

[Sign In](#)

A Joint Project of Michigan Law & Northwestern Law



Currently 1,063 Exonerations

- 
- [Browse Cases»](#)
- [Contact Us»](#)
- [Learn More](#)
- [Links](#)
- [News](#)

## Mary Weaver

---

At 10:40 a.m. on January 22, 1993, Mary Weaver, who earned a living as a babysitter, picked up 11-month-old Melissa Mathes at her parents' home in Marshalltown, Iowa, and took the child to her home.

Less than 45 minutes later, Weaver, 41, called 911 because the child had stopped breathing on the living room floor. The child was revived and rushed to a hospital, but died the following day.

An autopsy showed that Melissa had sustained severe head injuries, including a massive skull fracture, sometime before her death. A fresh bruise on the front of her brain and new bleeding around the brain and in her eyes was also detected.

The doctors who examined the body opined that the older injuries were not the cause of death and that the more recent injuries showed she had been shaken to death. The cause of death was determined as Shaken Baby Syndrome.

The term Shaken Baby Syndrome (SBS), coined in 1972, is said to describe a situation in which an infant is shaken so hard that the brain rotates inside the skull, causing severe and potentially deadly brain injury, but often without any external signs of harm. SBS is said to involve a tell-tale "triad" of symptoms – brain swelling, brain hemorrhaging and retinal hemorrhaging – which, when present in an infant who has no outward signs of abuse, definitively indicate that the child has been violently shaken. According to received medical wisdom, no other injuries or pathologies could cause these three symptoms to occur at the same time, and – because it was believed that a victim of SBS became unresponsive immediately – the last person to have physical care of the baby must have caused the

injuries.

On May 26, 1993, Weaver, a well-liked and deeply religious woman in Marshalltown, was charged with first-degree murder.

In her first trial, before a jury in Marshall County District Court, the evidence was hotly disputed and highly circumstantial.

The girl's mother, Tessia Mathes, testified that on the morning Weaver picked up the child, Melissa had bumped her head on the padded footrest of a reclining chair, but did not appear injured.

Prosecution experts testified the earlier injuries were in the process of healing at the time of Melissa's death and that the more recent injuries could only be explained by a violent shaking or slamming just prior to when she stopped breathing.

One prosecution expert said the more recent injuries were consistent with a fall from a three-story building. A defense expert characterized the injuries as similar to being swung by the ankles against a brick wall.

Defense experts testified there was no evidence showing Weaver had harmed Melissa and that the girl had already been critically injured and close to death when Weaver picked her up.

The defense called a cemetery worker to testify that the child's mother had inquired about the cost of a grave site about a month before Melissa died. Tessia denied she had made such an inquiry.

The case ended in a mistrial when the jury could not agree on a verdict.

In March 1994, Weaver went on trial again, electing to have the case decided by Marshall County District Judge Carl Peterson, instead of a jury. The evidence was similar to the first trial, except that Peterson barred defense lawyers from introducing the testimony from the cemetery worker.

On March 22, 1994, Peterson found Weaver guilty, concluding that Weaver was alone with Melissa when the fatal injuries were inflicted.

Before sentencing, the defense filed a motion for a new trial, asserting that two new witnesses had come forward to say that Tessia told them that Melissa had hit her head on a table—not a padded footrest—before Weaver picked her up. Judge Peterson denied the motion for new trial, ruling that the testimony was inadmissible hearsay and even if admissible, would not have changed the verdict.

On May 3, 1994, Peterson sentenced Weaver to life in prison without parole.

The Iowa Court of Appeals upheld the conviction on September 22, 1995.

**State:** Iowa

**County:** Marshall

**Most Serious Crime:** Murder

**Additional Convictions:**

**Reported Crime Date:** 1993

**Convicted:** 1994

**Exonerated:** 1997

**Sentence:** Life without parole

**Race:** Caucasian

**Sex:** Female

**Age:** 41

**Contributing Factors:** False or Misleading Forensic Evidence, Perjury or False Accusation

**Did DNA evidence contribute to the exoneration?:** No

Weaver's lawyers sought further review of the appellate decision, arguing they had discovered even more new evidence favorable to Weaver and the Iowa Supreme Court remanded the case for a hearing on a second motion for new trial.

At the hearing, conducted by Marshall County District Judge Allan Goode, affidavits from three more witnesses were presented—women who gathered regularly to have coffee in a Hardee's restaurant in Marshalltown where Tessia Mathes worked as a waitress.

All three said Mathes told them Melissa had hit her head on a coffee table and two of the witnesses said Mathes told them the girl was knocked unconscious.

The defense also called a medical expert who had not testified at the trial, Dr. Brian Blackbourne, who testified that Melissa's vulnerable neurological state on the morning she was picked up combined with the trauma described by the new witnesses offered a reasonable medical explanation for the acute conditions that precipitated the child's death.

On January 31, 1996, Goode granted the motion for a new trial. Weaver was released on bond on March 20, 1996. The state appealed and on September 18, 1996, the decision was upheld by the Iowa Supreme Court.

In February 1997, Weaver went to trial for a third time and was allowed to present the new evidence. The jury acquitted Weaver on March 5, 1997.

– *Maurice Possley*

---

[Report an error or add more information about this case.](#)

---

## Exoneration News

[More News...](#)

### Contact Us

We welcome new information from any source about the exonérations that are already on our list and about new cases that might be exonérations. And we will be happy to respond to inquiries about the Registry.

- [Tell us about an exoneration that we may have missed](#)
- [Correct an error or add information about an exoneration on our list](#)

- [Other information about the Registry](#)



## About the Registry

The National Registry of Exonerations is a joint project of the University of the Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law.

Follow Us:

Copyright 2012. All rights reserved.



WRONGFULLY CONVICTED

## 20 years after infant's death, Mary Weaver's case still gaining national interest

February 3, 2013

By DAVID ALEXANDER - Staff Writer (dalexander@timesrepublican.com) , Times-Republican

Near the back of Riverview Cemetery stands a glossy black headstone. Two hearts, chiseled into the granite, flank the epitaph. It reads "Melissa Marie Mathes, Feb. 22, 1992 Jan. 23, 1993."

On a bleak Sunday afternoon, just days before the 20th anniversary of the 11-month-old's death, the stone is lonely but not forgotten. Wind has dusted a plastic teddy bear wearing a Santa hat with snow; now it spins a pinwheel listlessly. The red and yellow flowers on either side of the monument are still vibrant with life. They stand as a ray of color against the otherwise gray winter pallet.

Mary Weaver is one of the many people who will never forget Jan. 23, 1993. It was she, the child's caregiver, who called 911 when the toddler's eyes rolled back into her head, and it was her who police would later arrest for the girl's death.



Mary Weaver in 1993

Weaver remembers every detail of the events leading up to and following Melissa's death in vivid detail. She remembers how police immediately suspected her of shaking the baby to death. She remembers how police interrogated her relentlessly. She remembers the dread she felt when they accused her.

Paramedics flew Melissa to Iowa City for treatment. The following day, Weaver had planned to go the hospital to visit the girl, expecting that doctors would have learned what was wrong by time she arrived. Before she could make it to Iowa City, police paid her a visit at her home on 3001 Nelson Road where Melissa had fallen unconscious. They questioned her, and it was then she learned the girl had died.



Mary Weaver in 2013

The news hit her like a sledge hammer in the stomach. She never thought for a minute Melissa was going to die. In addition to the intense sorrow that she felt over the loss of the infant, it was clear that the police suspected her of hurting Melissa.

They asked Weaver a litany of questions, telling her that they knew she caused the girl's death. She wanted to cooperate but didn't appreciate the accusation. She told them that if they weren't going to charge her, to leave her alone. The cold sting of fear invaded her emotional landscape, drowning her angst over Melissa's death.

"I felt like I couldn't grieve for her," Weaver said.

An autopsy showed that Melissa had a two-inch skull fracture at the time of her death. Prosecutors would later argue that injury was in the process of healing when, they said, Weaver violently shook and killed the baby. Doctors for the prosecution claimed Melissa was a victim of Shaken Baby Syndrome.

Weaver contacted her attorney, Stephen Brennecke. Winter gave way to spring, and Weaver waited for the other shoe to fall.

She knew she was the police department's prime suspect, she but hadn't heard a word from them since she told them she planned to contact her attorney. Finally, in May 1993, police arrested her for first-degree murder. In a way, she was relieved.

"Up until that point it was like this cloud over my head," Weaver said. "The storm had broke."

She could now set about proving her innocence.

---

Weaver first met Tessia Mathes when the young mother was pregnant with Melissa. Melissa's father, Brad, was a distant cousin of Weaver's husband. Weaver was good friends with Brad's mother, Becky.

Fact Box

TIMELINE IN MARY WEAVER CASE

At the time, Weaver was a part-time daycare provider. When Tessia and Brad began having problems with their babysitter and asked Weaver to look after Melissa on a regular basis, she was reluctant.

"It really wasn't my plan to be a full-time daycare provider," she said. "To take an infant into the house is a commitment."

It was August 1992. In six months, Melissa would be dead.

At the first of Weaver's three trials, the responding officer would testify that Weaver was unusually in control of her emotions when paramedics arrived, which he took as an implication of guilt. A couple months prior, the officer had investigated a similar case where the babysitter had a similar demeanor, he told Weaver. Police concluded that that babysitter had killed the child.

In his notes, he wrote "Calm," referring to Weaver.

"I was in shock," she said of her affect.

Years later, Capt. Mike Hanken, with the Marshalltown Police Department, still remembers the case. Hanken was working as a patrolman at the time, so was not involved in the investigation, but he remembers how it tore the town asunder.

Medical advancements have helped police correlate evidence better in the years since Melissa's death. Cases such as this have caused police to guard information about their investigative methods better, he said. But investigator's process hasn't changed much even if the technology that drives it has.

"We try to correlate as much medical evidence as possible," Hanken said. "Certainly, we are in no hurry to rush to judgment."

Investigators still try to answer one crucial question when piecing together a crime scene: does the story match the injury?

In his nearly 29 years with the MPD, Hanken said the Weaver case sticks out as one of the largest and most divisive because of how much it divided the town into two camps. It took its toll on everyone, he added.

"It is a case you will always remember," he said. "They don't get any easier as time goes on."

---

Whenever Tessia Mathes hears "Rock My Baby" by Shenandoah, she falls to pieces. She used to play the country song for Melissa. It was like her theme song, she said. The little girl would dance; she would wiggle, and the light in her eyes was evident whenever those notes surrounded her.

It's hard, she said, whenever she thinks about what she has lost. Weaver may have been incarcerated for two years, but Tessia said she and Brad are still in prison. They never got to see Melissa graduate high school or go to college. They will never get to her marry or have children of her own. All that has been taken from them.

"It's hard every morning you wake up and your child is not there," Tessia said. "It's the most horrible thing in the world."

Tessia now lives in Nebraska, having moved shortly after Weaver's exoneration. She and Brad had been looking for jobs prior to their daughter's death. She said she feels as though Melissa's identity has been lost in the shuffle of Weaver's case. So much focus was placed on Weaver - her trial, her conviction, her retrial and eventually exoneration - that the public seemed to forget about Melissa. The papers referred to her simply as "Baby Mathes."

She pointed out that the jury found Weaver "not guilty" not "innocent."

Jan. 22, 1993: Melissa Mathes dies

May 26, 1993: Police charge Mary Weaver with first-degree murder

Dec. 28, 1993: The jury in Weaver trial is hung; the trial is declared a mistrial.

March 22, 1994: Judge Carl Peterson finds Weaver guilty after Weaver's attorney asks him to consider the case without a jury.

May 3, 1994: Peterson sentences Weaver to life in prison without parole.

Sept. 22, 1995: The Iowa Court of Appeals upholds the conviction, but Weaver's attorney takes the case to the Iowa Supreme Court, saying new testimonies have surfaced that justify a new trial.

Jan. 31, 1996: Judge Allan Goode grants Weaver a new trial.

March 5, 1997: The jury acquits Weaver.

National interest in Weaver case

Mary Weaver's legacy lives on. The National Registry of Exoneration, a joint project between the University of Michigan and Northwestern Law Schools, has posted her case as a template for students of law schools to study.

The group's website lists Weaver's exoneration as a good example of false or misleading forensic evidence, perjury or false accusation where DNA did not contribute to the exoneration. Of the 1,059 cases posted on the registry, 24 percent list false or misleading forensic evidence as the cause for wrongful conviction.

"It's an unusual case as exonerations go," said Sam Gross, with the University of Michigan Law School. "Shaken Baby Syndrome cases, they are a peculiar type of prosecution now we know there is all sorts of evidence that these injuries can be caused by other things."

Gross said the case also stands out because of how quickly Weaver was tried, convicted, imprisoned and exonerated. The average time of imprisonment for exonerees on the registry is about 10 years.

To qualify as an exoneration, a person must be convicted of a crime only to later be:

Declared to be factually innocent by a government official or agency with the authority to make that declaration.

Or ...

Relieved of all the consequences of the criminal conviction by a government official or body with the authority to take that action.

The national registry hopes to provide better information about exonerations across a broader context, better prevent wrongful convictions and identify existing wrongful conviction in order to correct them.

Melissa's death has engendered in her a suspicion, she said. During her son Nathan's youth, it was hard for her to allow him to be in the company of strangers.

"You lose your faith in humanity," she said. "You find yourself second guessing everyone."

She has dealt with her own problems - being diagnosed with multiple sclerosis - and faced adversity in other forms, but coping with her daughter's death trumps all other maladies. She would rather deal with all those other things - her sister's cancer, her divorce - than even have to bear witness to someone else losing a child.

Nathan is now 17 and getting ready to head off to college. Tessia said she feels like she should be equipped to prepare him for that experience. But she isn't. Being robbed of the ability to raise Melissa tears at her every day. She can't put it into words.

"It's gone, and it will always be gone," she said. "All you have left is heartache."

---

Throughout the course of the investigation, police set about proving Weaver had killed the child. When they questioned Brad and Tessia, they allowed the couple to remain in each other's company. The case file does not indicate that police had any other suspects.

The Sheriff's Office conducted polygraphs on Weaver, Tessia and Brad. Those results implicated Weaver in the killing, but were "inconclusive" on Brad and Tessia. A 2004 study by the National Academy found evidence obtained using lie detectors to be "scanty and scientifically weak."

Still, police persisted. Despite their insistence, they could get no one to come forward to testify against Weaver. Police interviewed multiple people who knew her. In the officer's notes, below the summary of each of the discussions, the words "nothing derogatory" are written.

Despite a seemingly underwhelming amount of evidence against Weaver, a trial began. The State Medical Examiner, Thomas Bennett, and the prosecution's team of doctors all testified that the skull fracture previously suffered was healing and that the trauma that caused her death must have occurred while in Weaver's care. Weaver's doctors disagreed. The jury was hung.

Weaver's attorney set about getting her another trial. Brennecke had known Weaver casually for some time. They had met at Center Street Baptist Church, and he knew her to be a gentle and caring person. He never asked Weaver if she killed Melissa. To him, her innocence was implicit.

This time, they thought, they would simply bring the case before a judge instead of having a jury trial. He was confident that the evidence did not implicate Weaver. Judge Carl Peterson, the same judge that presided over the first trial, would hear Weaver's case.

On March 22, 1994, he found her guilty and sentenced her to life in prison.

---

While Weaver spent two years in the Correctional Institution for Women in Mitchellville, earning 38 cents an hour washing dishes, her support network continued to grow. They wrote letters to Gov. Terry Branstad and to area newspapers on her behalf. They sported yellow ribbons and signs in the back of their cars that read "I believe in Mary Weaver."

Weaver never sought compensation from the state for the two years she was imprisoned.

Meanwhile, her attorneys continued to appeal her case, but in September 1995, the Iowa Court of Appeals upheld the conviction. They persisted.

"It's one of those where you put everything on the line," Brennecke said of the case. "If you could, you would move heaven and earth to get it done. That case brought me to the brink of human effort."

During her first two trials, the court would rule that claims that police had reason to consider Tessia a suspect were hearsay. One such testimony came from a cemetery worker who told the court Tessia had asked her about the cost of burying an infant and whether cemetery workers still dug graves in the winter.

"I never ever believed I would be in prison for the rest of my life I never lost faith," Weaver said. "I was away from my family. It was a hardship on me. That was the hardest part of it."

Weaver recalled the details of the ordeal surrounding her arrest at Hardee's just days before the 20th anniversary of Melissa's death. The restaurant has significance to Weaver. It's the location of a big break in her case.

While Weaver was locked away, three women came forward claiming that, according to their affidavits, they had information about the case. While they were having their weekly coffee at Hardee's, they offered their waitress, Tessia, condolences for the loss of her daughter. Tessia's response shocked them. She told them Melissa had hit her head on a coffee table, not a padded recliner as she had previously testified, the day prior to her death.

Because the three women's statements matched up, the testimony would not be considered hearsay. It was grounds for a new trial, one over which Judge Peterson would not preside.

---

Bolstering Weaver's case was Dr. Thomas Carlstrom, a neurosurgeon from Des Moines. He had heard about the accusations against Weaver and contacted Brennecke offering his expert opinion - for free. His testimony, along with the trio of woman who claimed that Tessia told them the girl banged her head on the coffee table, swayed the jury.

On March 5, 1997 the jury acquitted Weaver.

Following Weaver's exoneration, State Medical Examiner Thomas Bennett came under heavy fire. Investigation of several of his cases turned up dubious results, and when it came out that he had been using state resources for his private consulting business, he resigned.

Years later, Brennecke, who no longer practices law, still can't believe police ever charged Weaver.

"It's nuts," he said. "There is a level of absurdity to it."

Perhaps the most vexing part of the whole ordeal, Brennecke said, is the mystery of it. To this day, police have yet to arrest anyone else for the girl's death.

Weaver, who now lives in Steamboat Rock, said she laments that her arrest pushed Melissa's death into the background. The girl would have been 21 this year. She visits her grave often.

"That is a tragedy that we should never forget," she said. "This time of year is kind of hard for me because of what happened."

Tessia remembers. On Feb. 22, she will do what she does every year for Melissa's birthday: she will release 11 balloons into the sky - one for every month of Melissa's short life.

[False Allegations of Child Abuse](#)

[Truth in Justice](#)



News Opinion Sports Business Sections Ads Jobs Local Classifieds CU Extras Customer Service

What's Trending > 3) Council amends Urban Renewal Pla...

News, Blogs & Events SEARCH

Today's News

/ News / Today's News /

- Today's News
- Today's Front Page
- Closings and Delays
- Obituaries
- Daily Record
- Outdoors Today
- Around Town
- Iowa News
- National News
- World News
- Entertainment
- Not In Our Town
- Iowa Public Notices
- Local Photos
- SUBMIT News

« Residents push for new Willi... Sodders: State must be caref...»

Marshalltown, IA  
**41°F**  
[Extended Forecast](#)  
[Find Another Location](#)  
Data provided by The Weather Channel ©

# WRONGFULLY CONVICTED

## 20 years after infant's death, Mary Weaver's case still gaining national interest

February 3, 2013

By DAVID ALEXANDER - Staff Writer (dalexander@timesrepublican.com) , Times-Republican

Save |

Near the back of Riverview Cemetery stands a glossy black headstone. Two hearts, chiseled into the granite, flank the epitaph. It reads "Melissa Marie Mathes, Feb. 22, 1992 Jan. 23, 1993."

On a bleak Sunday afternoon, just days before the 20th anniversary of the 11-month-old's death, the stone is lonely but not forgotten. Wind has dusted a plastic teddy bear wearing a Santa hat with snow; now it spins a pinwheel listlessly. The red and yellow flowers on either side of the monument are still vibrant with life. They stand as a ray of color against the otherwise gray winter pallet.

Mary Weaver is one of the many people who will never forget Jan. 23, 1993. It was she, the child's caregiver, who called 911 when the toddler's eyes rolled back into her head, and it was her who police would later arrest for the girl's death.

### Article Photos



CONTRIBUTED PHOTO



Weaver remembers every detail of the events leading up to and following Melissa's death in vivid detail. She remembers how police immediately suspected her of shaking the baby to death. She

I am looking for: SEARCH



### Photos Women to Download

www.Dreamstime.com  
Buy Stock Photos For Just \$0.20! Over 10 Million HD Quality Images. AdChoices

### Comenzar descarga

www.Download.flvrnner.com  
Descarga ahora conversor gratis iComienza aqui! AdChoices

### How to Pass Professional

amazon.com/author/matthewcollins  
Designation Exams Without Completely Ignoring Your Family AdChoices



remembers how police interrogated her relentlessly. She remembers the dread she felt when they accused her.

Paramedics flew Melissa to Iowa City for treatment. The following day, Weaver had planned to go to the hospital to visit the girl, expecting that doctors would have learned what was wrong by the time she arrived. Before she could make it to Iowa City, police paid her a visit at her home on 3001 Nelson Road where Melissa had fallen unconscious. They questioned her, and it was then she learned the girl had died.

#### Fact Box

##### TIMELINE IN MARY WEAVER CASE

Jan. 22, 1993: Melissa Mathes dies

May 26, 1993: Police charge Mary Weaver with first-degree murder

Dec. 28, 1993: The jury in Weaver trial is hung; the trial is declared a mistrial.

March 22, 1994: Judge Carl Peterson finds Weaver guilty after Weaver's attorney asks him to consider the case without a jury.

May 3, 1994: Peterson sentences Weaver to life in prison without parole.

Sept. 22, 1995: The Iowa Court of Appeals upholds the conviction, but Weaver's attorney takes the case to the Iowa Supreme Court, saying new testimonies have surfaced that justify a new trial.

Jan. 31, 1996: Judge Allan Goode grants Weaver a new trial.

March 5, 1997: The jury acquits Weaver.

National interest in Weaver case

Mary Weaver's legacy lives on. The National Registry of Exoneration, a joint project between the University of Michigan and Northwestern Law Schools, has posted her case as a template for students of law schools to study.

The group's website lists Weaver's exoneration as a good example of false or misleading forensic evidence, perjury or false accusation where DNA did not contribute to the exoneration. Of the 1,059 cases posted on the registry, 24 percent list false or misleading forensic evidence as the cause for wrongful conviction.

"It's an unusual case as exoneration goes," said Sam Gross, with the University of Michigan Law School. "Shaken Baby Syndrome cases, they are a peculiar type of prosecution now we know there is all sorts of evidence that these injuries can be caused by other things."

Gross said the case also stands out because of how quickly Weaver was tried, convicted, imprisoned and exonerated. The average time of imprisonment for exonerees on the registry is about 10 years.

To qualify as an exoneration, a person must be convicted of a crime only to later be:

Declared to be factually innocent by a government official or agency with the authority to make that declaration.

Or ...

Relieved of all the consequences of the criminal conviction by a government official or body with the authority to take that action.

The national registry hopes to provide better information about exoneration across a broader context, better prevent wrongful convictions and identify existing wrongful conviction in order to correct them.

The news hit her like a sledge hammer in the stomach. She never thought for a minute Melissa was going to die. In addition to the intense sorrow that she felt over the loss of the infant, it was clear that the police suspected her of hurting Melissa.

They asked Weaver a litany of questions, telling her that they knew she caused the girl's death. She wanted to cooperate but didn't appreciate the accusation. She told them that if they weren't going

to charge her, to leave her alone. The cold sting of fear invaded her emotional landscape, drowning her angst over Melissa's death.

"I felt like I couldn't grieve for her," Weaver said.

An autopsy showed that Melissa had a two-inch skull fracture at the time of her death. Prosecutors would later argue that injury was in the process of healing when, they said, Weaver violently shook and killed the baby. Doctors for the prosecution claimed Melissa was a victim of Shaken Baby Syndrome.

Weaver contacted her attorney, Stephen Brennecke. Winter gave way to spring, and Weaver waited for the other shoe to fall.

She knew she was the police department's prime suspect, she but hadn't heard a word from them since she told them she planned to contact her attorney. Finally, in May 1993, police arrested her for first-degree murder. In a way, she was relieved.

"Up until that point it was like this cloud over my head," Weaver said. "The storm had broke."

She could now set about proving her innocence.

---

Weaver first met Tessia Mathes when the young mother was pregnant with Melissa. Melissa's father, Brad, was a distant cousin of Weaver's husband. Weaver was good friends with Brad's mother, Becky.

At the time, Weaver was a part-time daycare provider. When Tessia and Brad began having problems with their babysitter and asked Weaver to look after Melissa on a regular basis, she was reluctant.

"It really wasn't my plan to be a full-time daycare provider," she said. "To take an infant into the house is a commitment."

It was August 1992. In six months, Melissa would be dead.

At the first of Weaver's three trials, the responding officer would testify that Weaver was unusually in control of her emotions when paramedics arrived, which he took as an implication of guilt. A couple months prior, the officer had investigated a similar case where the babysitter had a similar demeanor, he told Weaver. Police concluded that that babysitter had killed the child.

In his notes, he wrote "Calm," referring to Weaver.

"I was in shock," she said of her affect.

Years later, Capt. Mike Hanken, with the Marshalltown Police Department, still remembers the case. Hanken was working as a patrolman at the time, so was not involved in the investigation, but he remembers how it tore the town asunder.

Medical advancements have helped police correlate evidence better in the years since Melissa's death. Cases such as this have caused police to guard information about their investigative methods better, he said. But investigator's process hasn't changed much even if the technology that drives it has.

"We try to correlate as much medical evidence as possible," Hanken said. "Certainly, we are in no hurry to rush to judgment."

Investigators still try to answer one crucial question when piecing together a crime scene: does the story match the injury?

In his nearly 29 years with the MPD, Hanken said the Weaver case sticks out as one of the largest and most divisive because of how much it divided the town into two camps. It took its toll on everyone, he added.

"It is a case you will always remember," he said. "They don't get any easier as time goes on."

---

Whenever Tessia Mathes hears "Rock My Baby" by Shenandoah, she falls to pieces. She used to play the country song for Melissa. It was like her theme song, she said. The little girl would dance; she would wiggle, and the light in her eyes was evident whenever those notes surrounded her.

It's hard, she said, whenever she thinks about what she has lost. Weaver may have been incarcerated for two years, but Tessia said she and Brad are still in prison. They never got to see Melissa graduate high school or go to college. They will never get to her marry or have children of her own. All that has been taken from them.

"It's hard every morning you wake up and your child is not there," Tessia said. "It's the most horrible thing in the world."

Tessia now lives in Nebraska, having moved shortly after Weaver's exoneration. She and Brad had been looking for jobs prior to their daughter's death. She said she feels as though Melissa's identity has been lost in the shuffle of Weaver's case. So much focus was placed on Weaver - her trial, her conviction, her retrial and eventually exoneration - that the public seemed to forget about Melissa. The papers referred to her simply as "Baby Mathes."

She pointed out that the jury found Weaver "not guilty" not "innocent."

Melissa's death has engendered in her a suspicion, she said. During her son Nathan's youth, it was hard for her to allow him to be in the company of strangers.

"You lose your faith in humanity," she said. "You find yourself second guessing everyone."

She has dealt with her own problems - being diagnosed with multiple sclerosis - and faced adversity in other forms, but coping with her daughter's death trumps all other maladies. She would rather deal with all those other things - her sister's cancer, her divorce - than even have to bear witness to someone else losing a child.

Nathan is now 17 and getting ready to head off to college. Tessia said she feels like she should be equipped to prepare him for that experience. But she isn't. Being robbed of the ability to raise Melissa tears at her every day. She can't put it into words.

"It's gone, and it will always be gone," she said. "All you have left is heartache."

---

Throughout the course of the investigation, police set about proving Weaver had killed the child. When they questioned Brad and Tessia, they allowed the couple to remain in each other's company. The case file does not indicate that police had any other suspects.

The Sheriff's Office conducted polygraphs on Weaver, Tessia and Brad. Those results implicated Weaver in the killing, but were "inconclusive" on Brad and Tessia. A 2004 study by the National Academy found evidence obtained using lie detectors to be "scanty and scientifically weak."

Still, police persisted. Despite their insistence, they could get no one to come forward to testify against Weaver. Police interviewed multiple people who knew her. In the officer's notes, below the summary of each of the discussions, the words "nothing derogatory" are written.

Despite a seemingly underwhelming amount of evidence against Weaver, a trial began. The State Medical Examiner, Thomas Bennett, and the prosecution's team of doctors all testified that the skull fracture previously suffered was healing and that the trauma that caused her death must have occurred while in Weaver's care. Weaver's doctors disagreed. The jury was hung.

Weaver's attorney set about getting her another trial. Brennecke had known Weaver casually for some time. They had met at Center Street Baptist Church, and he knew her to be a gentle and caring person. He never asked Weaver if she killed Melissa. To him, her innocence was implicit.

This time, they thought, they would simply bring the case before a judge instead of having a jury trial. He was confident that the evidence did not implicate Weaver. Judge Carl Peterson, the same judge that presided over the first trial, would hear Weaver's case.

On March 22, 1994, he found her guilty and sentenced her to life in prison.

---

While Weaver spent two years in the Correctional Institution for Women in Mitchellville, earning 38 cents an hour washing dishes, her support network continued to grow. They wrote letters to Gov. Terry Branstad and to area newspapers on her behalf. They sported yellow ribbons and signs in the back of their cars that read "I believe in Mary Weaver."

Weaver never sought compensation from the state for the two years she was imprisoned.

Meanwhile, her attorneys continued to appeal her case, but in September 1995, the Iowa Court of Appeals upheld the conviction. They persisted.

"It's one of those where you put everything on the line," Brennecke said of the case. "If you could, you would move heaven and earth to get it done. That case brought me to the brink of human effort."

During her first two trials, the court would rule that claims that police had reason to consider Tessia a suspect were hearsay. One such testimony came from a cemetery worker who told the court Tessia had asked her about the cost of burying an infant and whether cemetery workers still dug graves in the winter.

"I never ever believed I would be in prison for the rest of my life I never lost faith," Weaver said. "I was away from my family. It was a hardship on me. That was the hardest part of it."

Weaver recalled the details of the ordeal surrounding her arrest at Hardee's just days before the 20th anniversary of Melissa's death. The restaurant has significance to Weaver. It's the location of a big break in her case.

While Weaver was locked away, three women came forward claiming that, according to their affidavits, they had information about the case. While they were having their weekly coffee at Hardee's, they offered their waitress, Tessia, condolences for the loss of her daughter. Tessia's response shocked them. She told them Melissa had hit her head on a coffee table, not a padded recliner as she had previously testified, the day prior to her death.

Because the three women's statements matched up, the testimony would not be considered hearsay. It was grounds for a new trial, one over which Judge Peterson would not preside.

---

Bolstering Weaver's case was Dr. Thomas Carlstrom, a neurosurgeon from Des Moines. He had heard about the accusations against Weaver and contacted Brennecke offering his expert opinion - for free. His testimony, along with the trio of woman who claimed that Tessia told them the girl banged her head on the coffee table, swayed the jury.

On March 5, 1997 the jury acquitted Weaver.

Following Weaver's exoneration, State Medical Examiner Thomas Bennett came under heavy fire. Investigation of several of his cases turned up dubious results, and when it came out that he had been using state resources for his private consulting business, he resigned.

Years later, Brennecke, who no longer practices law, still can't believe police ever charged Weaver.

"It's nuts," he said. "There is a level of absurdity to it."

Perhaps the most vexing part of the whole ordeal, Brennecke said, is the mystery of it. To this day, police have yet to arrest anyone else for the girl's death.

Weaver, who now lives in Steamboat Rock, said she laments that her arrest pushed Melissa's death into the background. The girl would have been 21 this year. She visits her grave often.

"That is a tragedy that we should never forget," she said. "This time of year is kind of hard for me because of what happened."

Tessia remembers. On Feb. 22, she will do what she does every year for Melissa's birthday: she will release 11 balloons into the sky - one for every month of Melissa's short life.

© Copyright 2013 Times-Republican. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.

[Save |](#)

[Recommend](#) [Send](#) 66 people recommend this.

0

[Subscribe to Times-Republican](#)

**Times-Republican**

135 West Main Street , Marshalltown, IA 50158 | 641-753-6611

© 2013. All rights reserved. | [Terms of Service and Privacy Policy](#)