

# In The Dark – Pushing the Boundaries of True Crime

**By Sharon Davis**

## ***In the Dark*, Season One**

reported by Madeleine Baran, produced by Samara Freemark, 11 episodes, APM (American Public Media) Reports USA (2016)  
Peabody Award 2017

## ***In the Dark*, Season Two**

Madeleine Baran, Samara Freemark, Natalie Jablonski, Rehman Tunekar, Parker Yesko, Will Craft and Catherine Winter, 18 episodes, APM Reports USA (2018/2019)  
Winner, Best Serialized Story, Richard H Driehaus Foundation Competition, Third Coast International Audio Festival 2019  
George Polk Award in Journalism 2019

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*As they biked up the road the boys passed a long gravel driveway and somewhere close to that driveway, Jacob's younger brother, Trevor, heard a rustling sound in the corn. But he didn't say anything. They kept on biking. They got to the Tom Thumb and they rented a movie, "The Naked Gun", and they bought some snacks. Then they headed back home...they passed a few blocks of houses. The lights of the town faded away. They kept going. They went past woods and fields. It got darker. There were no sidewalks and no streetlights. Not even the moon was out. The only light came from a flashlight that Jacob's brother Trevor flashed in front of them...*

*Episode 1, In the Dark, Season I*

When we think of the True Crime genre what images are conjured up? Perhaps a single street lamp on a dark empty lane, seedy nightclubs, an attractive woman with shapely legs in black stockings and stilettos, sexual violence, at least one grisly murder, a possible serial killer, an unconventional detective on the hunt, vicarious thrills?

Using these images as criteria it seems unfair, almost absurd, to place a podcast series such as *In the Dark (Seasons 1 and 2)* within the True Crime genre. This meticulously researched and beautifully constructed series competes for space on this increasingly crowded platform with podcasts such as *My Father, the Murderer* - a daughter's search for the truth about family secrets; *Atlanta Monster* - a gruesome series about child abduction and murder in Atlanta in the 1980s; or *Casefile* – where *fact is scarier than fiction* - a popular Australian podcast narrated by an anonymous host who may, or may not be, a policeman. There's even the lurid *My Favourite Murder* - where loyal fans, dubbed "murderinos", are urged to SSDGM, Stay Sexy and Don't Get Murdered. The genre has become so popular that by March this year 11 of the top 20 podcasts on the US iTunes charts were true crime-related.

Yet this surge in popularity throws up important issues. The True Crime label is now so broad that it covers everything from blood spattered murder stories to serious investigations into miscarriages of justice, police corruption and the failings of the criminal justice system. What is often lost behind this rush to broadcast are real people whose lives have been shattered by a crime that they may never recover from.

And therein lies the problem, the ethical dilemma. As journalists and storytellers, how do we balance the pursuit of justice and our responsibility to the victims with the demand to tell a gripping tale? As listeners, are we using the pain of others for our own entertainment?

There's a potential political price too. This increasing focus on crime, when in many instances crime is actually decreasing, also plays into the hands of politicians who regularly beat law and order drums at election

time, arguing for tougher penalties and in some cases even the return of the death penalty.

True Crime can date its popularity back to the 16<sup>th</sup> century when crime pamphlets – short unbound books usually detailing horrific murders - circulated amongst the literate. In the 19<sup>th</sup> century a new trend in crime writing also emerged that marked the beginnings of investigative journalism. Reformists such as Charles Dickens and William Thackeray wrote of institutional punishments such as prisons and hanging, to draw public attention to social injustices. According to American writer and scholar Pamela Burger, the later development of scientific investigation methods, in particular fingerprinting and forensic analysis, shaped the public interest in true crime mysteries. David Levison's *Encyclopaedia of Crime and Punishment*, credits Truman Capote's true crime 'non-fiction novel', *In Cold Blood*, published first in 1965 as a four-part series in *The New Yorker*, with establishing the contemporary style of the genre. The book was also enormously profitable, no doubt encouraging publishers to pursue true crime's expansion, so that by 2001 it was the quickest growing genre of writing.

There were of course spin-offs into visual media from this growing popularity. Errol Morris's seminal investigative documentary *The Thin Blue Line* (1988) about Randall Dale Adams being convicted and sentenced to death for a murder he did not commit, led to Adams' case being reviewed and to his subsequent release. And more recently subscription television (*Making a Murderer*, *The Jinx*) has picked up the baton and continues to run with it.

However the biggest explosion of interest in true crime podcasts followed the remarkable success of *Serial*, the 2014 podcast juggernaut, which investigated the murder conviction of Adnan Syed. To date *Serial* (Seasons 1, 2 and 3) has logged 420 million [downloads](#) (and still counting). As well as resulting in a judicial review of the Syed case, *Serial* also revealed that the podcast form is perfect for a true crime

investigation, allowing space and time to explore different complexities of the story.

## **In The Dark: investigative reporting on the criminal justice system**

And so, amongst all of these offerings, we come to *In the Dark*, an investigative podcast hosted by reporter Madeleine Baran and produced by a team working for APM (American Public Media) Reports, an organisation of investigative reporters “*dedicated to producing high quality reporting on issues that are often shrouded from public view*”.

How well do these lofty ambitions sit with the true crime label? In a recent interview with *The New York Times*, producer Samara Freemark recoiled from the description saying:

*However anyone comes to our podcast, we’re glad they’re there. But how we would describe our work is investigative reporting on the criminal justice system.*

There have been two seasons of *In the Dark*, each examining a different case. The 11-episode Peabody-award-winning first season, released in September 2016, investigates the 1989 kidnapping, sexual assault and murder of 11-year-old Jacob Wetterling in Minnesota. The case went unsolved for 27 years. Jacob Wetterling’s disappearance had impact far beyond the small town he lived in, leading to the establishment of a national registry of sex offenders. Ironically, just before *In the Dark* premiered, the perpetrator Danny Heinrick confessed.

Season 2, which began in May 2018, and finished in June 2019 (with more updates to come) investigates the case brought against Curtis Flowers, a black man from Mississippi who has been tried six times for shooting to death four people in a furniture store, and who has, for the last 20 years, been in solitary confinement on death row. Flowers has

always maintained his innocence, while the white District Attorney, Doug Evans, maintains his guilt. Over the course of the season, Baran and her team scrutinise each piece of evidence used in the case against Flowers – the route, the gun, the witness statements, and the alleged confession – and discredit their validity. Both series are arranged around themes, such as “the Crime”, “Person of Interest”, “Stranger Danger”, rather than chronological events.

Before working on *In the Dark*, Baran forged an impressive track record as a journalist with Minnesota Public Radio, and it shows. In 2013 and 2014, she exposed a decades-long cover-up of clergy sexual abuse in the Minneapolis – Saint Paul archdiocese. Her reporting led to the resignation of the archbishop, criminal charges against the archdiocese, and lawsuits by victims of clergy sex abuse.

Selecting the right story is all-important to the team. As Baran points out in a recent interview with *Longform* podcast, the crime itself is not enough for them to be interested in the story. They also consider the broader framework - who are the powerful people and institutions involved, and how might they be abusing their power?

And right from the outset of Season One, Baran identifies the team’s desire to focus not on the crime of abduction and murder, on the whodunit, but more on the questions raised by the police investigation:

*... When a case takes 27 years to solve, we should stop and ask tough questions of law enforcement, especially in a case like Jacob’s – a case that’s had devastating consequences far beyond the small town where this 11-year-old boy disappeared...*

*Jacob was kidnapped on a dead-end road in a town of just 3000 people. There were witnesses. Law enforcement got there right away. It seemed like the kind of case that could*

*have been solved that night while there was a chance to find Jacob alive. So what went wrong?*

Well, as it turns out, quite a lot.

*We're going to look at what law enforcement did, and also what they didn't do. And we're going to see how those decisions would come to damage the lives of so many people in ways that no-one talks about.*

## **Structure and Script**

Baran takes us, episode by episode, through the layers of the podcast team's investigation. We begin with the event, the crime itself, then move onto the search, the botched investigation, the overlooked clues, the criminalising of the wrong suspect, the movement to establish a sex offender's registry, the missed opportunities, and finally, the truth. What is revealed is an indictment of law enforcement, systemic mistakes and flaws in investigative techniques, and finally, shockingly, the knowledge that the perpetrator was right under the noses of police the whole time. It's a structure that has the appearance of simplicity but in reality is extremely complex.

Episode One begins with a description of the events on the night of the abduction as three boys head to the video store...

*They passed a few blocks of houses. The lights of the town faded away. They kept going. They went past woods and fields. It got darker. There were no sidewalks and no streetlights. Not even the moon was out. The only light came from a flashlight that Jacob's brother Trevor flashed in front of them...*

Then Baran draws us a small but ever-expanding circle around the abduction site as the kidnapper and Jacob get farther and farther away, "as the minutes tick by" and why those first few hours are critical to the

police investigation. Compellingly, Baran cites a comprehensive study on child abduction cases, which found that if a child is going to be killed, 80 per cent of the time it happens in the first five hours, and within 24 hours in almost every case, the child has been killed. This circle becomes more important in Episode 2 when the team dissects the beginning of the police investigation on the night of the abduction and in the few weeks following. The storytelling is deftly handled. Baran takes us back through the events of the night into a broader analysis of the investigation and policing, pointing back to previous information before throwing forward to the impact of the botched investigation on Dan Rasier whom police wrongly suspect of the crime.

*...All the things that law enforcement didn't do that night at the Rasier farm would come to matter a great deal years later and would change Dan's life in a way that could never be undone, but we'll get to that later.*

This pointing back and forwards is a trope of the whole series and one of the reasons why this podcast succeeds so well. It is, in fact, investigative journalism at its very best, focusing not on the shocking details of the crime, but instead drawing on deep research, data, in-depth interviews, and careful scrutiny of information to tell a bigger story.

In just one example of the depth of the research that's taken place, in Episode 2, Baran has been told by an expert how crucial it is in the first hours of a crime to secure the scene and talk to all the potential witnesses. It's "policing 101". Jacob was abducted on a dead-end road in 1989. The team identify the names and addresses of nearly 100 people who lived on that road at the time, and then track down and speak to 26 of them. Only two of them were sure they were talked to by police that night, another four thought it might have been that night or the next day. This is revealed when Baran interviews team member producer Will Craft, who did the legwork, cutting together his responses with various short audio grabs from the neighbours he's spoken to.

It's a clever audio device to deal with what otherwise would become pretty dry data if it was included in a narration. In Series 2, the same producer undertook an analysis of 26 years of Mississippi jury selection looking at racial bias. After sifting through thousands of documents, in what the producers claim is one of the most comprehensive investigations of race in jury selection in the United States, he found that black jurors were six times more likely to be struck from a trial than white jurors.

## **Sound and storytelling**

Like many true crime podcasts, the use of sound is well handled but quite conventional. Its role is to illustrate what's occurring, rather than excite the imagination. The spoken word is paramount. The auditory power lies in the voices that we hear – the narrator, the families of the victims, and friends, the witnesses, static recordings of 911 calls – as well as those we don't hear, the victim who's been forever silenced. Jacob's voice in a family recording just before his disappearance poignantly reminds us of his absence now. In Season 2, about Curtis Flowers tried six times for murder, his voice is conspicuously absent because he has been in jail for 20 years, yet his presence is palpable in the story. The series powerfully depicts the other black voices in this story; their community may have been wilfully impeded from taking part in the judicial process, but the podcast resonates with their raw emotions and rich Southern vernacular.

The use of additional sound is discreet – atmospheric recordings and beautifully composed and constructed music around clear, concise and descriptive prose. It's the kind of writing that you would find in a good narrative non-fiction essay in *The New Yorker*. Baran's conversational style takes the listener along with her as she and the APM team investigate the Jacob Wetterling story:



*(Sound of greetings at the door) ...*

*Narration: I went out to meet Jacob's parents, Patty and Jerry, earlier this year, months before they knew what had happened to their son. They're in their 60s now, and they still live on the outskirts of St Joseph. It's a small town, mostly Catholic, mostly white and mostly surrounded by farmland. Patty and Jerry still live in the same cosy brown house on the edge of town. On the front of the house there was a string of lights that spelt out the word "Hope".*

This literary style, often described as creative non-fiction where the author becomes part of the story, has its roots back in the "New Journalism" of the 1960s and '70s, championed by writers such as Tom Wolfe and Joan Didion. The style has become familiar through podcasts like *Serial* and *S-Town*. Like so many of these popular podcasts, *In the Dark* is filtered through Baran's perspective:

*I've been hearing the name Jacob Wetterling ever since I moved to Minnesota 12 years ago.*

In one sentence Baran places herself within the community of concern. Yet unlike the positioning of Sarah Koenig in *Serial*, Baran pares her personal thoughts back, she doesn't overly rely on speculation or her own beliefs about the case. Instead, walking a line that veers more towards a traditional journalistic form, she draws on the people she's speaking with and the investigation itself to tell that story. Here's how she described the approach of the team in a recent interview with *Longform* podcast.

*We're reporting on the criminal justice system for both of these seasons and that's more how I see our work, and so for us, we are really looking more at systemic issues and in fact, ...there's argument to be made that our collective obsession with cold*

*cases and calling them cold cases, or unsolved mysteries or whatever we want to call them, has really blinded us to the fact that there is an entity whose job it is to solve crimes and it's not, like, supposed to be the crowd-sourcing thing... and if the crime isn't solved the first question we should be asking is "what's going on with the cops who are supposed to be solving it?" Instead, I think we often jump to this idea of a collaboration with law enforcement as reporters – like we're all in this together and we're not going to ask these tough questions of law enforcement.*

In both Seasons 1 and 2, Baran favours a restrained form of storytelling:

*Yeah we definitely think a lot about that. We spend a lot of time reining things back that are already restrained... it's not really a new concept, it's just like, journalism*

*...there's a man on death row, there's a man called Doug Evans who wants him killed – how much does he want him killed, he's tried six times. How had he been able to do that? By violating the US constitution, that's one of the reasons. We didn't make any of that up. It's not sensational, it's true. ...I don't feel like we need to create drama, like, if we pick the right story the stakes should be there and we shouldn't need to hype it.*

*Longform Podcast Interview #319, November 21, 2018*

This restraint is particularly evident in Episode 2 when Baran recounts Danny Heinrich's courtroom testimony about his abduction, sexual assault and killing of Jacob. There's no embellishment, just the bare bones of his admission, even Baran's voice feels pared back. It is brutal, shocking, unsettling and dark, made even more powerful by her treatment.

## Public Impact and Protecting Victims

Shortly before Season One was due to air, the killer, Heinrich, confessed. While the news of his guilt was not a surprise to the producers (he'd been one of the possible suspects) they had completed most of the episodes by the time of his confession. But instead of re-editing and hiding the 'reveal' until the final episode, they presented it up front, recording a new introduction right at the beginning of Episode One, and released the first two episodes early.

It's a bold move, one which breaks many of the conventions of a True Crime narrative, but which also declares right at the start that this story is not about the crime itself, or the perpetrator. It's a move that insists on a much broader approach encompassing criminal investigation, police bungling and incompetence, and the impact this has on witnesses, families and suspects.

It's also clear that Baran and her team have spent many hours developing relationships and trust with those they interview. This is reflected in Baran's gentle and respectful approach.

*Baran: I wonder if we, you know... if we can talk just a little bit about ...Jacob?*

*Patty: hmm, (shuffling) J...Jacob was our second child... (the parents continue to describe Jacob and his character)*

*Baran: Shall we, can we just start with that day?*

*Jerry: I don't know. I'd just as soon as forget that day...*

*Patty: (laughs with embarrassment)*

*Baran: (quietly) I'm sure...*

*Patty: (more shuffling) Yeah, it was a ...it was a hockey weekend...*

Later in the interview as Patty recounts the events of the night Jacob disappeared, there's a heartbreaking moment.

*Mother said no – they couldn't ride their bikes. Talked to their Dad.*

*Patty: And you said it should be ok...*

In that one short sentence you can hear the years of both guilt and unspoken recrimination. And then...

*Patty: We were driving home absolutely confused, what's going on. It seemed like we were going so slow. ...*

*Patty: We didn't talk a lot. What do you say? What's going on? I was really confused. And then I said something really mean like "who told them they could go to the store?"*

At another point in the interview, Patty and Jerry differ on some of the details of the night and what Patty heard on the radio. It's clear that the Wetterlings have paid a price in telling their story again.

*Jerry: You see this is stressful to do – we're fighting.*

*Patty: We're not fighting.*

*Jerry: I know. But it's just ... to go back there, it's very painful.*

At that moment your focus shifts, now you're in the room with them, drawn into their world, asking if this story is really necessary. Haven't they already been through enough pain?

In Episode 10, Baran returns for a final interview with Jacob's parents. It's just a few weeks after Heinrich's first court appearance. Interestingly, they haven't listened to the podcast. It's an extended interview where their suffering is laid bare as they describe their

confrontation in court with their child's killer, the statements they made to the court and Patty Wetterling's heartfelt admission that she still couldn't understand why, after the sexual assault, Heinrich didn't just spare Jacob when he let other victims go.

*"It just wakes me up at night still."*

Then Baran gently shifts the interview away from the Wetterlings' personal grief back to the broader focus of the podcast. She asks Jacob's mother what lessons could be learnt by law enforcement, and more importantly, whether something could have been done much earlier to prevent Heinrich committing the crimes in the first place.

*Patty: I believe there's another side of it. It's like doing a whole social profile of Danny Heinrich. When did law enforcement ever first become aware of this man? Was it when he was shop lifting? He shoplifted from a Thrift shop, now that's kind of a clue... I don't know how old he was but if he was in need of clothing did social service ever get involved? Were the juvenile authorities ever involved? Were there ever points of intervention where the behaviour could have been stopped? ...I'm all about prevention and if we can see some behaviours or red flags – we know some of them, cruelty to animals is one, ...starting fires. What can we learn about these people so that we can intervene earlier so this person doesn't grow up to cause this much harm?*

In these exchanges Patty Wetterling demonstrates a remarkable capacity to see beyond her son's murder to the bigger picture.

*...I do not believe that people are born child murderers. He wasn't born that. He grew into that. How can we stop that from happening? I just don't want anybody to go through what we did. I'm still struggling with a lot of this but I'm strengthened by so many good people doing amazingly good*

*things to help out so, that's what carries us and will continue to help us grow out of this very dark place in you know, fighting for the world that Jacob knew.*

## ***Interviewing the Unwilling***

There's a similar moment in Season 2, when Baran's skill as an interviewer is again on show. For many episodes we've been hearing about Mississippi District Attorney Doug Evans and his continuing campaign to have Curtis Flowers convicted and executed for the murder of four people in a small furniture store. Doug Evans is elusive. He hasn't appeared in the courthouse, and has not responded to requests for interviews. So in Episode 8 Baran turns up at his office unannounced, wanders in and pokes around the hallway, and waits for more than an hour. Finally, Evans comes along the hall. Baran introduces herself and another member of the team.

*Baran: We're stopping by because we're reporting on the case of Curtis Flowers and we wanted to talk to you about the case.*

*Evans: I can't talk to anybody about the case if it's still pending.*

*Baran: Oh, so you can't talk if it's pending...*

*Evans: When it's finally over then we can, but as long as it's pending I can't go into any facts about the case...*

*Baran: It's been pending for so long...*

*Evans: Yep.*

*Baran continues: So I've been reporting on the case for about a year and ...I talked to a lot of people, I talked to a lot of the witnesses who testified at trial and what I would really like to do is just to sit down and go through what I found out and get your response to it about it and talk to you about it— could we do that?*

*Evans: Not until it's finally over, then I'll be glad to.*

*Baran: The stuff that I think you might want to know though.*

*Evans: I'll be glad to look at anything but I'm not going to do it on anything that's made public. If there's something that you know about that you think I need to know, I would appreciate you getting it to me, but news – no matter what form of news is not the way to try cases.*

*Baran: What's the right way?*

There is a masterful cat and mouse game going on here. It's worth listening to in its entirety. Baran's gentle, seemingly naïve manner has engaged Evans and he continues to talk to her for the next 11 minutes. Evans says he doesn't think taking someone to trial six times is remarkable. He is confident that Curtis Flowers is guilty.

*No question at all. Anybody that can look at the facts can tell...if you look at the evidence and what is there it is very strong. There is nothing weak about this case...any juror that I have heard except the ones that were lying to get on the jury...*

Barren's gentle but persistent manner has produced a startling allegation. The District Attorney has just accused unnamed jurors of lying to get on the jury.

That's the interview you get, when you're not prosecuting an interview. The presence of a microphone must have been clear because the recording quality is good but Baran has rendered it invisible.

*When I first started in radio I thought having a mic was changing the dynamic of everything taking place... I realised I was completely wrong, now I don't think that the microphone is that bad...there's a way once you record enough that it seems natural and in some ways more liberating than a notebook ...People generally want to talk. (Usually) People don't listen to them. It was rare in this project that anybody asked us to not record.*

## Resources and Responsibilities

Thorough investigative journalism is an expensive and time-consuming process. I know this from personal experience. In 2015 I produced a [radio series](#) on the New South Wales Drug Court, an innovative concept in which participants are brought from prison to undertake a comprehensive rehabilitation program. It took me 12 months to obtain permission from the authorities for the series, including unrestricted access to Court proceedings, and a further two years of following the participants as they sought to tackle their addiction.

For Season 1, Baran and her team spent nine months investigating the story. Season 2 took even longer – Baran and her team (five people full time) spent a year on the ground, actually moving to the small town in Mississippi where the murders occurred, talking to locals, attending church and the football, gaining trust, returning many times to interview people, to tease out their recollections. That's MORE THAN TWO YEARS of reporting time, before we even get to the studio production side. It's a credit to American Public Media that they have committed such resources to the series.

Whilst there is never any guarantee that an in-depth investigation can bring about real change, it is that key element, unfettered time to pursue a story, that may bring results. And while on June 21, the US Supreme Court reversed Curtis Flowers conviction, he is still not free. Legal argument about whether the charges should be dropped against him, or whether Doug Evans can retry Flowers for a seventh time are [ongoing](#).

Of course, there are dangers and pitfalls - the possibility of interfering with or disrupting an ongoing police investigation, the chances of prejudicing or damaging a future trial. The presumption of innocence until proven guilty is an important characteristic of our justice system. The potential for “trial by media” is not insignificant.



Madeleine Baran says her team were not –and had never been– trying to solve the crimes. The podcast did note, in the wake of Flowers’ latest overturned conviction, that it had ‘uncovered compelling evidence of Flowers’ innocence that helped bring the case to national prominence.’ But there is a line Baran does not cross. ‘We are not law enforcement,’ she told Longform.

Despite this, in Episode 15 of Season 2 the team turned their focus on another suspect in the Flowers case and raise questions about his alibi. Willie James Hemphill had been interrogated by police at the time of the furniture store murders and then let go. The producers check out his alibi and find that it is contradicted by the person he said he was with. This was another egregious error in the police investigation. The episode put Hemphill clearly in the frame as a suspect again, arguably without sufficient evidence, a situation that could have ongoing ramifications for him and his future. It’s ironic that they did this because in the first season the producers spent a great deal of time with someone whose life had been ruined because police wrongly believed he was a “person of interest” in Jacob’s murder.

It’s a misjudgement in a series that otherwise works so well, subverting the genre, taking us beyond a vicarious fascination with true crime stories, into a forensic and essential look at deep-rooted biases, corruption and systemic failures that prevent justice from being served. *In the Dark* pushes out the boundaries of true crime podcasting, raising universal questions about accountability in the criminal justice system and the need for systemic reform.

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**SHARON DAVIS** is a highly acclaimed investigative journalist, documentary and podcast producer. She is the winner of four Walkley awards (Australia's highest journalism award) and numerous other national and international awards. She is well-known for her ability to combine the rigour of investigative journalism with the eloquence of fine audio feature making. Most recently Sharon worked with Schwartz Media developing their podcasting capacity and producing a new [podcast](#). She also teaches podcasting, audio storytelling, journalism and radio production at the University of Technology, Sydney and works with the Community Media Training Organisation as teacher and mentor. Her audio works can be heard [here](#). They include the three part series [Inside the NSW Drug Court](#) – a compelling three-part radio documentary series that takes you inside a specialist court where long-term addicts with extensive criminal histories are put through a gruelling rehabilitation program. Over a two-year period, Sharon was granted unprecedented access to the Court and five of its participants. They bare their souls as they struggle to stay clean and meet the court's strict protocols of drug testing and counselling.

