find a way into the news reports. News from this inquest was to be about murder.

The Tactician was having a dream run.

The greater coup was yet to come. In the normal course, and this was too much a celebrity case for that, we would have expected the Chamberlains to be charged as soon as evidence in police hands justified it. Not this Tactician. The disadvantages of the usual forms had been well thought through: once charged, an accused has some rights, a mere witness has less.

So all detail of all evidence was to be kept secret from all witnesses other than Ochre's.

When this inquest opened, the barrister for the Crown declined to give an opening summary. Protests against this were overruled. Then came the king-hit. The Crown barrister said: "Call Michael Chamberlain to the stand." This caused delighted uproar on the press benches, and astonishment around the Chamberlains. If charged already, they could not have been compelled to the witness box. Even a person vulnerable to prosecution is normally allowed to hear the evidence they must answer before they are called on for interrogation. Rather than publicly claim a right against self-incrimination, the Chamberlains insisted on giving evidence.

By the time of the next adjournment, some radio stations had begun reporting that the Chamberlains had refused to give evidence. So again here, were we watching the selective leaking of the tactical scheme? Did this misreporting suggest that not everything was happening according to plan?

No matter. Operation Ochre was well ahead in the race for a jury's verdict, and perhaps uncatchable.

At trial, its prosecution team had science to show infant's blood in the passenger foot-well of the family car - although really an automotive spray called Dufix loll, blood elsewhere - although really from accidental sources pre-dating Maria, and much in the driver's footwell — although really the spill of an old milkshake.

The Tactician had one more flashy trick. The defence team had been blocked from having the reputed infant blood re-analysed by others because, far from the sedan being awash with blood, the Crown now said that its analysis destroyed it all. So the defence

was left only the hope that independent scientists may interpret differently the opinion of the prosecution's blood analyst. The blood tests were preserved between glass plates and showed the shuddering reaction of the blood with other chemicals. When the prosecution's analysts told the trial that the glass plates of blood from the car had been routinely destroyed, and those she held in her hand were samples of other blood for exhibition at this trial, most legal observers perhaps gasped, but commentators did not yet grasp the enormity of this move away from past standards of fairness.

The prosecutors' case began with this premise: dingo attack is an implausible excuse for the disappearance of a baby, unworthy of belief. The Crown and its prosecutors were duty-bound to disclose to the defence any evidence it had to the contrary, so we can suppose it had none in its custody. Yet, close to the trial, a copy of a memo to the parks authority was anonymously sent to the defence team. It warned of increasing danger to visitors from the current pack of dingoes around the campsite. It advised a cull because, in its own chilling language, "small children ... can be considered possible prey". The memo was dated some weeks before the disappearance of Azaria Chamberlain. It was signed by the chief ranger, Derek Roff. Was the whistleblower Roff himself? He has now vanished from public view, a candid man, unlikely to stomach the chess

moves of the Tactician.

Just before verdict every journalist expected acquittal. Police told a defence lawyer they had no doubt of a conviction. Later, the prosecutors were applauded in the press for their effort in a complicated and difficult trial. No; the easiest ride a prosecutor could imagine. We had all been watching the progression to an inevitable end, led by a tactical plan designed well away from the courtroom.

wo-and-a-half decades on, can we be prouder of our justice system? Perhaps, but improvement maybe short-lived. Western governments are attracted to unjudicial tribunals for the most serious of crimes, and eventually this will alter the standards of even-handedness we presently demand from our courts.

Of the professions culpable in the Chamberlain proceeding, science was the first to make improvements, largely because the Australian scientists refused to be as cavalier as the notorious Cameron, and were right. Defence QC John Phillips returned to Melbourne as DPP and later Chief Justice, to persuade government there to set up an independent forensic science centre.

But disturbing reports come now from trial lawyers that juries are increasingly prone to follow the lead of forensic scientists in criminal cases, a reliance attributed to the popularity of TV dramas like *Crime Scene Investigation*.

We need to revisit the rules setting the

level of certitude required of expert witnesses. At present, the "professional opinion" of a qualifying expert is accepted, and perhaps the standard should be higher. A jury is held to a standard "beyond reasonable doubt" and courts might like to set a matching standard for the opinion of expert witnesses. The rivalry between experts in court can reach highly egotistical levels. The stench of testosterone can make our eyes water. And the men are even worse.

Politicians are beyond change. The pressures on them to pretend to moral standards they can nowhere near reach is overwhelming. They admire tacticians. They put them on staff.

Journalists? Well, we will always be suckers for a scoop. And the tactic of secrecy in this case disabled journalists'

cynicism. They reported news for the side which fed it to them because the other side knew nothing.

One hope lies with the judges. True, some judges in this case did not always perform at their finest. Trial Justice Muirhead, a fair-minded and even-handed man, did not react as he should at the destruction of blood evidence. He was even-handed there, when something more like judicial anger was appropriate. Scientific method relies for validity on each fresh conclusion being thrown open to the scientific community at large, to repeat or disprove. Destruction of the physical evidence produced during the performance of tests disqualifies all claim to a legitimate conclusion.

Judges don't need to wait on statutes to

regulate standards of practice like this. They may design and publish rules setting an acceptable standard of technological behaviour in experts' testimony, just as judges in Britain set the Judges' Rules placing a minimum standard of police behaviour in interrogation.

Politicians fear an independent judiciary, which is why they so often try to stack appeals courts with lawyers they hope are like-minded with them. High standards of fairness can be protected by the collective will of independent judges. Truly, we should wish them luck.

John Bryson achieved international acclaim with *Evil Angels*, his celebrated book on the disappearance of Azaria Chamberlain.

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