Disturbing peek behind grand jury curtain

By Lisa Falkenberg

“Sir, I don’t know anything else,” the young mother of three told a Harris County prosecutor on an April morning in 2003.

But the prosecutor, Dan Rizzo, didn’t believe her. And neither did the Harris County grand jury listening to her testimony.

They seemed convinced that Ericka Jean Dockery’s boyfriend of six months, Alfred Dewayne Brown, had murdered veteran Houston police officer Charles R. Clark during a three-man burglary of a check-cashing place, and they didn’t seem to be willing to believe Dockery’s testimony that he was at her house the morning of the murder.

“If we find out that you’re not telling the truth, we’re coming after you,” one grand juror tells Dockery.

“You won’t be able to get a job flipping burgers,” says another.

Dockery tells the group that if she believed Brown actually killed people, she’d turn him in herself: “If he did it, he deserves to get whatever is coming to him. Truly,” she says.

In May, I reported that a land-line phone record supporting Brown’s contention that he called Dockery that morning from her apartment phone had mysteriously turned up in a homicide detective’s garage, more than seven years after he was convicted and sentenced to death. The Harris County District Attorney’s Office maintained Rizzo, now retired, must have inadvertently lost the record, and agreed to a new trial. The Texas Court of Criminal Appeals inexplicably has sat on the case for more than a year.

Initially, Dockery’s story meshed with Brown’s. She told grand jurors he was indeed asleep on her couch at the early morning hour when prosecutors believed he was scouting venues. Dockery also confirmed the land-line call to her workplace - made at the same time prosecutors placed Brown at an apartment complex with suspects, changing clothes and watching TV news coverage of the crime.

Neither the prosecutor nor the grand jury would take Dockery’s “truth” for an answer.

The young woman, a home health aide who made Subway sandwiches by night, had no attorney. No experience dealing with authorities. No criminal history aside from traffic tickets.

She caved. At Brown’s capital murder trial in October 2005, Dockery was a key prosecution witness, helping seal her boyfriend’s death sentence by telling the court that when she asked him if he did it, he had confessed, saying, “I was there. I was there.”

How she got from one point to another would be hard to imagine. But thanks to a formerly confidential document in Brown’s court file, we don’t have to imagine.

Part of public record

In a rare, disturbing glimpse into the shrouded world of the Texas grand jury system, we can read with our own eyes the beginnings of the young woman’s tortured evolution.

Appellate attorneys were so outraged by a 146-page transcript of Dockery’s testimony before the 208th Harris County grand jury on April 21, 2003, that they entered it into the public record for judges to review.

In it, grand jurors don’t just inquire. They interrogate. They intimidate. They appear to abandon their duty to serve as a check on overzealous government prosecution and instead join the team.

“Unbelievable,” veteran criminal defense attorney Pat McCann said after I asked him to read the document. “When she went in there, Mr. Brown had an alibi. When they were finished browbeating her with her children, he didn’t. That’s the single biggest misuse and abuse of the grand jury system I have ever seen.”

Rizzo and Lynn Hardaway with the DA’s office declined comment, citing a state law that keeps grand jury proceedings secret.

At first, the fact that Dockery seemed to be “a good, nice, hard-working lady,” in the words of one grand juror, gave her credibility with the group. But jurors soon seized on her vulnerabilities and fear.
“Hey, Dan,” the foreman calls to the prosecutor. “What are the punishments for perjury and aggra-
ved perjury?”
“It’s up to 10 years,” Rizzo responds.
“In prison, OK,” the foreman says.
“Oh no,” says another grand juror as if on cue, echoing other commentary that reads at times like a
Greek chorus.

Every word challenged
“I’m just trying to answer all your questions to the best of my ability, “ Dockery says.
A bit later, a female juror asks pointedly: “What are you protecting him from?”
“I’m not protecting him from anything. No ma’am. I wouldn’t dare do that,” Dockery eventually re-
sponds. As Rizzo and the grand jurors parse Dockery’s every word and challenge each statement, she
complains they’re confusing her.
“No, we’re not confusing you,” a grand juror says. “We just want to find out the truth.”
Although Dockery says repeatedly that she knew it was Brown on her couch that morning, the fore-
man tries to get her to subscribe to an implausible theory that it was somebody else on her couch.
She doesn’t budge. The group takes a break - one of several.
When the grand jury returns, the foreman says the members are not convinced by Dockery’s story
and “wanted to express our concern” for her children if she doesn’t come clean.
“That’s why we’re really pulling this testimony, “ the foreman tells her.
The foreman adds that if the evidence shows she’s perjuring herself “then you know the kids are
going to be taken by Child Protective Services, and you’re going to the penitentiary and you won’t see
your kids for a long time.”

‘Think about your kids’
Rizzo goes on to accuse Dockery of misleading the grand jury. Then, after being told again and again
to think about her children, Dockery changes her story a bit. She says Brown was not at the house
when she left for work.
“No, no, no, “ she finally blurts out.
“One minute, Ericka,” a grand juror says a bit later, apparently sensing an opportunity. “He wasn’t
in the house when you put your kids on the bus either, was (he)?”
“I’m trying to remember, “ she says.
“Think about your kids, darling,” a grand juror says.
“I’m trying to remember,” Dockery says.
“That’s what we’re concerned about here, is your kids, “ the foreman says.
“He was not at the house, “ a grand juror urges.
“We’re as much concerned about your kids as you are,” the foreman says. “So, tell the truth.”
“He was not in the house when you put your kids on the bus, was he?” a grand juror says.
“Tell the truth, girl.”
“Yes, “ Dockery says finally. “He was there.”
A bit later, Dockery acquiesces on that point, saying that Brown was not in her house earlier that
morning, either.

Pivotal phone call
There’s a long break. Whatever happened during that time must have been profound. Dockery comes
back in and tells yet another, completely different, story - that she left her house far earlier than she’d
said previously, to rekindle a relationship with an old lover, and therefore doesn’t know what time
Brown left.
Rizzo, his patience seemingly wearing thin, suggests again he doesn’t believe her story. “I think that
you’re up to your neck involved in this deal, “ he says.
He is intent on getting Dockery to admit she made a call to one of the suspects, as he says records
show.
“I never called. I never called, “ she says.
“Girl, you just made a big mistake, “ a grand juror says.
One of them advises her to get an attorney.
“We’re done, “ Rizzo announces.
And although Dockery had never been implicated in the crime, a grand juror closes out Dockery’s
testimony by leveling the harshest, most intimidating allegation yet.
“I think she was with him at the check cashing place.”
Months later, Dockery found herself in jail charged with perjury for allegedly lying about what time
she last saw Brown the day of the murder and whether she called another suspect. She faced bail she
couldn’t pay and, apparently, one cruel choice - stay locked up away from her children, or tell them
what they wanted to hear.

(Coming next, part II of Dockery’s story)

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