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## Penned In

Almost nobody -- not even the trial judge or the victim -- thinks John Michael Harvey molested a child. So why's he still serving 40 years in prison?

**BY SCOTT NOWELL**

[feedback@houstonpress.com](mailto:feedback@houstonpress.com)

In 1987, 23-year-old John Michael Harvey was on the inside track of the high-tech circuit. The New York native was working for one of the hottest companies in Dallas, Electronic Data Systems (EDS), running programs that monitored ATM machines.

But he was no computer geek. Harvey had already amassed a flashy sports car, a fast motorcycle, sharp clothes and a cool apartment. Women were attracted to this guy who could party on Saturday night and still be a regular at Sunday worship services.

Then came the call from a stranger that changed everything 16 years ago. A friend of Harvey's high school sweetheart, Karen, sounded frantic on the phone. Karen was staying with her in South Carolina -- and was destitute. She needed help.

Five years had passed since he'd last spoken to Karen. He had never seen the son he'd fathered by her in 1981. Harvey didn't have to think too long before catching a plane to Charleston. He found his former flame in squalor, now with two small children. "She was diminished," Harvey remembers. "They were living in a run-down trailer, beer cans everywhere. I couldn't leave them like that."

Harvey took Karen and the children back to live with him in his one-bedroom bachelor pad.

Today, he doesn't even need to say the obvious -- not when Harvey is retelling his story from the sweltering cell of a Texas prison, where he has lived for the past 11 years, branded as a child molester. His rescue of them would destroy his own life.

Harvey protests his innocence -- convicts often do. But almost everyone familiar with his case now strongly doubts his guilt. That includes the jury foreman and judge in his trial, appellate attorneys and investigators and even the findings of a lie detector. The mother of the victim also disputes the verdict.

Most of all, the victim herself -- now a 17-year-old Houston-area student -- swears she tried to describe the real rapist to authorities but was harangued and manipulated into falsely accusing an innocent man.

Daniel Kramer



Harvey demanded dismissal or a trial on the charges that later sent him to prison.

The relationship between Harvey and Karen has always had an air of tragedy. Like a low-rent version of the Montagues and Capulets, there has been bad blood for a generation between their families. (To avoid publicly identifying the rape victim, Karen's name and those of her family members have been changed.)

They grew up together in the small town of Geneva, New York, and had their first "date" in the sixth grade. When the two got back together in high school, Karen's mother was so outraged she shaved her daughter's head to make her unattractive. Karen says she had nothing but stubble left, but she donned a bandanna and continued seeing Harvey.

Friction between the families worsened when Karen became pregnant at age 16. Harvey denied paternity, and his parents shipped him off to Pennsylvania to finish school. When son Mikey was born, Harvey was gone.

"The relationship between John Michael's mother and Karen's mother was ugly," says Eva Archer-Smith, a Houston businesswoman and Harvey's cousin. "It was like a vendetta. They felt this was the father of this child and he took no responsibility."

Worse yet, the paternity case filed by Karen's family evolved into a brutal confrontation. Harvey's relatives got other men to testify about sexual relations with Karen -- inflaming her kin -- although a judge ruled that blood tests indicated Harvey was the father of her child.

After he finished school, Harvey landed a Florida job with Delta Airlines, which transferred him to Dallas in 1984. He went on to work for Avis car rentals, then U.S. Sprint. While Texans don't always warm to Yankees, Harvey immediately liked the Lone Star State. He drank beer, smoked a little weed, had a live-in girlfriend for a few years, relished his rising career in computers and was a regular at church.

Joanie Ruppel, the organist at a Greek Orthodox church in the Dallas suburb of Euless, remembers that Harvey volunteered to help at the church's booth at Texas Rangers games and made most church functions. He was "just the nicest guy," she says. "He was always dressed very nice and was very respectful."

Back in Geneva, Karen wasn't faring nearly as well. She gave birth to another child, Melissa, out of wedlock in 1985. Karen moved to South Carolina in 1986 to live with Joe and Linda Walker, the parents of a girl she'd known. She married an air force man named J.R. Williams but soon separated from him.

She went back to the Walkers, who kicked her out in less than a year. She says they told her to take Mikey with her, although they wanted to adopt Melissa. Karen says Joe Walker always had a keen interest in Melissa. "He would do the world for that girl," she says.

Karen and her kids left the Walkers and were taken in by a friend, who placed the pivotal call that got Harvey involved. "I guess we weren't doing so hot," Karen says of that period.

Soon after he flew them back to the Dallas area, Harvey noticed Karen was pregnant, and too far along for him to have been the father. Karen sent her children away so they would not know she would put the new baby up for adoption. After that child was born in 1988, Mikey was with Karen's brother and Melissa had returned to the Walkers.

Karen got a decent job and Harvey was hoping she was on her way to independence so their increasingly strained relationship would end. He urged her to return to New York; she wanted to bring Melissa back and get a separate apartment. The three-year-old girl returned for two months in 1988 until Karen sent her back

get a separate apartment. The three-year-old girl returned for two months in 1988, and Karen sent her back to Geneva to visit her grandmother in January 1989. In total, Melissa lived with Harvey for about five months.

Harvey says Karen began using crystal methamphetamine, or crank; she says he indulged in it at times himself. They fought. Twice the police came to their home, once arresting Harvey, the next time Karen. When she was busted, police found pot and crank in her purse.

Harvey bailed her out and encouraged her to seek treatment. When she went to the hospital, records show she suffered from severe depression, likely because of physical abuse from her mother during childhood.

While Karen was in treatment, Harvey took a camping trip to get away from it all in 1989. When he returned, his apartment manager told him police had searched his residence. "What the hell?" thought Harvey.

An incredulous Harvey called police in his suburban town of Bedford to find out what was going on. When he drove down to the station at their request he was immediately arrested.

Police investigator Rhonda Moore told him he was being charged with aggravated sexual assault of a child. "I didn't even hear the sexual part," Harvey says. "I thought they were talking about physical abuse. I told them, 'I don't even spank Melissa.' "

This had nothing to do with spanking. It was rape.

Harvey told Moore there must be a mistake. "Melissa's only three," he said. "That wasn't even on my radar, that someone would want to have sex with a three-year-old."

Harvey later learned that the police who went through his apartment were looking for child pornography. They found none.

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Karen checked herself out of the hospital and freed Harvey, using his car for bond money. At his request, she moved back to Geneva, after swearing in an affidavit that she believed Harvey was innocent of the allegations.

Harvey had never been charged with anything more serious than traffic tickets. He still had his job at EDS, although the company refused to promote him or give him any raises until the disposition of the case. After six months of waiting on an advancement there, he told his boss the charge was dropped. He was fired when EDS found out otherwise.

He moved on to Westinghouse, only to be fired again when the charge came to light. He got a job recruiting for a technical school, always dreading the day when his boss would walk in and say, "Harvey, get out of here."

Instead, nothing happened.

The accused man watched the months turn into years as the case seemed to be forgotten

By 1991, he was in love with a woman named Amy Martin. They moved in together, got engaged -- and Harvey decided he would confront the charges against him before marriage.

Whether the Tarrant County District Attorney's Office ever would have pursued the case against Harvey is unclear. But one thing is clear: Harvey, an alleged child molester, was allowed to do as he pleased for more than three years.

Harvey tells of going to his attorney, former prosecutor Stan Hatcher, and saying, "Either I want the charges dropped or I want to go to trial." The lawyer was confident that he'd never "spend a day in jail," Harvey says.

The case headed to trial in October 1992. The assistant district attorney was Lisa Mullen. She'd earned a reputation for hardball tactics in compiling one of the most successful records of any Fort Worth prosecutor.

And her next target was John Michael Harvey.

Daniel Kramer



Better times: Harvey and his mother in 1991.

Karen, contacted by Mullen in New York, stressed to the prosecutor she wanted the charges dropped. Mullen told her it was now a matter between the state and Harvey. Karen says Mullen "was trying to drill it into my head that he did it. I could not comprehend that."

Forensic evidence seemed scant. Mullen, herself eight months pregnant during the trial, had Dr. Andrew Nicolai testify that he examined Melissa in 1989. He said he had found no abnormalities. "There were no abrasions, lacerations, bruises." He testified that the child's hymen was still intact, making penetration "extremely unlikely." Her vagina was "a little wider than it should be," but he said that could be congenital.

A psychologist told jurors that Melissa suffered from attention deficit disorder, which could make her prone to fantasizing. Melissa had never indicated to the psychologist that she had been sexually abused. A Texas doctor who treated Melissa for the flu and diaper rash around the time of the alleged rape testified that he had noticed nothing unusual.

However, the criminal investigation had started when Karen's mother, Anna Martinez, was taking care of Melissa in Geneva. She called a sexual abuse hot line and took Melissa to social workers and wanted them to provide day care, saying the child had been acting out sexually. The grandmother testified that Melissa had told her in 1989 that Harvey "bit her tush."

Martinez also admitted she had never liked Harvey.

Melissa was interviewed by Becky Wendt, the director of family violence services for a nonprofit agency in Geneva. She testified that Melissa "spontaneously said, 'John touched it, my peepee, with his hand.'" Wendt says the child also told her that Harvey locked her in a closet and threatened her to keep quiet.

Wendt said that in five sessions with the young girl, Melissa detailed vaginal, oral and anal rape -- and says the girl told her the man who did it was John Harvey.

However, Melissa was hardly as spontaneous on the witness stand.

Mullen asked her, "Has anybody ever done anything, something to you, touched you in a way you didn't like?"

"No," the girl replied.

"Okay, has anybody ever touched you in a private place?"

"No."

"Do you remember anything bad happening to you while you were here?"

"No."

Mullen delved into questions about whether anyone "put anything in one of your private places" and even asked if she was just scared.

Melissa kept telling her no.

At several points, the girl tried to get up and leave. Mullen told her to sit down. "She froze," Mullen says. "I thought I was going to have to ask for a dismissal."

What happened next is what critics contend was coached testimony.

The child told Mullen she remembered talking to her earlier, but she said she hadn't told her about anyone touching her inappropriately.

"You need to listen to my question, okay?" Mullen said. "Do you know somebody named John Michael Harvey? Let me ask you that."

"Yes."

Melissa began saying yes to all of Mullen's questions -- the same questions she'd said no to moments earlier -- except now Mullen was saying "John Harvey" with each inquiry about sexual contact. Melissa said yes to all of it.

"I knew what [Mullen] wanted me to say," Melissa says today. "I have never been pushed as hard as I was pushed that day.

"I would have said anything to get off that stand. I was just so embarrassed. My mother wasn't there" -- Karen was to testify later and was not allowed in the courtroom -- "so I couldn't say, 'Mommy, come get me.' All I had was my grandma, and she just kept putting her hand up at me, like, 'Sit up there. Stay.' "

Harvey still had his witnesses. One of them was Karen, who said she noticed no abuse of the child and that

her mother had been vindictive toward Harvey. But she seemed hazy on details. She also testified that Harvey told her that were he to be convicted, she might get in trouble for not reporting the abuse.

Harvey himself denied any sexual contact with Melissa, then told Mullen he'd never beaten Karen.

"I guess, then," the prosecutor shot back, "you don't recall an evening where she confronted you and you beat the hell out of her?"

An irate Judge R.E. Thornton immediately retired the jury and scolded Mullen for her "highly inflammatory and highly improper" question. Jurors were told to disregard the comment, but Thornton refused to grant a mistrial.

Then Mullen, *Perry Mason*-like, called a surprise witness. She said she had a rebuttal to Harvey's denial of physical abuse: a former neighbor.

Texas, with rare exceptions, doesn't allow surprise prosecution witnesses. Mullen had never notified the defense that she intended to use the neighbor in the trial -- the prosecutor said she thought Harvey would admit to domestic abuse so there would be no need to call that witness.

Hatcher's objections were overruled, and devastating testimony followed. The neighbor said Karen had called her collect from a phone booth in 1990, and she had picked up the bruised woman. She said Karen told her Harvey beat her after she confronted him with allegations of child sexual abuse. The neighbor insisted she even had the phone records to prove it.

Hatcher didn't ask for that proof, and he didn't call Karen back to the stand to deny the testimony.

The jury deliberated for two days. When the verdict was read, Harvey's mother turned to comfort his fiancée, Amy Martin. "Don't worry," she said. "We'll get him out soon. He won't do four years."

Martin told her, "They said 40 years -- not four."

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Beverly Harvey has since devoted her life to freeing her only child. Her tiny Florida condo has been mortgaged and converted into a legal office. She has spent more than \$200,000. Over the past decade, a small army of attorneys, investigators, family and friends has been working on the case.

Harvey had told almost no one in his family about the trial, saying, "I never thought I could lose." Archer-Smith only found out in 1995 that her cousin was in prison. Initially, she thought Harvey might be guilty. She wondered, "Why else would a jury convict him?"

Archer-Smith began researching the case and found that the phone records of Harvey's former neighbor showed there had never been a collect call from

Karen -- who has always denied the neighbor's story.

Also curious was that the neighbor had two hot check charges pending when Harvey was indicted. Those bad check charges were later dismissed -- by prosecutor Ken Mullen, Lisa Mullen's husband at the time.

Harvey contends that the ex-neighbor had been doing crank with Karen in 1988, and that the neighbor was angry with him after he rebuffed her advances.

Jury foreman Marty Marion says that what convinced him of Harvey's guilt was the testimony of Becky Wendt. But while Wendt was testifying in Texas, she was under fire in New York for a case somewhat similar to Harvey's.

Wendt had interviewed two children involved in allegations that led to more than 2,000 counts of sexual assault against their father, Richard Knupp, in 1988. His wife was charged with 600 counts, all later dismissed.

Knupp was convicted of 11 counts, largely on the basis of testimony elicited by Wendt. The children sat in her lap when they testified via closed-circuit television. They later recanted, and Knupp passed a polygraph examination.

Spurred by a series of articles in the *Rochester Democrat and Chronicle*, Knupp was granted appellate hearings that revealed the charges were initiated by a vindictive and abusive grandmother who wanted custody of the kids. Knupp's convictions were overturned. After serving four years, he was acquitted at a second trial.

Wendt still believes Knupp was guilty. "He got away with it," she says. She also stands by her testimony against Harvey.

Harvey says his trial lawyer, Hatcher, was aware of the controversy surrounding Wendt but believed it would be better not to get into that subject in testimony.

As with the Knupp children, Wendt's interviews with Melissa were not videotaped -- now standard procedure in both New York and Texas. Experts also question Wendt's serving as both the forensic, or fact-finding, investigator, as well as the children's therapist in those cases.

Standards now advise against such dual roles if impartiality is to be maintained, says Lisa Bourgoyne, a forensic interviewer for the Children's Assessment Center in Houston. But ten years ago, she says, "It was a new field, and it was wide open."

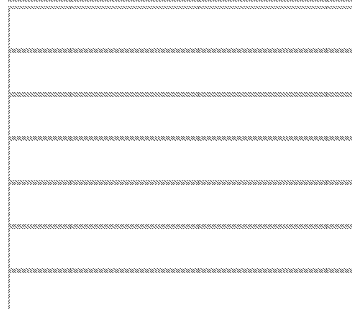
Moore, the Bedford police investigator, appears to have had a close working relationship with Wendt. She even asked Wendt to interview Karen and her mother, a job normally reserved for law enforcement agencies.

Bourgoyne says her Houston agency investigates more than 300 cases of sexual abuse a year, and about a third of them turn out to be groundless. She says child custody issues are the top warning sign about potentially false statements.

Karen's mother, Anna Martinez, was involved in custody issues herself. She had a 1981 misdemeanor



Houston's Eva Archer-Smith (shown with husband Rick Smith) developed key evidence for her cousin Harvey.



conviction for welfare fraud for claiming too many dependent children to authorities.

Eleven years later, while Martinez was in Texas testifying, welfare agencies were investigating her again for fraud, for allegedly not reporting a settlement from a car accident while she was receiving benefits for herself, her youngest child and Melissa. That led to a conviction of grand larceny in 1994, when she was ordered to pay back more than \$26,000 to the state of New York. None of that information came out at Harvey's trial.

Father Gabriel White, the Harveys' priest at Geneva's Greek Orthodox church for more than 30 years, accuses Melissa's grandmother of wanting the girl in her custody so she could collect more welfare payments.

White contends that after Harvey's conviction, the grandmother told him, "It's good for him to be in prison. He won't be in there long, anyway." The priest says, "She's an evil bitch -- be sure to write that."

Harvey's appellate lawyer, David Chapman, raised several issues in a 1997 challenge of the conviction. The same polygraph examiner used by Tarrant County administered a lie detector test to Harvey -- he passed impressively. Chapman alleged that Hatcher botched the case, and that Lisa Mullen committed misconduct.

At the core of his complaints is a note that he discovered in the prosecutors' files that Chapman received as part of the 1997 appeal. Done in Mullen's handwriting, the note includes Melissa's name at the top, with an arrow drawn from there to the notation, "Tattoo on his butt -- Eagle."

Melissa says she remembers telling Mullen before the trial that the man who assaulted her was a big man with a tattoo, which she now recalls as being the image of some kind of animal. Melissa says that before the trial, "She started asking me what kind of tattoo it was and I kept saying, 'Lady, I don't know.' "

Harvey, a small man, has no tattoos.

Karen says Mullen asked her before the trial if Harvey had any tattoos. She says she also told Mullen that she thought the molester may have been a South Carolina man with multiple tattoos who was particularly fond of Melissa while she was staying there. Karen says Mullen told her not to mention the tattoos, or the man.

Mullen hotly denies the versions from the girl and her mother: "I swear to you, that child did not tell me that." No mention of tattoos was ever made at Harvey's trial.

In a rare appellate hearing granted in 1999, the trial attorney for Harvey testified he had never seen the note. If it had been written before the trial, it would have been required to be handed over to the defense.

Mullen testified that maybe she wrote the note during the trial, maybe about another case. She said she didn't remember when she wrote it, but she was sure it wasn't during her pretrial interview with Melissa.

Chuck Mallin, appellate chief of the Tarrant County D.A.'s office, dismisses the tattoo note as "gibberish." He says the appeal lacked merit, and that trial attorney Hatcher "did a damn fine job in that case." Hatcher, now back working as a Tarrant County prosecutor, did not return calls from the *Houston Press*.

Judge Harry Hopkins didn't buy Mullen's explanation about the note. "By far the most disturbing matter before the court is the allegation of prosecutorial misconduct, especially as it relates to the failure of the prosecutor, Ms. Mullen, to disclose exculpatory evidence to defense counsel," he wrote. "Ms. Mullen's attempted explanation was something less than convincing as to just what prompted this handwritten note."

However, Hopkins upheld Harvey's conviction, saying there was no direct evidence at the hearing that the victim had ever told anyone that the perpetrator had a tattoo.

Without Melissa's testimony, the judge implied, there was no smoking gun. Harvey's family had searched in vain for the girl, hoping to get her side of the story. Mallin says investigators for the district attorney had also tried to find Melissa in 1999, but "her stepfather didn't want her to be found."

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In a state where critics say the standards for overturning a conviction are impossibly high, it seemed that Harvey had only one way out after the appellate hearing. He would be eligible for parole in 2002, after serving one-quarter of his 40-year sentence.

His case falls under a Texas law with a parole rate of less than 1 percent. Twelve of the 18 parole board members -- not just a simple majority -- must vote to release him.

The family enlisted veteran parole attorneys Sean Buckley and Bill Habern, but both were skeptical initially. "You can't win those child molester cases," Habern says. But after reviewing the evidence, he says, "I started thinking, 'This guy is innocent. We might be able to do something here.' "

At the parole hearing, the attorneys presented videotaped testimony from Karen, a letter from Judge Thornton supporting Harvey's parole, the polygraph results and other evidence from the 1999 hearing. The parole board voted 10-8 in Harvey's favor, still two votes shy of freedom.

Archer-Smith offered to have Harvey stay in her home if paroled, but prison officials nixed that plan -- as a sex offender, he wouldn't be able to come within 500 feet of any children, even her two kids. "It seemed like all the doors were closed," she says. "We had pulled out all the stops trying to find Melissa and there just seemed like there was nothing left to do."

Actually, an investigator for Beverly Harvey found Melissa living in California with relatives of the stepfather, J.R. Williams, who had been granted custody after Harvey's conviction.

Harvey's family says Williams kept Melissa hidden from them and told her John Harvey raped her.

Melissa also says that Williams, before Harvey's trial, "told me to say this is what John did to me and I need to say this and this and this, and he needs to be put away." She now says Williams was angry that Karen had left him in 1986, and he blamed Harvey for that. (Williams could not be reached for comment.)

Beverly Harvey's investigator got into an ugly confrontation with Williams's relatives. Williams sent the girl back to Karen, who hadn't lived with her daughter in eight years.

It wasn't until last winter that the two began talking about the rape and the trial. "One day the floodgates opened and it all came out," Melissa says. She

hadn't realized earlier that Harvey was in prison for the rape, she says, because the 1992 trial had seemed like a weird dream. Karen remembered that Harvey had a cousin in Houston, and in February she called Archer-Smith.

"You may not know who I am," Karen's phone message began.

"I knew exactly who she was," says Archer-Smith. "I had read her name 10,000 times. I knew the birth dates of her children. Even though I'd never met her, I felt like I knew her better than I know most of my friends."

Archer-Smith was stunned that Karen had left a Houston number. "I called back immediately. When I asked if she knew where Melissa was and she said, 'She's with me,' I nearly wrecked the car."

Melissa wanted to help free John Harvey. Attorney Buckley thinks their statements, along with the other evidence, will convince an appeals court to overturn Harvey's conviction. The centerpiece of Buckley's argument is Melissa's affidavit. It begins:

"Around the time I was 3 or 4 years old, I was sexually molested by a man. I do not know the man's name, but I think I might recognize him if I saw him again. I do remember that he was a very big man with a tattoo. I also know for sure, and I have always known for sure, that the man was not John Michael Harvey."

Harvey, her affidavit says, never molested her.

"I am very angry with the prosecutor," Melissa says in the affidavit. "I feel that she took advantage of me because she wanted to win her case."

Mullen is adamant that she did nothing improper, but declined an opportunity to read Melissa's statement. Becky Wendt said she would read it and then comment to the *Press*. She did not return further phone calls after the *Press* faxed the affidavit to her in early May.

Jury foreman Marion read the affidavit and offered to assist with Harvey's appeal.

After signing her statement in March, Melissa had one question: "When do I get to see him?" Harvey would like to know the answer to that question, too.

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Lisa Mullen and another prosecutor were fired from the D.A.'s office in 1998, after an incident at a softball game. A group including Mullen began heckling opposing Hispanic batters with shouts such as "Yo quiero Taco Bell." Mullen says she didn't taunt anyone but admits drinking beer illegally at a city park.

Sources who worked with Mullen say she was fired for her abrasive manner -- that the softball incident was just a pretext. A former prosecutor said that "she's the type of person who would get pissed off if a police



Attorneys Habern and Buckley believe the facts will lead to freedom for Harvey.

officer was late to a meeting." District Attorney "Tim Curry was tired of listening to complaints about her."

The other prosecutor fired then was quoted in the *Fort Worth Star-Telegram* as saying he was a "sacrificial lamb," let go only to justify Mullen's dismissal.

Mullen now faces criticism as a defense attorney for her role in another case that also involves surprise witnesses, dubious testimony and nonexistent phone calls.

Her client, Jimmy Watkins, shot his wife, Nancy, and her boyfriend in 1999. He thought he was out of bullets and fled, only to find later that he had more ammo. Watkins drove back and emptied his pistol into his wife, killing her as she was talking to a 911 operator.

Mullen used a "sudden passion" defense by presenting her surprise witnesses, a mother and daughter who said they were with Watkins hours before the shooting. They testified that Watkins received a call from his wife and handed his cell phone to them. They heard the unmistakable sounds of Nancy Watkins performing oral sex on her boyfriend, they said.

"That was the sudden passion," says James Cook, the Tarrant County prosecutor who handled the Watkins case. "They were providing the proof of a triggering event, and the jury went for the testimony." Mullen's client got probation for murder.

But Cook felt he was hearing lies, even if he couldn't prove it at trial. He wondered, "What does a blow job sound like over a cell phone?" He subpoenaed Watkins' phone records and found "there was no such call."

The women pleaded guilty in April to misdemeanor perjury. Cook says, "They admitted they lied during that trial."

Mullen did not comment on the Watkins case or on allegations raised by Harvey's lawyer, Sean Buckley.

"What the evidence shows here are some acts that go beyond just malicious... There's a pattern here of 'Don't get in my way,' " Buckley says.

Last month, Buckley discovered yet another note handwritten by Lisa Mullen in the prosecutors' files. That note indicates that Mullen was considering having photographs made of a tattooed man in South Carolina. Melissa and her mother say they suspected him of being the rapist.

Buckley hopes to get Harvey's conviction overturned on the basis of "clear and convincing evidence of innocence." There is legal precedent based on the case of Joe Elizondo.

The Texas Court of Criminal Appeals narrowly voted to overturn Elizondo's conviction in 1996, after his stepchildren recanted their claims and said their biological father was the real molester.

However, the judges now on that court are far more conservative, and have been known to reject appeals even when DNA tests and other evidence have shown prisoners were wrongly convicted.

Habern is confident that Harvey can be released when he comes up for parole again next year, but Harvey does not want that way out because it would require him to confess to a crime he swears he never committed.

Release as a registered sex offender would also vastly restrict his future. Harvey would have to wear

monitoring devices, post a warning sign outside his residence and avoid anyplace where children commonly gather.

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In Fort Worth, Chuck Mallin has Melissa's affidavit sitting on his desk in the district attorney's office. "We're going to have to reinvestigate, again," he says. Buckley has agreed to share his evidence, hoping that Mallin will not contest the appeal.

Back in Houston, Buckley has been pulling 14-hour workdays on the appeal, which was filed May 23.

"I just want to get this guy out," he says. "It's the most clear-cut case of innocence I've ever dealt with."

Thirty miles from his office, Melissa is adamant that Harvey did absolutely nothing to her, and she wants him to have his freedom. "I remember him as a very, very sweet person. I want to do this for him." As for her abuse, she says, "It's in my memory, but it's in the past and I'm trying to get on with my life now."

The vivacious teenager enjoys floral design, which she eagerly shows off to visitors. Melissa wears a ribbon on her jacket in memory of a classmate who died of cancer earlier this year.

In Florida, another woman has cancer. Beverly Harvey, who has spent all she has, and much she doesn't, suffers from a recurrence of bone cancer in her ribs and back. "I only hope I can live long enough to see my son freed," she says.

Near Wichita Falls, a 38-year-old man shares a nine- by 12-foot cell that will hit temperatures of over 90 degrees by noon and stay there past midnight. Like most prisoners, he prays for summer rains that will cool the scorching bricks and metal roofs confining him. Mostly, he prays for his name to be cleared, and Melissa is the only chance he will ever have for that.

In prison, as in America, rational thought tends to fly out the window when the topic is pedophilia. Children are sacred, and adults who violate them are considered to be the worst of the worst. As far as a convict's standing among his peers, it's better to have murdered a family of four than to have fondled a three-year-old. "I don't talk about my case in here," Harvey explains in a prison interview.

He recalls what he once had. His eyes moisten at the mention of his former fiancée, Amy Martin. Archer-Smith sent him a handsome photo of the couple a few years ago. Harvey returned it, saying, "It's too painful to look at."

A few weeks after Harvey's conviction, Martin had a nervous breakdown. Her parents took her back to Pennsylvania, and Harvey has not heard from her since. While Harvey's been in prison, his father and two aunts have died. His mother is too ill to travel, and he may never see her again.

"I wouldn't mind the bad meals, the bad showers or the 40 years," he says. "I believe child molesters ought to be treated this way. I don't have a problem with that. But I didn't do anything."