Part II: Locked up and facing tough choice

By Lisa Falkenberg

For 120 days, Ericka Dockery sat in a Harris County jail cell on Baker Street, a place she would later describe as hellish, “nasty,” full of fights, “unclean women,” and a world away from the most important part of her life - her three children.

Dockery had a choice: Stay locked up or tell authorities the story they wanted to hear so they could prosecute her boyfriend for capital murder.

Nearly seven weeks in, Dockery chose the latter.

On Oct. 9, 2003, she dictated a jailhouse letter, a desperate plea to state district Judge Mark Kent Ellis, asking him to consider her children, then ages 11, 8 and 6, and vowing to be “a productive mother and citizen if allowed to go home.”

“The time here without them is almost unbearable,” she wrote in the letter, obtained from Alfre Dewayne Brown’s court file.

As I recounted in Thursday’s column, Dockery was a home health aide who had worked nights making Subway sandwiches when she found herself charged with three counts of felony aggravated perjury - allegedly for lying to grand jurors after they pressured her to change her story in a 2003 cop-killing case.

Dockery had testified to the grand jury that her then-boyfriend, Brown, was at her apartment when prosecutors believed he was with guys he knew from the neighborhood, scouting venues for a burglary that would lead to the murder of Houston police officer Charles R. Clark.

Dockery also testified that Brown made a landline call to her workplace around the time of the crime, a contention that would have supported his alibi but was never supported with evidence at trial. It wasn’t until more than seven years after Brown’s 2005 conviction and death sentence that a phone record documenting the landline call turned up in a detective’s garage. Last year, the judge agreed to a new trial, but the state’s highest criminal court has been dallying for over a year on whether to allow it.

Back in 2003, the lead Harris County prosecutor, Dan Rizzo, believed early on that Brown was the murderer, and the grand jury apparently agreed. A transcript of the secret proceedings details how the group intimidated Dockery into changing her story by threatening to take away her children and send her to prison.

She did change her story, but Rizzo saw to it that she was charged with perjury anyway - perhaps to compel her cooperation, perhaps to help discredit her with the jury if she ever tried to defend Brown again.

Guilty of ‘loving my children’

Another grand jury indicted her, in part for testifying that the last time she saw Brown on the morning of the murder was 8:30 a.m., when she later said it was 6:30 a.m. And in part for denying she had made a phone call to another of the murder suspects when phone records showed that she had.

Why Dockery would deny making the phone call to an acquaintance of her boyfriend’s, if in fact she did, is still a mystery to me. She may have lied out of fear, or perhaps she forgot the call or didn’t realize she had misdialed. Whatever the reason, it gave Rizzo rope to bind her.

Bail was set at $5,000 for each count and wasn’t lowered, even though Dockery wasn’t much of a flight risk - she had local ties, a steady job, no criminal record beyond traffic tickets, and children.

Dockery couldn’t pay it. So, she appealed to Judge Ellis and confessed her guilt of aggravated perjury. “At the time I appeared in front of the grand jury I answered their questions to the best of my belief and knowledge,” Dockery wrote, adding that she didn’t know at the time that Brown was not at her apartment. “He (Brown) asked me to lie and tell anyone who asked that he was in fact at my home when in fact he was not.”

She claimed that Brown’s brother had threatened to kill her and her children if she gave any statement conflicting with Brown’s.

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“Out of fear for the safety of my children, I remained silent,” wrote the judge.
She gave details about the crime that she said she had gleaned from others and reiterated her plea for leniency.

“Your honor, I just want to say that I am guilty of aggravated perjury and of loving my children more than anything else in the world and would do whatever necessary to protective (sic) them and keep them safe from harm,” she wrote.

**Under prosecution’s thumb**
“Whatever necessary” apparently meant cooperating with the prosecutors and becoming their key witness.

Among conditions of Dockery’s release from jail, she agreed to a 10 p.m. curfew, drug testing twice a month and to wear an ankle monitor. The last one made sure she stuck around. But it wasn’t enough.

To make sure she stuck to her story, Dockery was required to call a homicide detective once a week.

Two criminal defense attorneys told me they’d never heard of such a thing. Rizzo, the prosecutor, defended the requirement for a witness who was expected to give important testimony at trial.

“That’s fairly typical for someone we’re not sure is going to be there, to just keep in contact so you don’t have to go looking for them again,” he said, adding that he believed the calls to the homicide detective came only after Dockery gave a sworn statement on her version of events.

Randall Ayers, who was Dockery’s court-appointed defense attorney at the time, said the intent of the provision was clear, but it was one to which his client readily agreed.

“Obviously, I think their goal was to keep her under their thumb,” Ayers said. “Of course I was concerned, but there’s nothing I could really do. The judge required it. It was just how it was.”

Dockery held up her end of the bargain.
She testified at Brown’s capital murder trial in October 2005 that, once, when she asked if he had done it, he told her “I was there. I was there.”

It was the first time Dockery had ever mentioned that statement, according to Brown's appeal.

**A persuasive visitor**
After Brown’s conviction and death sentence, Dockery tried to get on with her life. In November 2005, she was granted two years’ community supervision. And in 2007, Judge Ellis ended her supervision early and she avoided a conviction through deferred adjudication.

Years later, when an investigator for Brown’s appellate attorneys came knocking on her door, hoping she would help lead them to the truth, Dockery turned the woman away and ordered her off the lawn.

Then one day they sent someone else, a capital murder exoneree who had survived his own tortured journey through the criminal justice system.

“Look, sister,” Anthony Graves told her before she could close the door. “I just want to tell you what happened to me.”

And she let him in.

*(Coming next: Part III of Dockery’s story)*