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**BODY:**

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Mr. ALEX HUNTER (Boulder District Attorney): The Boulder grand jury has completed its work and will not return. No charges have been filed. The grand jurors have done their work extraordinarily well, bringing to bear all of their legal powers, life experiences and shrewdness. Yet I must report to you that I and my prosecution task force believe we do not have sufficient evidence to warrant the filing of charges against anyone who has been investigated at this time.

GERALDO RIVERA, host:

There it is, the dramatic announcement that at least for now the JonBenet Ramsey case is effectively closed. There will be no indictments, no charges, no arrests in America's best-known unsolved murder mystery. And you can just imagine hearing a huge sigh of relief exactly two hours ago coming from the direction of John and Patsy Ramsey.

For two years and 10 months they have lived under an umbrella of suspicion, being the only possible suspects named by the authorities in the gruesome torture and murder of their pretty and precocious six-year-old daughter. Now that legal umbrella has been closed and put away. Now, absent some unforeseen and, sadly, unlikely development, like a confession, some new piece of evidence or a new method of analyzing the existing evidence that might somehow, some way someday lead to justice for JonBenet, her killer or killers will remain free.

Hi, everybody. I'm Geraldo Rivera in Boulder, Colorado.

We already knew, we always knew it was a possibility, if not a probability, but it was still a breathtaking moment when Alex Hunter officially announced there will be no indictment of John or Patsy Ramsey or anyone else. And this troubling murder mystery, which has simultaneously attracted and repulsed us, will remain exactly that, a mystery that

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will eventually fade from the public dialogue. Legally speaking, this case remains open, and since there is no statute of limitations on murder, theoretically, charges could be brought at any time for years to come. But don't count on it.

Criticized as inexperienced, overcautious and even inept, give DA Hunter credit at least for doing the politically unpopular thing. You all know as well as I that most of the available evidence, at least a--as far as we know, points to one or both of the child's parents. Regardless, neither they nor anyone else will be indicted for this terrible crime.

Bob Grant, the tradific--the terrific district attorney of nearby Adams County, has been advising Alex Hunter on this case for the past couple of years. How long have you known him, Bob?

Mr. BOB GRANT (Adams County District Attorney): I suppose the--the question is: Just how long have we understood the lack of evidence in the case? And--and, clearly, that's been a--a problem in the case from the beginning. It's always been a circumstantial case, without a smoking gun. Clearly all of us involved in the case had hoped that the use of the grand jury, its subpoena power, its confidentiality, its secrecy proceedings would lead to additional evidence that would put it over the top. Clearly, you know, Alex Hunter has made an agonizing decision, one that nobody is happy with. Nobody will be happy who's involved in this case until someone is brought to justice.

RIVERA: Are you disappointed, personally, that this grand jury chose not to indict anyone?

Mr. GRANT: I--I--I am disappointed that the evidence is--is not able to support a prosecution at this stage, Geraldo.

RIVERA: You were confident, in your capacity as expert prosecutor, that the evidence was insufficient?

Mr. GRANT: Yeah. Yeah. I--you know, I've had an opportunity to go through it piece by piece. I am not as versed in the evidence as my chief deputy, Bruce Levin, or Mitch Morrissey or Mike Kane or Alex, who have lived with it day to day, but I've certainly had an opportunity to view everything there is to view and--and to discuss it with those folks.

RIVERA: What the hell took so long?

Mr. GRANT: The--the nature of a complex homicide investigation doesn't lend itself to time tables. If, in fact, there was going to be evidence developed through the use of the grand jury, it wasn't simply let's go in one day, issue the subpoena, beat somebody into submission and--and move on. It's a--it's an investigative tool. Could it have been done quicker? Perhaps.

RIVERA: Why the hiatus? Why give the grand jury all that time off? To keep us dangling on this?

Mr. GRANT: You talking about during the summer months?

RIVERA: Right.

Mr. GRANT: I--I can't speak specifically about the grand jury, what it did or didn't do, but I can say this: An investigative grand jury develops investigative avenues, develops information. The grand jurors don't go out and follow that up. They don't wear off their shoe leather. The investigators do. So if the grand jury develops information or if they are at a point where there's additional forensic evidence that--that becomes known and needs to be analyzed, there's no reason for the grand jury to sit there and wait for that. That will happen, and that may take as much as a month, two, three months to happen, and then back comes the grand jury to review what's been developed.

RIVERA: Before I go to our fine panel, and we have Dan Abrams and Jane Wells, two terrific correspondents, standing by, I have to ask you, personally, was there any other--at the risk of putting you at risk--at the risk of putting you at--at--at the mercy of the presiding judge, who issued a very stern warning today, was there any evidence pointing to anyone other than the two people named as being under the umbrella of suspicion, so-called?

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Mr. GRANT: Well, I'm sure, Geraldo, you know I can't and won't comment on the evidence, and I won't comment on--on the strength or lack of it other than what Alex has said so far. But--but I need to reiterate what you said in--in the top of the show. The case will not be shelved. The killer or killers of JonBenet Ramsey have to understand that--that the authorities are going to continue to do their level best, whatever it takes, to bring this case to justice.

RIVERA: Of course, what their best is is subject to extreme and passionate debate across the country, not the least of which right here in this community.

Mr. GRANT: Well, you know, I don't know that that's entire--entirely true, Geraldo. Clearly people have called into question some of the things that were done early on in this case that have been made public, but just as clearly, anyone--anyone who has watched the investigators assigned to this case over the last year and a half or two years work their hearts out know that they are competent, intelligent, good investigators who are committed to doing whatever they can do to bring this killer to justice.

RIVERA: Stay right there, Bob Grant. Dan Abrams, Jane Wells. Dan, you first. Your reaction. And what else do you know to supplement or maybe even question what our dear friend, the district attorney from Adams County, has just related?

DAN ABRAMS (NBC News): Well, Geraldo, we really don't have much information about how the grand jury did its work, what the grand jury's been doing for the last four days. I can give you a little bit of a preview of what's coming up.

RIVERA: Go ahead.

ABRAMS: Alex Hunter is going to be holding a press conference tomorrow with the other metro DAs. I assume Bob Grant is going to be joining him at that press conference. And then about an hour after that, Mark Beckner, the commander of the Boulder Police Department, is going to hold a press conference. He's expected to talk about the ongoing investigation.

I've talked to some people here who are talking about this investigation in a way that you wouldn't expect. They're not beyond just the party line; that, 'Oh, yes, the investigation's ongoing.' I just talked to Suzanne Laurion, who's the spokesperson for Alex Hunter's office, and she--she was saying this investigation is ongoing. My understanding is that Michael Kane will stay on and that they will go on with this case. My--Mark Beckner will give us the details tomorrow, but that should be a particularly interesting press conference.

RIVERA: Now, Dan, do you expect that there will be a--a kind of unanimity or--or unity I should say between the--the cops on the one hand and the DA, so often criticized by those same police officers?

ABRAMS: I--I do expect to see that. I--I--you won't see the sort of wrangling that was going on early in this investigation. You can expect that Mark Beckner will, in a way, support what Alex Hunter was saying. He's saying that he is going to continue following up leads to support Alex Hunter's determination that there simply isn't enough evidence at this point.

RIVERA: OK. Jane Wells, your reaction to the bombshell announcement?

JANE WELLS (Chief Correspondent, "Upfront Tonight"): Well, it--it wasn't totally unexpected, and yet it seemed so unexpected. I haven't seen reporters get that quiet in a long time as Alex Hunter walked up.

I do have some updates for you tonight, Geraldo. The Ramsey family attorney, without saying where they are, has said that the Ramsey may--the Ramseys, plural, may issue a written statement sometime tonight. Again, we don't know if they're in Atlanta or if they are here in Colorado.

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The governor of Colorado, Bill Owens, has also released a statement which says in part, 'I do know one fact. A little girl was brutally murdered in Boulder County, and the killer or killers remain free today. As governor, I have the power to appoint a special prosecutor. I am reviewing this option and will make a decision shortly.'

And, again, we talked about the investigation going on. Problem is they may soon run out of money, and the City Council here doesn't sound like it wants to s--you know, they've spent almost \$ 2 million so far. It doesn't sound like they want to spend a whole lot of money.

But let me show you one thing. About a half-hour after the announcement tonight, the local paper, the Daily Camera, came out with an extra edition with one word headline, 'Stumped,' and a picture of the grand jurors leaving. Leaving, apparently, for good. The judge has issued an order saying he will not only bar anyone from trying to talk to them, but he is also barring them from trying to talk to anyone else, saying that their oath of secrecy is still one they have to abide by, even though they've been dismissed, and they are subject to criminal contempt if they break that oath. In fact, I'm wondering what the DAs are going to say tomorrow at this 12:30 news conference. If you listened to Alex Hunter earlier today--and I think we have the soundbite--he doesn't sound like he's going to talk much about what happened over the last 13 months in that grand jury room.

RIVERA: All right. Before you roll that tape--I don't want to roll that tape just yet because I'm going to lose Bob. What about the possibility the governor eluded to of appointing a special prosecutor? In other words, a vote of no confidence for Alex Hunter.

Mr. GRANT: The governor has the option under Colorado law to appoint not any special prosecutor, but only the office of attorney general of the state of Colorado to review the case and the decisions made. I don't know whether he'll do that or not.

RIVERA: Is he a very political guy?

Mr. GRANT: The governor...

RIVERA: Will he it because it's politically popular?

Mr. GRANT: Governor Owens? You know, he hasn't been governor that long. He--he certainly is a political fellow, but he's also a very astute and--and tuned-in man. He understands Colorado. He understands Coloradans, and he understands his responsibility. If he feels that there's anything to be gained by having the attorney general review the case, I suspect he'll take that option.

RIVERA: All right. Bob Grant, thank you very much.

We've got a great panel. We've got Wendy Murphy, Joe diGenova, Gerry Spence, Jerri Merritt, Peter Boyles, Cyril Wecht. We're gonna get comments from all of those people about this dramatic development in America's best-known unsolved murder mystery, the death almost three years ago of a six-year-old we all came to know with those haunting videotapes. Who killed JonBenet? We May Never Know.

(Announcements)

RIVERA: Let me formally introduce our fine guests. Adams County District Attorney Bob Grant has been a member of the Boulder DA special prosecution task force. Down the road in Denver, criminal defense attorney Jeralyn Merritt and talk show host Peter Boyles of KHOW-AM Radio. Brief opening statements from you two. Peter, go first.

Mr. PETER BOYLES (Talk Show Host, KHOW-AM Radio): It's a very sad night. The questions I have--and I know the Adams County DA, Bob Grant, is sitting next to you, and I had the oppor--I didn't get the chance to ask him this earlier this afternoon. W--number one, did this grand jury vote, and, number two, did they vote a reason--beyond a

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reasonable doubt? Say nine of the 12 voted to--voted for a true bill and that, if I read the press release from Alex Hunter correctly--I don't have it here; it's out in my truck--he says that he and his team decided. It didn't mention anything at all about a grand jury vote or if a grand jury voted beyond a--with the reasonable doubt law in mind. Nine or more of them voted to a--to issue a true bill.

RIVERA: Right. A good question. Was there a vote?

Mr. GRANT: Well, let me say--let me say, first of all, that it's not a beyond a reasonable doubt standard for the grand jury...

RIVERA: We know that. We know that.

Mr. GRANT: ...it's a probable cause standard.

Mr. BOYLES: OK. I--I apologize for that.

Mr. GRANT: Second of all, I--Peter, you just want to come visit me in jail, don't you?

Mr. BOYLES: Well, my--I--I--I...

Mr. GRANT: The--the--the--the--clearly--let me just say the law is as Alex explained it and as was in the chief judge's handout.

Mr. JOSEPH diGENOVA (Criminal Defense Attorney): That's right. OK.

Mr. GRANT: We cannot discuss in any way what the grand jury did or did not do.

Mr. diGENOVA: OK. OK. You know, Geraldo...

RIVERA: In other words, we don't know if the grand jury...

Mr. diGENOVA: Geraldo. Geraldo.

RIVERA: ...ever formally voted? They may...

Mr. diGENOVA: Exactly. Geraldo, let's...

RIVERA: ...have just gone, 'Alex, we got nothing here.' Jeralyn Merritt. OK. Opening statement.

Mr. BOYLES: That's why it's important.

Ms. JERALYN MERRITT (Criminal Defense Attorney): I just want to say that this grand jury decision not to indict restores my faith in the criminal justice system today. These are excellent prosecutors that worked this case. If they made the decision that the--that the scientific evidence and the evidence is not there to support an indictment, I think we need to respect it, we need to respect the grand jury decision, and America has the best criminal justice system in the world with all its flaws. Let's respect it.

RIVERA: In Washington, the criminal defense attorney Joseph diGenova. Joe is the former crime busting US attorney from the District of Columbia. Joe, what do you say?

Mr. diGENOVA: One of the most important things any prosecutor can do is to refuse to bring a case in which the evidence is insufficient. So to that extent, I applaud exactly what happened today because that is what is supposed to happen. However, I am somewhat surprised by the fact that a news conference is going to be held tomorrow where they are going to be unable to discuss the evidence...

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RIVERA: Right.

Mr. diGENOVA: ...unable to discuss the past...

RIVERA: Right.

Mr. diGENOVA: ...and they will apparently speculate about the future. That news conference may not be a very good public service. As for the people who might have been charged, Geraldo, there is the prison of the mind, and I think two people are living in tonight.

RIVERA: Amen.

In Boston, another fine attorney and former prosecutor Wendy Murphy, the victims rights advocate. Wendy.

Ms. WENDY MURPHY (Attorney/Former Prosecutor): Geraldo, I am so discouraged. You know, Jerri said she has a restored faith. I have a restored, indeed, heightened sense of cynicism about the way the justice system works in this country. I am so angry. And I think we have to ask a very important question: What is wrong with the system when we know that one of two, if not both, people brutalized and murdered a little girl and we can't figure out which one did it, even to the low standard of by a preponderance of the evidence? That is an embarrassment. It is a moment of shame and great horror for me. And I hope it's a great moment of shame for Alex Hunter. He owes the public an explanation. I was very distraught to hear him say today, 'And I will not explain or issue a report...'

RIVERA: Right.

Ms. MURPHY: ...and--and so on. He owes the public...

Mr. GRANT: Let me take issue...

Ms. MURPHY: ...so much of an explanation that he can't pick between two people which one did that? That's embarrassing.

Mr. GRANT: Let me take an issue--let me take an issue with you, Wendy. And--and first of all, let me say that there isn't anyone that's happy with the state of the evidence or the state of the lack of prosecution on this day. But let me take issue with what you know and tell you that you do not know more than you think you do know. What's happened here is that experienced criminal justice professionals have, in fact, reviewed all of this evidence and agreed that there is not proof beyond a reasonable doubt. There is not a prosecutable case. Now you can make all of the statements you want about what you think you know, but you don't know more than you do.

RIVERA: OK. She...

Ms. MURPHY: Bob, I'm not--I'm not pretending I know anything, but I can tell you what I know.

RIVERA: Quick rebuttal. Quick.

Ms. MERRITT: Well, you don't know who killed JonBenet, Wendy, so you shouldn't say who did.

Ms. MURPHY: I know that DAs--DAs around the country--Jerri, listen. You know DAs around this country have the capacity to bag cases in the grand jury, particularly when it's politically expedient. And they do it when cases involve wealthy, prominent and very influential people such as this case. I'm not saying that's what happened, but the public demands...

Mr. GRANT: That's not what happened.

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Ms. MURPHY: ...and has the right to demand some measure of accountability that makes sense.

Ms. MERRITT: But the law doesn't allow it, Wendy.

RIVERA: Gerry Spence--Gerry Spence, opening statement from the old professor. Let's go. Nice jacket. New jacket.

Mr. GERRY SPENCE (Trial Attorney): Oh, thanks. I left--got so excited about this thing, I ran--left--ran off from Jackson and left my jacket at home and found this in an archaeological dig in the closet, well, in--in California.

Well, here's--you know, Geraldo, here's the way this thing works. We're all disappointed. We would either like the grand jury to say there wasn't--that--that there was--that we found the criminal. But what happens is this. The--the police leak out the evidence, and all that we ever hear is the police's evidence. Never--the defense's evidence never gets out, and that's what--that's what Bob Grant's talking about--that people don't know about the evidence that point to somebody else, an intruder, somebody else who did this.

Mr. GRANT: Right.

Mr. SPENCE: And so when we hear this, you know, we--all we hear is--is the police's evidence. And then when we don't get an indictment, we're very upset and very distraught because we think the system has gone awry. Now--now do you want to hear what some of the evidence is in this case that they would have to deal with?

RIVERA: I do--I do and we will following this very short commercial interruption. Stay tuned. You too, Cyril. Stay tuned. We'll be right back here.

(Announcements)

RIVERA: Is this justice delayed or is this justice denied? Gerry Spence, you were about to say?

Mr. SPENCE: Well, Geraldo, there's a whole lot of evidence here that people just really can't deal with pros--the prosecutor. For example, there was a high-tech boot print that they found at the scene of the--of the murder that nobody could match. The DNA doesn't match. There was a palm print they couldn't find. The DNA didn't match any member of that family. That the DNA--the blood on the little girl's panties didn't match the blood on her--on her--on her skin. There were a lot of people that had keys to this house: gardeners, the landscape people, the maids, all the rest. And there was a door that was open contrary to what we were told, even on this program.

RIVERA: All right.

Mr. SPENCE: And there was--there were five or six windows that were open.

Unidentified Panelist: Well, that's it, man.

RIVERA: In Pittsburgh...

Mr. SPENCE: One last--one last point.

Mr. diGENOVA: Clearly, she committed suicide.

RIVERA: ...Dr. Cyril Wecht, the attorney, the pathologist and medical examiner after Gerry makes this one last point. Go ahead, Gerry.

Mr. SPENCE: One last point. If--if you were looking for a victim for a--by a child molester who wanted to do something sexual to a child, who would be the most likely victim in the whole world for a child molester, an intruder?

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It would be this little girl who had been made, unfortunately, a sex symbol in that process that she was involved in.

Unidentified Panelist: Geraldo...

RIVERA: By--by her own parents. By her own parents. Sorry. Dr. Cyril Wecht's opening statement.

Unidentified Panelist: Geraldo, can I--can I ask Gerry Spence a...

RIVERA: Go ahead. Cyril, go.

Dr. CYRIL WECHT (Forensic Pathologist/Attorney): Oh, me?

RIVERA: Yes.

Dr. WECHT: Oh, I--OK. Well, I've been so fascinated by my esteemed colleague...

RIVERA: Well, get over it.

Dr. WECHT: ...and--and good friend Gerry Spence. I--I'm put in a difficult position of having to disagree with somebody whom I admire so much.

RIVERA: Now stop that. Let's get to the point.

Mr. diGENOVA: Yeah. Well, get to it.

Dr. WECHT: Well, you know, Mr. Grant I believe has contradicted himself. He corrected Peter Boyles incorrectly when Peter referred to beyond a reasonable doubt, and Mr. Grant said that that's not the level and quantity of proof required by a grand jury. Subsequently he referred to beyond a reasonable doubt. A grand jury does not have to confront a case beyond a reasonable doubt. I must say that...

RIVERA: But tell us--get to the evidence. We know all that, Cyril. Well, you saw that partial autopsy at least.

Dr. WECHT: Yes.

RIVERA: Get to the evidence. What do you have--what do you have to rebut what Gerry Spence just said?

Dr. WECHT: OK. The evidence is the sequence of the injuries, the mechanism of death. The evidence clearly proves that the girl died as a result of a vagal reflex, which produced cardiac inhibition, slowing of the heart, arrhythmia. When she was dead or dying, the blow to the head was inflicted. There is less than two teaspoonfuls of blood beneath a crushing injury that produced an eight-and-one-half-inch fracture of the skull. You would have a profuse amount of hemorrhaging if the child had been alive. You have clear...

RIVERA: Saying what? Points to what? Thirty seconds--points to what?

Dr. WECHT: Well, it points to the fact that a perverse sex game was being played. And correlated with the abrasion, contusion and blood on the external genitalia, that it was a game played that night. The chronic inflammation of the vaginal mucosa, the erosion and the destruction of a good portion of the hymen points to the fact that it was a game that had been played many times before.

Ms. MERRITT: And her pediatrician disputes that. Her pediatrician has said that there is no prior evidence of sexual abuse.

RIVERA: To be continued. A short intermission, a quick time out. A wonderful panel. Stay tuned.



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(Announcements)

Mr. HUNTER: (From February 13, 1997) The list of suspects narrows. Soon there will be no one on the list but you. When that time comes--and as I have said to you, that time will come--Chief Koby and I and our people and the expert prosecution task force and the other resources that we bring together are going to bear down on you. You have stripped us of any mercy that we might have had in the beginning of this investigation.

RIVERA: You know, Joe diGenova, it doesn't sound like the same Alex Hunter today and then back in 1997, does it?

Mr. diGENOVA: Yes, and that's why I'm very sad to hear about this news conference that's going to be held tomorrow, because tomorrow is politics, Geraldo. It's a ridiculous--I have no idea what they're going to talk about if they can't talk about the evidence. The judge has ordered them not to talk ab--about the evidence, as he should. The holding of this news conference tomorrow, if it is to talk about what they might do in the future, will only feed public cynicism.

That tape that you just showed showed someone doing something in public. I mean, you know, I--I must say this is a very disturbing case, not only because the child is dead and the suspects are there and it has not been solved, which we all would like to see, but because much of the public discourse by the people involved in the case--and I mean the prosecutors and the police--has been something that just should not occur, and we're going to get more of it tomorrow apparently.

RIVERA: Jerri Merritt, comment.

Ms. MERRITT: Well, you know--but I would hope that what they're going to do tomorrow is just say that the investigation is going to remain open and that ultimately the whole ...(unintelligible).

Mr. diGENOVA: So why couldn't they do that today?

Unidentified Panelist: That's right.

Ms. MERRITT: I don't know why they didn't do it today.

Mr. diGENOVA: I'll tell you why...

Ms. MERRITT: All we know to--wh--but bec...

Mr. diGENOVA: ...because tomorrow is dreamville.

Ms. MERRITT: Well, no, wait a second. The Colorado statutes specifically say that the rule of grand jury secrecy continues until there is either an indictment or a report is published. That applies to the grand juries and to the prosecutors.

Mr. diGENOVA: I--what's that got to do with what we're talking about?

Ms. MERRITT: Because you're talking about why they're not go--why they're having a press conference if they're not going to tell us what happened. They can't tell us what happened.

Mr. diGENOVA: Please, Jeralyn, I just said that.

Ms. MERRITT: But we do want to know if it's going to continue.

Mr. diGENOVA: I--I wish you would--I--I wish you would listen what I said, Jeralyn.

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Ms. MERRITT: I thought I did.

Mr. diGENOVA: I understand that's the law. I'm saying therefore--therefore, what's the purpose of having a news conference tomorrow?

Ms. MERRITT: To let us know if the investigation is over or if it's going to continue.

Mr. diGENOVA: Oh, give me a break.

Ms. MURPHY: Geraldo...

Ms. MERRITT: He--the district attorney can charge by information.

Mr. diGENOVA: This is 'cover your ass' tomorrow.

Ms. MERRITT: He doesn't need an indictment to charge.

Mr. diGENOVA: Tomorrow is 'cover your ass.'

Mr. BOYLES: Geraldo?

RIVERA: That is--Peter?

Mr. BOYLES: Yes. Geraldo, Gerry Spence is still there. I'd like to ask Mr. Spence, about a y...

RIVERA: Go ahead.

Mr. BOYLES: About a year and a half ago Mr. Spence sat in my radio studio, KHOW Radio, looked me in the eyes and he told me that John and Patsy Ramsey tried to hire him, and he said he looked in their eyes and saw guilt and said no. Would he talk about that tonight?

Mr. SPENCE: No, and--yeah, and I would deny that. I--I...

Mr. BOYLES: I--I have no reason to lie.

Mr. SPENCE: You have a re--you have a really bad...

Mr. BOYLES: I swear on my children.

Mr. SPENCE: ...memory or you--or you don't...

Mr. BOYLES: No, I swear to God, Geraldo.

Ms. MURPHY: Gera--Geraldo...

Mr. SPENCE: No. You don't...

Mr. BOYLES: You don't know me as a liar, Geraldo.

Mr. SPENCE: Well, I'd have to say that.

Ms. MURPHY: Can I...

Mr. BOYLES: The man said that to me.

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Unidentified Panelist: Geraldo...

Mr. SPENCE: Let me say that the--Patsy--Patsy Ramsey and her husband have...

Mr. BOYLES: You said that to me, Mr. Spence.

Mr. SPENCE: Well, you going to let me ask...

Mr. BOYLES: You said that in my studio.

Mr. SPENCE: You going to let me talk or not?

Mr. BOYLES: Sure I will.

Mr. SPENCE: Patsy Ramsey and her husband have never tried to hire me...

Mr. BOYLES: But then...

Mr. SPENCE: ...ever.

Mr. BOYLES: Then what did you tell me that before then?

Mr. SPENCE: Well, I didn't tell you that.

RIVERA: All right, all right, all right, all right, all right.

Unidentified Panelist: Geraldo...

RIVERA: This is going to lead nowhere.

Mr. SPENCE: I didn't tell you that.

Mr. BOYLES: Yeah, he did.

RIVERA: OK.

Ms. MURPHY: Geraldo...

RIVERA: Yes, go ahead.

Ms. MURPHY: Can I--can I...

RIVERA: Wendy.

Ms. MURPHY: ...say something about the evidence...

Mr. BOYLES: He did.

Ms. MURPHY: ...because we talked briefly about two things that I need--think need clarification. One is Gerry's comment that the DNA evidence somehow cleared the parents. I--I'm not sure what he's talking about. The press reports that I've heard and read and the things that I've read is that the DNA evidence was at best...

RIVERA: Inconclusive.

Ms. MURPHY: ...at best inconclusive. So that doesn't clear them by any means. But let's talk about something

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very important, which is that, as a country, I think, and--and generally socially we don't like to believe that people who look like the Ramseys are capable of either committing serious sexual abuse, which this child was a victim of, and we l--don't like to think they kill their children, but let's be honest about it. They do. People who look like our next-door neighbors both sexually abuse and kill their children. That myth needs to be put to bed. This case did not help that cause at all.

RIVERA: OK. I agree with that. Dr. Cyril Wecht, in terms of the inconclusivity, if that's the word, of the DNA, what do you know, and did it point to someone other than the Ramseys, as far as you know?

Dr. WECHT: Geraldo, DNA is so sensitive and the amount of material is so infinitesimal that the finding of some material on the panties and under the fingernail is of no significance. It's of no relevance. It certainly is not sufficient to neutralize and outweigh everything else that exists. That could be from a sneeze. It could be from a brush of someone's hand across the panties as they lay in the drawer. It could have happened in a--in a thousand different ways, and defense attorneys use this, and properly so...

Mr. SPENCE: Yeah.

Dr. WECHT: ...in cases all the time.

Mr. SPENCE: Yeah.

Dr. WECHT: There's no que...

Ms. MERRITT: But--but...

Unidentified Panelist: Well, the...

Ms. MERRITT: But, Dr. Wecht, Henry Lee has said that there--in every case, what you need is major pieces of physical evidence and in this case we don't have that.

Ms. MURPHY: Sometimes you don't have it, Jeralyn.

Ms. MERRITT: You disagree with him?

Unidentified Panelist: Well...

Ms. MURPHY: Sometimes you don't have it. Come on, you know that.

Ms. MERRITT: But how can you...

Unidentified Panelist: Well...

RIVERA: Gerry--Gerry Spence. Gerry Spence. Gerry.

Mr. SPENCE: Yes, well, first of all, I'd like to tell Dr. Wecht, my--who is my friend and pal, that--that there is a local pediatrician that has looked at this evidence, that has gone public--and that wants to go public and has gone public--that says that he doesn't believe that there was any sexual molestation, and this idea of a sex killing is--is wrong and not substantiated by any of the evidence in--in front--in front of the people.

RIVERA: Hold it.

Dr. WECHT: Gerry..

RIVERA: We have it on tape.

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Dr. WECHT: Gerry, he is...

RIVERA: We have it on tape, Gerry. Let's roll the tape. Roll tape Q.

(Excerpt from February, 1997)

Unidentified Reporter: When you talked with the police, did they ask about you sexual abuse of JonBenet Ramsey?

Dr. FRANCESCO BEUF (Former Ramsey Pediatrician): Yes, of course they did.

Unidentified Reporter: What did you tell them?

Dr. BEUF: I told them absolutely, categorically no. There was absolutely no evidence, either physical or historical.

Unidentified Reporter: And that's from seeing her 30 times in three years?

Dr. BEUF: About that.

(End of excerpt)

Dr. WECHT: Geraldo...

RIVERA: Comment, Dr. Wecht.

Dr. WECHT: Geraldo, February '97, if I got my glasses on in time.

RIVERA: That's it.

Dr. WECHT: To my knowledge--and correct me if I'm wrong--you have not heard from nor seen this doctor in two and a half years. He's gone South, literally or figuratively, number one.

Mr. SPENCE: No, he's ...(unintelligible).

Dr. WECHT: Number two, I asked him then if he ever did a pelvic examination on this girl; and number three, an abrasion and a contusion and blood on the external genitalia and then the findings of a de--bro--a largely destroyed hymen, chronic inflammation in the vaginal wall and focal erosion--and by the way, focal erosion of the 7:00 position--put your glove on, do a pelvic exam and see where your index finger comes out in somebody's vagina.

Let me tell you something, I want one pediatric doctor working in an emergency room in America to call in to your station and tell you with those findings that he/she would not contact the appropriate law enforcement agency to report that case. This was December 26th. This girl was not riding a horse. She was not climbing a fence. She was not on a see-saw. She was not riding down the bannister.

Ms. MERRITT: And you never examined her personally.

Dr. WECHT: Where did these injuries come from? Where did they come from?

Ms. MERRITT: You never examined her personally.

Mr. SPENCE: Yeah. Sounds like--it sounds like a...

Dr. WECHT: What does that mean, did I examine her personally? These are the findings from the autopsy protocol.

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Ms. MERRITT: So you don't know what her pediatrician did know, and her pediatrician has stood by that statement.

Dr. WECHT: I--I'm not making these up. They are there in the post-mortem protocol. If you know anything about pathology, you can understand that they are there.

Ms. MERRITT: Dr. Krugman has also looked at it and said there's no evidence of prior sexual abuse that he can determine.

Dr. WECHT: Who said that? Who said that?

Ms. MERRITT: Dr. Krugman, who was the head of the Kempe Foundation and is now the head of the Colorado Sciences Medical Center.

Dr. WECHT: I--I want him to get on and explain this plethora of injuries, albeit superficial, and indeed the significance of the injuries is their superficiality, the fact that there was no intent to inflict harm to this girl all fits in with a game that was being played with a--with a rope around the neck with a vicarious, perverted sexual pleasure...

Ms. MERRITT: The games is your speculation, Dr. Wecht, with all due respect.

Dr. WECHT: ...attained by an adult who played that game. Binding is a well-known phenomenon in this game. For people--I am--I am amazed at the naivete. I am amazed, de--despite knowing how criminal defense attorneys work--and I've had the pleasure of working with--with--with the great ones, including ones on this program--that--they they find ways to rationalize and explain and justify and finesse away this case.

Ms. MERRITT: Because we want proof.

Dr. WECHT: This is a travesty of justice. This is the worst thing that could have ever happened to the criminal justice system in America.

Ms. MERRITT: But, Dr. Wecht, we want evidence. We don't want speculation. We want evidence.

Dr. WECHT: African-American families...

RIVERA: Joe diGenova, weigh in, Joe. Weigh in, Joe. Joe.

Dr. WECHT: Families of lower social economic...

RIVERA: Joe.

Dr. WECHT: ...level--they are going...

RIVERA: All right. Hold it.

Dr. WECHT: ...to be incensed by this...

RIVERA: I...

Dr. WECHT: ...and rightly so, for years to come.

RIVERA: OK. I'm upset myself. Joe.

Mr. diGENOVA: I--I--Geraldo, what--what I--I continue to be fascinated by this news conference tomorrow. I must tell you that as I sit here, I wonder what is it tomorrow that Alex Hunter and this bevy of prosecutors is going to

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tell us. If it is that the investigation will continue, they could have done that today. If they are attempting to frighten the Ramseys, they've had almost three years to do that. I am at a loss.

Now we hear that the chief of police, Mr. Beckner, or the chief of the investigation, is also going to hold a news conference and is going to venture forth into this area. I must tell you, this is the most bizarre group...

Mr. SPENCE: Geraldo...

Mr. diGENOVA: ...of people.

Mr. SPENCE: Geraldo...

Mr. diGENOVA: What are they going to talk about? Gerry...

RIVERA: Gerry Spence.

Mr. diGENOVA: ...what do you think they're going to talk about tomorrow?

RIVERA: Gerry.

Mr. SPENCE: Geraldo, I don't give a damn what he talks about. Let me--let me say that--that Cyril Wecht sounds to me like one hell of a prosecutor and not--not a pathologist, but one hell of a prosecutor. I--I will say...

Mr. diGENOVA: Gerry never likes them.

Mr. SPENCE: I will say this: that...

Mr. diGENOVA: Nobody ever committed a crime in Gerry's mind.

Mr. SPENCE: I would...

Dr. WECHT: I'm one of the favorite forensic pathologists for criminal defense...

Mr. SPENCE: Let...

Dr. WECHT: ...attorneys in America.

Mr. SPENCE: Let--let me say this, that...

Mr. diGENOVA: Hear, hear, Cyril. Hear, hear.

Mr. SPENCE: Let--let me--let me say that Dr. Henry Lee--we know all who he was. He was in the O.J. case.

RIVERA: We know, we know, we know.

Mr. diGENOVA: Something wrong...

Mr. SPENCE: He said...

Mr. diGENOVA: ...something wrong.

Mr. SPENCE: He said--he said you've got to have four things in a case. You've got to a good crime scene. They didn't have it. You got to have strong physical evidence. Didn't have it. You've got to some witnesses. Don't have it. And you have to have some luck. Didn't have it. Dr. Lee says there ain't a case that we can bring, and the prosecutor...

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Ms. MURPHY: But don't--Geraldo...

Mr. SPENCE: ...says there ain't a case we can bring.

RIVERA: Got to take a break. Wendy...

Mr. SPENCE: The grand jury says there ain't a case we can bring, and everybody says, but no matter what that we ought to bring the case.

Mr. diGENOVA: Not everybody's saying that. Strange, Gerry.

RIVERA: I take a break. Stay tuned. We're going to tell you about another case where many thought Alex Hunter should have brought charges and waited a long time. We may never know.

(Announcements)

RIVERA: Many of us despaired when we saw the killer of Nicole Brown and Ron Goldman go free, and tonight I'm sure that many people, including me, feel a similar frustration at the news that no one will be brought to justice, at least not anytime soon, for the ghastly murder of this innocent child.

There is no statute of limitations on murder. A case right here in Boulder is proof of that. In 1983 a college student--a college student named Sid Wells found shot to death in his apartment. That killing, also, like this one, attracted national attention because Mr. Wells was dating the daughter of Robert Redford, the actor, at the time. The victim's roommate, a guy named Thayne Smika, was arrested some months later, and then, as now, the district attorney, Alex Hunter, refused to prosecute the case, saying then, as now, that there was insufficient evidence. A grand jury investigation back then also yielded no indictment, and there was no public report explaining why the DA and his grand jury made the decisions that they did.

The public then was outraged and the murder victim's family very vocal in its criticism of Mr. Hunter, but guess what. Now 16 years later--actually, a little while ago--a warrant--an arrest warrant has finally been issued for the same suspect, Thayne Smika's, rearrest. Boulder police reopened this case in 1997 because of technological advances that apparently show a stronger link between shotgun shells and pellets found at the crime scene then and those at the home of this guy's family back in Akron, Ohio.

But here's the problem: As for Mr. Smika, the accused himself, the guy who's now subject to this arrest warrant, he has been missing since 1986 when he was accused of embezzling \$ 63,000 from his employer. The moral of this story: Yes, our system demands prudent prosecutors, but delay seldom works in favor of justice being done.

Jane, what do you know about Sid Wells, and what do you know about this DA and this grand jury?

WELLS: Well, I think what Alex Hunter would like to prove with the Sid Wells case was that, 'Hey, if I tried him back then and he'd been acquitted, I'd never be able to try him again, and, look, I have this new evidence.' Of course, he's walked anyway; we don't know where he is right now, but maybe someday they'll get him.

But as far as this case, you wouldn't think it would be so hard to solve a case where the body of the child is found in her own home. Police have an amazing piece of evidence in this ransom note. Yet after nearly three years and \$ 2 million, we seem to have nothing. That may seem surprising, except nothing about this case has been typical.

It's an unusual case in an unusual town, and it's being investigated by an unusual DA before an unusual grand jury. How many grand jurors have you seen shown up on Harleys? Welcome to Boulder.

Mr. FRANK COFFMAN (Writer): Boulder is a liberal community, interested in progressive ideas, supposedly, and we have a DA who's very much in keeping and in step with the sentiments.



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WELLS: District Attorney Alex Hunter has been the top law enforcement official in this county for over a quarter of a century.

Mr. HUNTER: What's up? What's going on?

WELLS: So popular he's often run unopposed. But unlike a lot of chief prosecutors, Hunter often avoids prosecuting. His office is famous for cutting deals. Writer Frank Coffman says that's because the DA is like a lot of people in Boulder, willing to give suspects a second chance.

Mr. COFFMAN: Some people might think he's more of a social worker than a hard-core DA.

WELLS: But it's not like Boulder sees much hard-core crime. In fact, one of the few times a grand jury convened here was almost 10 years ago when police officers were involved in a questionable shooting. Alex Hunter put the entire police file in the case on display in the public library, next to a comic book, asking people to write down whether he should convene a grand jury in the shooting. The public said yes, and he did.

Now, almost a decade later, he's convened another grand jury in the biggest case of his life.

Mr. HUNTER: This is a terrific grand jury.

WELLS: And even with this grand jury, some things have been a little different. For example, reporters are allowed to videotape grand jurors and even know their names, something usually banned in most places. And despite what must be enormous pressure to resolve this high-profile murder, these 12 jurors seemed amazingly relaxed. But Frank Coffman says don't let looks fool you, that the jury foreman said something last week which indicates this job hasn't been easy.

Mr. COFFMAN: The foreman, when somebody asked him to--to smile for his picture, he said, 'It's tough to smile.'

WELLS: That grand jury is now history. One interesting difference too, Geraldo: This grand jury was not barred from watching news reports during the last year about this case. So while they've been able to watch us talk over the last 13 months, we are now, of course, not allowed to hear what they have to say.

RIVERA: And the--the penalties seem very stringent. That judge has issued a prohibition that'll lend--la--land any of us in jail if we try to approach these people.

WELLS: And will land them in jail if they try to approach us.

RIVERA: OK. Let me--thanks, Jane.

Let me take a break now. We have this wonderful panel. I'm going to give them all an appropriate amount of time for their closing remarks. That's the way we began the program, sort of like a case--an opening remark, the body, now the closing to come. Stay tuned. We may never know.

(Announcements)

RIVERA: A beautiful, waxing crescent moon over the very lovely city of Boulder, Colorado. You can't see too much of it nestled here in the foothills of the Rocky Mountains, the scene--the unlikely scene of the most famous unsolved murder mystery in recent times in our country.

Before I allow my panel to give their closing remarks, let me just say to Alex Hunter and his team, to these grand jurors, I urge you--I urge you to issue your public report as the law in Colorado allows. Allow us to know the evidence on which you based this very controversial decision. If there's anything in there that you believe should be held confidential so that the real killer doesn't get tipped off, then delete it. But let us know--for God's sakes, let us know

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what you knew. Let us know upon what you based this--this explosive bombshell of a decision.

Wendy, we start with you. Jerri Merritt, you're next. Go ahead, Wendy.

Ms. MURPHY: Geraldo, on one level, this is a very easy case because there are only two suspects. It's atypical in that sense. The police had only two people to look at. We know that if only one parent had been home that night, this case would have been a slam-dunk; that parent would be in prison. But because there were two parents home, it's an unsolvable case? That doesn't sit right with me. It shouldn't sit right with anybody in this country. I hope it doesn't sit right with the people of Boulder, and I hope it inspires them to become outraged about the lack of justice for this child because her parents cannot and will not stand in her shoes and demand justice, for obvious reasons.

RIVERA: OK.

Ms. MURPHY: She has only the public to depend on.

RIVERA: Jerri Merritt.

Ms. MERRITT: To my mind, this case has always had all the earmarks of a violent, brutal, planned murder. This is not the case of parental rage, at least the way I have seen the evidence. The scientific evidence apparently is not there to support an indictment. Perhaps as with the Sid Wells case you referred to earlier, Geraldo, advances in technology will come along that may allow the evidence to be re-evaluated, that may allow someone to be charged. But for right now, if the evidence isn't there, we don't charge someone just because we can't figure out who else might have done it.

RIVERA: Joe diGenova followed by Gerry Spence.

Mr. diGENOVA: The prosecutors and the grand jury did precisely what they should have done in this case if, as we all must assume, there was insufficient evidence to charge any person. That being the case, I would hope that they would all just go away and do whatever job it is that they're going to do on other cases or to try and solve this one. Why it is necessary for Mr. Hunter and the chief of police to hold news conferences tomorrow about this is absolutely amazing to me. And I wait with great interest to see precisely what it is that they're not allowed to talk about by law that they're going to talk about.

RIVERA: Gerry Spence.

Mr. SPENCE: Well, this is a horrible, horrible, brutal murder, and it touched every one of us and all of us hate it that it's not solved. We wanted a conviction. You want a conviction. I'd like to have a conviction. And when we don't get a conviction and we're not going to even have a trial, we want to blame somebody. And so the first persons that we want to blame are, you know, the hu--Mr. Hunter, the DA, who--who didn't bring the case. We want to blame--but we ought to blame other people.

We ought to blame the police who didn't get there, to--the first people that got there, the--the police got there three hours after the first 911 call came to them, and then they turned the--really, the investigation over to the suspects themselves. And now we're mad at Mr. Hunter when the police that are supposed to be gathering the evidence in the case fouled it up in the first place. So I say, as a bottom line, is that if there isn't the evidence and the grand jury says there isn't the evidence and Mr. Hunter says there isn't the evidence, then people ought not to be put through the trial of a--of a murder case if the evidence isn't there.

RIVERA: Peter Boyles followed by dic--Dr. Wecht. Peter.

Mr. BOYLES: 1997, the FBI said there was probable cause to indict; 1997, early 1998 Detective Steve Thomas resigned, saying Alex Hunter has mishandled this. Detective Linda Arndt, who is now suing the department, appears on "Good Morning, America" and says when she saw John Ramsey with the little girl's body, she wanted to go for her gun.

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Do we know if the grand jury even voted? If we do--did they vote a reasonable or beyond--you know, and--and again this whole thing...

RIVERA: Preponderance of the evidence--right.

Mr. BOYLES: Yeah. Did they vote, and will that go to--to...

RIVERA: Dr. Wecht, 30 seconds.

Dr. WECHT: Compare this case with the Matthew Eappen-Louise Woodward situation where there was, indeed, a plausible explanation...

RIVERA: The nanny case.

Dr. WECHT: .. for the child--the nanny's case, exactly--and there are hundreds and thousands of cases like that that people do not know by name. This is a case that, really, is truly a travesty of justice. This is a case that--that depicts a gross example of what money can buy in America.

RIVERA: See you tomorrow from Boulder.

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