

The Washington Post

Transcript reveals shocking grand jury intimidation of witness

By Radley Balko
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Here's an eye-opening report from the Houston Chronicle:

“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.”

Grand juries are supposed to protect us from false allegations, but the old saying that prosecutors could get a grand jury to “indict a ham sandwich” reflects the reality that most fail on that front. Instead, as this study from the Cato Institute explains, they’re often used to harass and intimidate.

To set up what you’re about to read, the grand jury was investigating Erica Jean Dockery’s boyfriend Alfred Dewayne Brown for murdering a police officer during a robbery. She told police he was on her couch at the time the crime occurred. Grand juries are supposed to be impartial investigators, but here’s a portion of their questioning:

““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 . . .

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 aggravated 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 . . .

“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 responds. 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 foreman 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.””

It goes on like that. They eventually browbeat Dockery into completely changing her story. She was then arrested for perjury. She couldn’t make bail. When she was released, she became the prosecution’s star witness. Brown was convicted and sentenced to death. According to the Chronicle’s Lisa Falkenberg, seven years later, a phone record showed up proving that Brown had called Dockery from her apartment on the morning of the murders, supporting his story — and hers, before she was pressured to change it. That important bit of exculpatory evidence was found in the garage of a Houston homicide detective. Brown is still waiting to learn if he’ll get a new trial.

We don't often get to see the transcripts of grand jury proceedings. Here again, the secrecy is supposed to be for the protection of the wrongly accused. And here again, that same secrecy not only makes the process less transparent, often to the detriment of justice, it can also be used as a weapon.