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BYLINE: Sean Hannity; Alan Colmes

BODY:

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COLMES: Welcome back to HANNITY & COLMES. I'm Alan Colmes.

The grand jury looking into the murder of JonBenet Ramsey may have closed up shop without indicting anyone, but the investigation may not be over. Colorado Governor Bill Owens is considering appointing a special prosecutor to pick up where the grand jury left off.

(BEGIN VIDEO CLIP)

BILL OWENS (R), COLORADO GOVERNOR: The fact remains that a little girl has been brutally murdered, and her killer or killers remain at large. I believe that justice therefore demands that we evaluate every remaining legal option.

COLMES: Are the Ramseys hiding anything? And would the case have received so much attention if JonBenet wasn't a rich white girl?

Joining us in Denver, criminal defense attorney Jeralyn Merritt. In Washington is defense attorney Mary Cox.

Let's get right to it. And welcome, both of you, to the program.

Ms. Merritt, what about the allegation that were this not a rich white family, we wouldn't be getting all this attention?

JERALYN MERRITT, CRIMINAL DEFENSE ATTORNEY: I don't believe that's really what's at issue here. I think the reason that this case is getting all this attention is because of the videos of her when she was first murdered. I think that we have become a very voyeuristic society. No one could get the images of her. She was oversexualized in those videos, out of their mind. The media picked up on it. Ratings went up, and the country became fixated.

COLMES: You know that people in poor families, people in African- American families, people who are members of minority groups have crimes visited upon them all the time, never get this kind of attention. How can you discount that as a factor?

MERRITT: I discount that as a factor because, let me tell you something, the Ramseys did nothing other than exercise rights that are available to all Americans. And instead of taking those rights away from them, why don't we teach the poor to learn how to exercise them? No one has to answer the questions of the police, and if the police are looking at you as a suspect, your best bet is to shut up.

COLMES: Mary Cox, certainly, the fascination with this case has partly to do with the socioeconomic status of this family.

MARY COX, CRIMINAL DEFENSE ATTORNEY: I think what it shows is that -- I think the media helped to cover up this -- this -- these -- this brutal murder. There's no way, with all the media attention. But it was superficial because had they really done an in-depth investigation, they could have helped put the light on who the true murderers were.

HANNITY: Mary, just the opposite. The media attention probably drove this case, drove the investigation much more than it probably otherwise would have been. And are you saying and suggesting here that only because JonBenet was an affluent white girl -- that's the only reason for the attention that's being paid?

COX: No, I think that this has been a big cover-up. I think that...

HANNITY: Cover-up by who?

COX: Well, the prosecutor's office in Denver. Everybody had to join in because I believe because of the...

HANNITY: What are -- what are they -- who are they covering up for and what are they covering up?

COX: The family.

HANNITY: So they're protecting John and Patsy Ramsey?

COX: Absolutely.

HANNITY: So you think they committed this murder?

COX: I think they know who did, and they're covering up for that person.

HANNITY: You think they -- where -- what evidence do you have to back up what you're saying? I mean, that's a horrible allegation you're making.

COX: Well, there's no...

HANNITY: And by the way, you -- and let the record show you're

COX: Absolutely. And I still...

HANNITY: And you believe O.J.'s innocent?

COX: And still -- and we still are. We've discovered that the telephone records from Louis and Juditha Brown...

HANNITY: Well...

COX: ... are missing, and that Nicole was alive at 11:00 o'clock. So we're working on that...

HANNITY: Well, look, I find...

COX: ... at the moment.

HANNITY: ... it a little strange, but the overwhelming amount of evidence in that case -- and you didn't see O.J. being guilty.

COX: No. No, the prosecutors...

HANNITY: Most of America did.

COX: ... suppressed the evidence.

HANNITY: But now you see the Ramseys, and you make these outrageous charges against them. Well, the reality is the grand jury looked into this case for 13 months.

COX: No, the grand jury looked...

HANNITY: And they did not have...

COX: ... at what the prosecutors gave them...

HANNITY: But 13 months...

COX: ... just as the prosecutors in O.J.'s case suppressed the evidence.

HANNITY: And there was not enough evidence to indict in this case, was there.

COX: Yes, there is. Yes, there is.

HANNITY: What is the evidence?

COX: It's a cover-up.

MERRITT: Well, why do you think that you know more than the grand jury or the prosecutors?

COX: Because I...

MERRITT: You were not...

COX: Because I served...

MERRITT: ... privy to the evidence in this case.

COX: I served on a grand jury here in the United States district court for 20 months.

HANNITY: No, no. That's not the point.

COX: And that -- no, the point is...

HANNITY: Jeralyn has a good point. What evidence do you have in this particular case, Mary, that...

COX: Right.

HANNITY: We're dealing with this case tonight.

COX: All right. The child...

HANNITY: What do you know that the grand jury didn't know or the grand jury didn't hear?

COX: I will tell you. We know that the child was murdered in her own home with her parents in the home that evening. That's enough to know that it's impossible...

HANNITY: What if somebody broke in?

COX: Well, we would have learned that.

MERRITT: There is plenty of evidence...

(CROSSTALK)

HANNITY: How do you explain the -- they couldn't explain the palm print, the shoe print, the pubic hair...

COLMES: I'll tell you what, we got to...

HANNITY: ... on the blanket, the DNA under the fingernails...

COX: They chose not to.

COLMES: We've got to take a break.

HANNITY: None of those things...

(CROSSTALK)

COLMES: We'll pick it up right there.

COX: They chose not to.

COLMES: We'll take a break, and we'll continue the debate. Stay with us on HANNITY & COLMES.

<21:44>

(COMMERCIAL BREAK)

HANNITY: Welcome back to HANNITY & COLMES. I'm Sean Hannity.

We continue now talking about the JonBenet decision by the grand jury.

Mary Cox, look at all the evidence. And I think one of the reasons -- for example, we knew that Dr. Lee on a couple of occasions met with Alex Hunter, and even as -- even as late as Sunday in this particular case. But there was a

lot of other evidence that would have been brought up had there been an indictment in this case -- the palm print, the shoe print, the pubic hair that was on the blanket, DNA in JonBenet's fingernails. None of that -- all of that would have had to have been explained. You're talking about...

COX: All the evidence was destroyed before the police arrived at the home. So we know this is a cover-up. Come on.

HANNITY: A cover-up by whom?

COX: And the media -- where are all the great media investigators that can find out everything else that's going on in the world? Don't tell me...

HANNITY: You know, a cover-up...

COX: ... they can't...

HANNITY: ... by who, though?

MERRITT: You know, there's no...

COX: A cover-up with the police, the prosecutor's office. That little city...

HANNITY: You're saying that the police department went over to the Ramseys' house...

COX: That little police department...

HANNITY: ... this December 26th...

COX: ... was not even...

HANNITY: And they -- they...

COX: And they're not even competent enough. They -- they're using to dealing with bike stealing.

HANNITY: Now, listen, I -- I...

COX: They've never had a murder case like this.

HANNITY: No one's going to -- no one's going to debate the fact that within the first 24 hours in this case there was contamination of the evidence and that decisions were made that were wrong and Mr. Ramsey shouldn't have been allowed free access to the house. Nobody's disputing that. But you're saying there's a conscious...

COX: And they have destroyed the evidence.

HANNITY: ... cover-up...

COX: Absolutely.

HANNITY: By who?

COX: Absolutely.

HANNITY: So the police are conspiring so that nobody will get to the truth, to cover up the murderer of this little girl.

COX: That's what happened. A lot -- you know, money speaks. Power and money speaks.

HANNITY: Jeralyn?

MERRITT: You know, I mean, that's just so ridiculous, I don't -- I can't even really respond to it. But let me just say that it's true that the crime scene was compromised early on. But it's also true that there is a lot of evidence that points away from the Ramseys. And I think those two things together are why we don't have an indictment...

HANNITY: All right, let me ask you this, Jeralyn, though...

MERRITT: ... because the prosecution can't win right now.

HANNITY: Let me ask you this question. One of the things that disturbed me is whoever did commit this murder -- well, actually two things. Number one, there was a light dusting of snow that night. According to one police officer, there were no footprints in the snow. And secondly, they found that pad of paper with the handwriting on it. Whoever committed the murder was comfortable enough to stay in that house for a long enough period of time to write these -- write this note...

MERRITT: OK, I'll answer both of those.

HANNITY: ... on this pad of paper. Can you explain that or...

MERRITT: Yes, I can.

HANNITY: OK.

MERRITT: The first thing is, is that there was a -- there was no snow surrounding that window, so there wouldn't have been any footprints. Let's also remember that there was -- this window was broken. It had been broken earlier. There was a suitcase underneath it with broken glass...

HANNITY: But the snow was in the surrounding area.

MERRITT: ... on top of the suitcase. No, there wasn't, and three reporters...

HANNITY: There was a dusting.

MERRITT: ... have gone on record and said that they were there and there was no snow in which there were footprints.

HANNITY: OK. Now, you -- you also were a handwriting expert, as I understand.

MERRITT: Yes. Yes.

HANNITY: So...

MERRITT: Now, let me tell you...

HANNITY: OK.

MERRITT: First of all, to answer your question about the pad -- it's very possible that this was a violent, brutal, planned murder by someone who did it on purpose, had been in that house, had been invited in the house, took the pad on an earlier occasion, wrote the note outside the house and then brought the note back in.

HANNITY: Boy, that's...

COLMES: Jeralyn, where do you...

COX: This is...

HANNITY: That's a stretch.

(CROSSTALK)

COLMES: Hold on just one second. Jeralyn...

MERRITT: ... when they went out to dinner and wrote the note...

COLMES: ... you say the evidence...

MERRITT: ... then.

COLMES: ... points away from the Ramseys. Where do you think it points?

COX: It sounds like poppycock.

MERRITT: It could very well point to an intruder. It could point to a sexual predator. It could point to some religious fanatic for revenge. The point is, we just don't know. And you don't charge...

COLMES: But where's the evidence that points to...

MERRITT: ... someone with a crime because you can't figure out...

COLMES: ... any of those -- any...

MERRITT: ... who else might have done it.

COLMES: Where is -- where is that evidence? What evidence are you talking about that could point to any of those possibilities?

MERRITT: OK, there's an unexplained palm print, an unexplained boot print. There is unexplained -- two sources of unexplained DNA, in the child's underwear and mixed with her blood that does not link to the Ramseys.

COLMES: Mary Cox, what about that?

MERRITT: There's unidentified DNA...

COLMES: And also a Teddy bear...

MERRITT: ... under her fingernails.

COLMES: ... apparently that showed up in JonBenet's room that was then missing. What about that?

COX: All of this sounds like poppycock. We know that these people -- if you brought -- they could have brought in the FBI from Washington, D.C. They -- if that had been...

MERRITT: They should have brought in the FBI.

COX: ... an African-American, they would have -- they would have surrounded the whole community and busted into every house there to find out who the murderers were. This was a cover-up. Let's face it.

MERRITT: There's no question the police response...

COX: And it's a...

MERRITT: ... was wrong. And the police -- first of all, the Boulder police should have called in Denver and should have accepted Denver's offer of help.

COLMES: Mary, I don't understand what you think the police are covering up. And why would they have a motivation to cover it up? Wouldn't they want to show that they could solve a murder?

COX: No, not when they're dealing with powerful people.

COLMES: Well, what -- who are they covering up for?

COX: It's going to take some outside people and a special prosecutor to come in and do a real investigation.

COLMES: But who are they covering up for, Mary?

COX: I can bet -- who are they covering up for?

COLMES: Yeah.

COX: The father and the mother.

COLMES: Why? Why would they cover up for the Ramseys? If they...

COX: Because they have money. They have money. They covered up for the Ramseys...

COLMES: Are you telling me somebody was paid off?

COX: Yes.

COLMES: Who? Can you prove that?

COX: Well, if you bring me in, I'm sure I could in two weeks.

COLMES: Well, when you make an allegation like that, how do you substantiate that?

COX: Listen, I'm listening to fabricated evidence. Why can't I?

COLMES: Well, but you're making a very serious allegation. You're saying that money was exchanged to pay off what, the police department?

COX: No, no, no. Power. Mr. Ramsey is a powerful man.

COLMES: Who did he pay off?

MERRITT: I don't know anyone that even heard of them before this happened!

COX: No, in that community they heard of him.

MERRITT: And I've lived in...

COLMES: Who are you saying he paid off, Mary?

MERRITT: ... this community for 30 -- I've lived in this community for 30 years!

COX: It appears to me -- it appears to me -- if I can answer the question -- that the prosecutors are afraid to do their jobs, that the police -- somebody on that police department was paid off.

COLMES: But how do you -- how can you make that statement without backing that up? Do you have any evidence of that?

COX: If you take me down there, I'll -- you want me to name the people?

COLMES: Why, do you have evidence...

MERRITT: And then how would you explain the friction...

COLMES: What evidence do you have that money...

MERRITT: ... between the police and the district attorney?

COLMES: ... exchanged hands?

COX: That may have -- my evidence is that they've not found the murderers. That's the evidence.

COLMES: Wait. Evidence -- because they have not found the murderer doesn't mean that money exchanged hands and somebody was paid off.

COX: See, man and woman -- a man and a woman cannot be a perfectionist when it comes to a crime.

HANNITY: We'll take a break.

COX: They just can't do it.

HANNITY: We'll pick it up there, as we continue on HANNITY & COLMES. We're glad you're with us.

<21:52>

(COMMERCIAL BREAK)

COLMES: Welcome back to HANNITY & COLMES. I'm Alan Colmes.

Jeralyn Merritt, here's what I don't understand. A lot of things I don't understand about this. If, indeed -- you know, the Ramseys want to get -- find out who the murderer is, yet they're not automatically cooperating with the police, they have to negotiate to have a meeting with the police. It seemed like there was a lack of cooperation.

MERRITT: It does seem to the public that way, but in reality, it isn't true. And the Ramseys' lawyers have released many letters detailing the sequence of events that led up to their negotiations. But the bottom line...

COLMES: What's there to negotiate? If you have a child who's murdered, don't you want to run to the police...

MERRITT: Well, OK...

COLMES: ... immediately and talk to them?

MERRITT: They did. They were interviewed on the 25th. John Ramsey was interviewed again on the 26th. Then the communications broke down. However, they did go in for over 20 hours of videotaped depositions with interviews

by the district attorney at night. Those videotapes were shown to the Boulder police, who were allowed to formulate questions and ask them the next day.

COLMES: I don't understand why communications would break...

MERRITT: They were questioned up and down.

COLMES: Why would communications break down? That doesn't make any sense.

MERRITT: Well, you'd have to read their letters, but communications broke down because the police refused to follow the facts and then come up with a theory. They developed a theory that the Ramseys had -- were responsible and had done this. They treated them as suspects. They weren't interested in getting neutral information. They were interested in -- they tried to hold JonBenet's body hostage. They wouldn't release it for burial. You don't do those kinds of things in a civilized society.

COLMES: Mary Cox, you want to respond to that?

COX: Yes, they do -- they do do those things in poorer communities. I think the truth will come out as soon as a special prosecutor is appointed. You just need a real investigation by competent people. That's -- it's not going to be a hard case to...

COLMES: I want to follow the money trail.

MERRITT: There will not be a special...

COLMES: I want to still find out what you're talking about about money exchanging hands. I mean, that's quite an allegation.

COX: Well, I didn't say money exchanged hands. I said there's -- you know, we know...

COLMES: You said pay-off.

COX: ... that money and power...

COLMES: Doesn't "pay-off" mean money exchanging hands?

COX: Not necessarily. There are other ways of...

COLMES: What are you talking about then?

COX: ... exchanging power.

COLMES: What are you referring to?

COX: You know powerful people have control and they can exercise control over people's...

HANNITY: Alan has all that control.

COX: ... lives.

HANNITY: He's a powerful liberal. Now, Mary, you know, first of all, you are a defense attorney, right?

COX: Yes.

HANNITY: So tonight you've already -- you've accused the parents of being guilty of murder.

COX: They're guilty...

HANNITY: The Ramseys.

COX: They're guilty for covering up the murder of their daughter.

HANNITY: All right, you think they're guilty of a cover-up. You said there's been a pay-off. You said there's been a cover-up. You talk about a conspiracy. There's no evidence. You know, isn't that...

COX: Oh, yes, there is evidence.

HANNITY: ... irresponsible?

COX: No, there is evidence.

HANNITY: Counselor, isn't -- aren't you irresponsible...

COX: No, I'm not irresponsible.

HANNITY: ... to make these allegations when you can't give our audience one...

COX: Yes, I can.

HANNITY: ... iota...

COX: Yes.

HANNITY: ... one bit of proof? Can you give us any proof...

COX: Yes.

HANNITY: ... at all? What is it? We're waiting.

COX: Just quiet down and I'll tell you.

HANNITY: Thank you.

COX: They have not found the murderer of JonBenet Ramsey.

HANNITY: That's not proof.

COX: That is proof.

HANNITY: What evidence do you have that these parents...

(CROSSTALK)

COX: It doesn't take a rocket scientist.

MERRITT: Mary, that's a deduction you're making.

COX: No.

MERRITT: That's not evidence.

COX: No. No.

MERRITT: That's a deduction you're making.

COX: No.

MERRITT: That is not evidence. And the reason...

HANNITY: Mary...

COX: I've watched...

MERRITT: ... there are no charges against anyone right now is because...

COX: That's because...

HANNITY: Hang on a second. Mary...

(CROSSTALK)

COX: ... not going to charge these rich white people with anything. Let's face it.

HANNITY: Well -- well...

MERRITT: They very well may, or they well may -- or they may not.

COX: Right.

MERRITT: I mean, you have eight district attorneys...

COX: Right.

MERRITT: ... today who said the investigation is not over, it is going to continue.

COX: They don't want to lose...

MERRITT: This grand jury...

COX: ... their jobs. They don't want to lose their jobs!

MERRITT: This grand jury was a representation of our democratic process.

COX: They don't want to lose their jobs.

MERRITT: It was citizens who were summoned -- let's respect...

HANNITY: Let me jump in...

MERRITT: ... their decision.

(CROSSTALK)

HANNITY: I'm going to try this one more time. Mary...

COX: Yes?

HANNITY: ... you've accused the parents of being guilty of...

COX: Of a cover-up.

HANNITY: Hang on -- of a cover-up. That means you're accusing them of knowing who murdered their daughter...

COX: Absolutely.

HANNITY: ... and doing nothing about it.

COX: Absolutely.

HANNITY: You've accused them of a pay-off, a conspiracy, a cover- up.

COX: Yes.

HANNITY: What evidence?

COX: The fact that the murderer of their daughter has not been found.

HANNITY: That is not evidence. That is...

COX: They know.

HANNITY: ... as Jeralyn pointed out, is a deduction. And you know what? As an attorney who goes into court, who represents...

COX: Oh, Jesus.

HANNITY: ... people...

COX: Yes.

HANNITY: ... that's irresponsible.

COX: Well, so be it.

HANNITY: That is -- that is irresponsible to...

COX: It's also irresponsible...

HANNITY: ... make an accusation on...

COX: ... for the prosecutors...

HANNITY: ... national TV that these people are involved in the death of their daughter, and you don't have any proof!

COX: Yes, I do.

HANNITY: I'll ask again. What is it? (laughs)

COX: The fact that they're not in jail. The Ramseys are not in jail. Obviously, there was some kind of party there that night and...

HANNITY: And what makes this even more...

MERRITT: Whatever happened to...

(CROSSTALK)

HANNITY: What makes this even more...

MERRITT: ... the presumption of innocence?

HANNITY: ... absurd is that -- Mary...

COX: It has never existed in this country.

HANNITY: Mary -- what makes this more absurd...

COX: The presumption of innocence.

HANNITY: You and Alan were one of the two hold-outs that actually believe O.J. Simpson is innocent.

COX: Didn't I tell you that we have learned that Nicole Brown Simpson was alive at 11:00 o'clock, and we're trying to get the telephone records from GTE...

HANNITY: You know, why did I ask?

COLMES: Jeralyn...

COX: Dr. Henry Johnson in Los Angeles has all the evidence, and if you...

COLMES: Jeralyn and Mary...

MERRITT: Yes?

COLMES: ... thank you both very much.

MERRITT: Thank you for having me.

COLMES: Thank you for being with us...

COX: Thank you.

COLMES: ... tonight.

And that's it for tonight. Thank you for watching. Tomorrow night, a woman who beat up a man in a ring, a boxing ring. That's tomorrow night on HANNITY & COLMES. Thanks for watching.

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