

**PRIVATE
PROSECUTION
LISA ELLERY**



FREMANTLE PRESS

Lisa Ellery was raised on a sheep, cattle and barley farm at Gibson near Esperance on Western Australia's south coast. She studied law and arts at the University of Western Australia before returning to regional WA in 1998 to commence her career as a lawyer in the gold mining city of Kalgoorlie–Boulder. She soon fell in love with Kal and its people and in 2008 established her own law firm there. She works predominantly in commercial and mining law and employs a dozen staff in her busy Hannan Street practice. Lisa is married to Simon Ellery, a geologist. She divides her time between managing her law firm, running in the Goldfields bush and writing.

PROLOGUE

I liked what I saw.

Maybe five-foot-six with long brown hair, she filled out a figure-hugging dress that made her seem sensuous and carefree. She smiled as she flirted with another suit at the bar. He was much older than both of us; she was cruising for a moneyed lover.

Her smile was easy and warm, creating a dimple in the cheek I could see from across the room. The man in the suit looked enthralled.

I decided to cut his grass. I threw my jacket over the back of the bar stool next to them and ordered a beer.

~

'I'm not pretty,' slurred Lil, taking another sip of her chardonnay and spilling a drop onto her front. Up close, she had muddy irises and freckles. I liked freckles.

'You are,' I insisted, as she wiped at the drop of wine with her tissue. 'I think you're beautiful.'

'I'm fat.'

'Beautiful.'

She laughed, those dimples arresting me again. 'So, what ... what's your name again?'

'Andrew.'

'What do you do for a living, Andrew? You're all dressed up in a big, flash suit like a little kid at his mother's wedding.'

'I'm a lawyer.' I didn't usually like to break this to potential lady-friends too early in the evening, since some didn't find it as attractive as others. But Lil didn't look too fazed.

‘No, really? My brother-in-law’s a lawyer, and he’s a total asshole.’

I nodded. ‘Yeah, there are a few of them around.’ A change of subject was probably called for. ‘How about you? What do you do?’

‘I’m a florist.’

‘Cool.’ It wouldn’t have mattered if she said she was a slaughterhouse throat-cutter, I still would’ve been enthusiastic. We were playing the niceties game in anticipation of sex. ‘A creative mind.’

‘Well, in training, anyway. I’m not ... you know, it takes a lot of practice.’

‘That’s funny your name is Lil – is it short for Lily?’

‘It is, but lilies are funeral flowers.’ She stuck out her tongue to express her disgust. ‘I prefer to imagine I was named *Lilium*, for *Lilium Asiatica*. Queen of the Night.’

‘I don’t suppose there’s any flowers named Andrew?’

She laughed. ‘What’s your middle name?’

‘Barney.’

‘Well, then we’re a good pair. A florist named Lily and a lawyer named Barney.’

She grinned, having amused herself. I felt slightly offended. ‘There’s a lot more to being a lawyer than just arguing with people.’

‘Well, it’s a good name for flora too. There’s a day lily called Barney. And a nineteenth-century American botanist known as E.E. Barney.’

The light behind her eyes as she imparted her knowledge almost had me convinced that floristry wouldn’t be a bad career choice if ever I had to give up the law. It wasn’t typical for me to get too enthralled by anything a potential sexual partner had to say. But Lil was intriguing. She was working hard to better her skills and knowledge in a field for which she had obvious passion. She seemed like someone who had their shit together.

She pulled out her phone and started scrolling through pictures. ‘See,’ she said, passing the phone to me. ‘That’s one of my arrangements.’

I glanced at the picture. A bunch of flowers.

‘That’s great, Lil,’ I enthused. ‘Beautiful.’

She beamed, then leaned across to scroll through some more. 'This is my favourite.'

'Pretty.'

'Yeah.' Sensing my lack of appreciation for the finer details of her craft, she took the phone back. She was about to cancel out of the photos when it rang.

I glanced away politely as she took the call but found myself looking back when she spoke to the caller. Her voice had become heavy and cold.

'I'm out, Sam. I don't have time to talk with you.' She gave me a fleeting apologetic smile. 'Yes, tomorrow. That's fine. I don't know what we have to talk about, but yes. Fine.' She ended the call, her expression clouded. 'Fuckhead.'

'Someone hassling you?' I felt it was polite to ask, but I crossed my fingers under the bar in the hope that the conversation wouldn't need to go anywhere too intense.

'Nah. Just ...' She shrugged. 'Yeah, just someone who can't take no for an answer.' She seemed to pull herself together. 'Come on, Barney, I am the Queen of the Night. And the night is young, right?'

'Right,' I agreed. 'Let's get out of here.'

~

In the morning I woke early, as was my habit. Lil was still asleep, her dark hair lying across the pink pillows of her sweat-stained bed.

The sex had been hot. Intense. Just how I liked it.

It was Thursday, and I had to work. I left her a nice note with my phone number, which would hopefully ensure she wouldn't be too pissed off to find me gone, then collected my stuff and vamoosed.

I hoped she would call. I wanted to make her smile again. Not just to see her dimples.

CHAPTER 1

‘Andrew, you’re wanted.’

A wave of irritation washed over me. ‘I’m so close to getting this statement finished.’

Sally didn’t much care. She was fifty-five; she’d been a legal secretary for nearly forty years. The only thing that annoyed her more than poor time-management skills was twenty-nine-year-old junior prosecutors who thought they were important because they had a law degree.

‘It’s Rufus,’ she clarified.

I sighed and saved my document. It’d been a long day. Mainly because I’d had quite a few drinks before Lil took me back to her apartment in Northbridge last night, then of course I hadn’t done much sleeping over the course of the night and was up before the crack of dawn. Then my mother had been on the phone early about my brother Rodney’s upcoming wedding. Something about a most ungrateful young lady who should consider herself lucky she’s going to be part of our family. And Rufus had been at me all day to do something about the Schneider matter. The District Court was getting stropky and Schneider’s counsel, a ferocious barrister named Audrey Simons, was threatening to apply to strike out the charges for want of prosecution. The problem was that it was starting to look like the cops might have screwed up the investigation from beginning to end, starting with seizing a whole heap of evidence from Schneider’s house without a warrant. Or, at least, not one that they could now produce. They reckoned they’d lost it. I was having trouble trying to work out if there was a case that would stick among the mess. Rufus

was threatening to nail my balls to the wall if I didn't get swiftly to the bottom of whether we would have to discontinue the charge at hideous expense to the state and justify the decision to the victims and the media. As I frequently found myself saying since I'd joined the Office of the Director of Public Prosecutions, it wasn't my fault, but it was my problem.

Two detectives loitered in Rufus' office. I knew them both. Detective Sergeant Richard Simms had been a police officer for longer than Sally had been a legal secretary. He was old-school. He had no patience for lawyers and never held back when it came to making the fact known. He regularly announced that in forty-three years of policing, he'd never come across a good lawyer. He was always happy to declare that in front of me or any of my colleagues. We consoled ourselves with the thought that perhaps he was talking about defence lawyers. Broadly speaking, the DPP was supposed to be on the same side as the cops, although as a general rule they treated us like the enemy. This was because we were always asking them unreasonable questions like 'Where's the warrant?' and 'Did you give him his rights?'

Detective Senior Constable Jessy Parkin was young, a little younger than me. She had a reputation for being a dedicated cop who was excellent at her job, and was quite severe though undeniably cute. She kept her white-blond hair practically shaved so no one could grab her ponytail and, despite being no more than five foot five, she frightened lawyers and crooks alike with fierce green eyes. We'd worked together last year on *State v Aaron Thomas Urquhart*, a long and boring drug-trafficking case, the appeal process in respect of which had only just wrapped at the beginning of the week. I'd been intending to give her a call and deliver my congratulations on the eventual verdict and ask her out to dinner. I probably would've done it last night if I hadn't got lucky with Lil. And I wouldn't call her now if things went well with Lil. I was hoping they would. She hadn't called me yet today, but I was putting that down to her being not-overly-desperate rather than totally uninterested.

Neither Richard nor Jessy were particularly involved in the

Schneider matter, so I wasn't sure what they wanted. Rufus didn't seem to be about to enlighten me.

'Can I help you officers?'

'We'd like you to come down to the station and help us with some enquiries,' Richard intoned.

I laughed. 'Why didn't you bring the files?'

'No, it's not about a prosecution, Andrew,' Jessy interjected. 'It's an investigation. There's been a crime ... and you're implicated.'

My heart began to pound. *Holy fuck*. I'd no idea what they were talking about, but my gut told me clearly: *no good can come of this*.

'What crime? What's happened?' I tried not to sound too panicky. It was important to stay cool when dealing with the cops. They were already convinced we were just a bunch of namby-pamby pen-pushers. Frightened squeaks emanating from my lips would only reinforce this impression.

'A murder,' said Richard, and watched for my reaction.

Out of the corner of my eye, I saw Rufus wince.

'I'm implicated in a *murder*?' I yelped, feeling the blood draining from my head. 'How? How can that be?'

'Come with us now, and we'll have a chat about it on video.'

Rufus laid one hand on my shoulder. 'Now, you know you don't have to talk to them.'

My hands were starting to shake. 'If I was guilty of murder, I certainly wouldn't talk to them.'

'Do you want someone with you? I can get you a good defence lawyer.'

I felt like I was in greater need of a doctor than a lawyer. 'No. I'm fine. Really, I'm fine. Thanks. Thanks Rufus.'

'Stay calm now, Andrew,' Rufus went on. 'It's probably just some big misunderstanding.'

Probably? What did he mean, *probably*?

'Let's go,' I snapped. 'The sooner we get this interview finished, the better.'

~

The photograph smacked down on the desk. I'd seen dozens of them before. A classic crime-scene pic. A gruesomely twisted figure, gut-churning wounds, a face that belonged to no one, bereft of life.

I picked it up.

No one had bothered to tell me who the dead guy was. During the long and uncomfortably quiet car trip down to the cop shop, I'd pondered the possibilities. There was Martin Pfizer, a rapist I'd fought hard to bin six months ago who'd just had his conviction overturned on appeal. I could see how they might have considered me a suspect if he'd been offed. Or Harry Anderson, a drug lord who'd threatened to have my existence terminated if I went ahead with his trial, which I was presently doing. Maybe the cops suspected I'd got in first. None of these guys seemed like a brilliant fit, to my mind. Maybe someone had actually framed me, as payback for a conviction. Maybe some dickhead had written a note saying 'I, Andrew Deacon, hereby confess that it was me who killed this guy' and stuck it on the dead guy's chest. Even if they didn't suspect me of the killing, it would certainly be grounds to haul me down to the police station and question me as to who might have the motive to have written such a thing.

I'd convinced myself in the car that that was exactly what I was going to see when I looked at the photo: a dead guy, completely unknown to me, with my name written on his chest, *Da Vinci Code*-style.

The dead guy was a woman.

I stared hard at the photo.

When I recognised her, I found myself dropping the picture like it was infected, and a kind of repulsed grunt came out of my mouth.

'That's Lil,' I whispered.

Richard's voice was cold. '*That's* Lily Constantine. Twenty-three years old. Two brothers, two sisters, two devastated parents. Stabbed. Fifteen times.'

I had experienced what you'd have to describe as a blessed life, to

date. I grew up on a sheep farm near the coast in the south-west of Western Australia. I had two loving parents who helped me with my homework and took me to sport and funded my city-based secondary studies and university education. From that springboard I was able to catapult myself into a coveted career, working days and nights for the Director of Public Prosecutions. I'd been at that for four years, and I was doing well. I was having success. People were talking about me as some kind of up-and-coming next big thing. I had a bright future ahead of me.

Well, it was bright, right up until the moment I recognised last night's hook-up in a crime-scene photograph.

'She's a florist,' I rasped. I looked up at the two police officers. Both were staring at me. 'That's all I can tell you about her.'

'We don't need to know about her, Andrew,' Jessy murmured, her eyes focused and still. 'We know who she is. What we need to know is why you killed her.'

Oh, God. 'I did not kill her.'

I looked back at the photo. I couldn't believe now that I hadn't recognised her straight away. The position in which she lay was not so different from the position in which I'd left her first thing this morning, lying curled up on her side with her glossy hair across the pillow. Only now her hair was knotted and sticky with blood, and there were grisly wounds to her chest and stomach, bruises to her neck.

'How do you know this woman?' Jessy continued. 'What is she to you?'

'She's...'

I paused, swallowing painfully over razorblades. 'She's nothing to me. I met her last night. I had sex with her. Once. Last night.'

Jessy's eyes narrowed. I suspected she was grossed out by my admission. Geez, a hook-up was not the most heinous crime in the world. Everyone did it. I was young and single. I hadn't done anything wrong. And I'd left a nice note. Oh yes, the note.

'You found my note.'

'Your phone number made it pretty clear who was there.'

I nodded. 'Yes, and when you do all the forensics, which no doubt you have your people diligently and competently sorting right now, you'll find my DNA too.'

Jessy shuddered. 'You're agreeing to provide a sample?'

'Of course.'

Richard disappeared and returned moments later with a kit. He used a swab to take skin cells from the inside of my cheek. It was an intimate experience.

'Why didn't you use a condom?' Jessy asked.

'We did. But I'm expecting you won't have too much trouble locating it in the bathroom rubbish bin. In any case, it was very intense sex,' I informed her. 'Very physical.' I would have felt embarrassed about telling Jessy this much about my sex life if I had anything to lose. It wasn't like there was much point in trying to impress her now, given that she was about to charge me with murder.

'We get it, thanks Andrew,' said Richard, clicking his police-issue pen impatiently. 'So you spent the night at Lily's apartment in Northbridge. What did you do when you woke?'

'I got dressed. I threw water on my face, wrote the note, grabbed my stuff, and left.'

'Did you speak to her before you left?'

'No.'

'Did you touch her?'

'No, I didn't. Not after I woke up.'

'How did she look to you when you last saw her?'

'Asleep.' I shuddered. 'Alive, and asleep. I wrote the note because I hoped to see her again.'

'What time did you leave the apartment?'

'Before dawn. There were only those filmy white curtains on the windows. I woke when it started to get light. Whatever time that was. Maybe a bit after five. I texted my friend to say I was skipping our run as I left the apartment. I can check my phone and tell you the exact time.'

‘Did you lock the door on your way out?’

‘Yes, I pulled it shut. The door locked itself. I checked it.’

‘Did you see anyone else at the apartment while you were there?’

‘I had the feeling she had a flatmate, but I never saw anyone while I was there.’

‘Did you return to the apartment at any time today?’

‘No.’

‘Where did you go when you left the apartment?’

‘I got a coffee at Zoomer’s then I went straight to work. I showered downstairs, and then I started working and I stayed at work all day. I think it was around six thirty in the morning when I got to work. You can get Rufus to check my pass card on that one.’

Richard nodded. ‘Don’t worry, we will.’

‘Just make sure you get a warrant.’

Richard frowned, as if he suspected – correctly – that I was having a go. ‘Don’t worry,’ he snapped. ‘We will.’

~

I’d thought I’d had a hard day at five in the afternoon. By ten o’clock that night I was starting to reconsider my definition of a hard day. Jessy and Richard were obviously used to this kind of workload as they didn’t seem to be tiring in the slightest. I was willing to think about conceding that cops possibly did work at least equally as hard as prosecutors.

Jessy was like a dog with a bone, gnawing at the same points over and over. How did you meet? Where did you meet? What did you talk about? When did you leave the pub? Which nightclubs did you go to? What time did you get to the apartment in Northbridge? What time did you get up, what time did you leave the apartment, what time did you go to Zoomer’s for coffee, what time did Sally tell you that you were a lazy brat, what time did your mother ring, how was Lily lying when you left the apartment, how much did you have to drink, how

much did she have to drink, did you kill her, did you stab her, did you thrust a kitchen knife into her chest and her breasts and her guts and drain the blood from her body?

'I didn't do this,' I told Jessy through gritted teeth. 'I'm sorry ... I know you're just doing your job and, honestly, I'm not going to blame you once this thing is over. But I think you really ought to know that I'm not a psycho killer. I love women. I don't hurt them, I don't hit them, I don't abuse them. I have a great relationship with my mother and my sisters, and I have a great relationship with my lovers. I've got exes who can vouch for me.' Well, I was pretty sure they would tell Jessy I was a nice guy. Just a bit ... immature. 'I really hope you two aren't the only ones on this job, and there are other cops out there now following up other leads.'

Jessy leaned across the desk and our eyes locked. I searched hers for any sign that she believed me. There was nothing there.

'What other leads, Andrew?' she said quietly. 'You got any ideas for us? Because all the signs are pointing to you. There's no one else in the frame for this.'

I felt like my eyes were flitting all over the place in response to the steadiness of hers. I couldn't seem to stop them. 'She said something about a guy who was hassling her.'

Jessy almost laughed. 'Really? How helpful.'

I found myself pinching my forehead as I tried to focus. 'Well, she didn't use the word *hassle*. I think I used that word.'

She looked like she found my stupidity tiring. 'So, tell me what happened.'

'We were still at the bar, and she was showing me some photos on her phone. She got a call, some bloke wanting to talk to her. She said she was out, didn't have time, but she'd talk to him tomorrow. She didn't know what they had to talk about, but she'd talk to him tomorrow.'

'Can you remember her exact words?'

'Sam: that's the name she called him. *I'm out Sam, I don't have time*

to talk with you. Or something like that. Then she said they could talk tomorrow and hung up on him. She said it was just someone who couldn't take no for an answer.'

'Tomorrow ... as in today.'

I felt sick. 'Yeah. Today.'

'Could you hear what Sam said to her?'

'No. Far too much noise in the bar. I could only hear her side of the conversation.'

Jessy raised her eyebrows but said nothing. Maybe she was more excited by this lead than she was letting on. It probably wouldn't do to let the suspect think you're not still all over them.

'Why didn't you mention this call earlier?'

'I honestly don't know. I'd forgotten all about it. I was thinking about my own problems. I just ... I forgot about it, I'm sorry, Jessy.'

She stared at me as if she'd like to smack me around the head. Our intimate moment was interrupted by Richard's arrival back in the room. He pulled Jessy aside and they spoke in low murmurs. Then she turned back to face me.

'Andrew, we've got the time of death. It's much later than we thought. Close to ten this morning.'

'Oh, that's ...' I wasn't sure what it was. Good news for me, I supposed. If a woman's time of death could ever amount to good news.

Richard smiled, as best he could. 'Your alibi is good for hours either side,' he said. 'We appreciate your time. We may have some more questions later, but for now you're free to go.'