



6 of 6 DOCUMENTS

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BODY:

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PAULA ZAHN, HOST: I'm Paula Zahn. This is THE EDGE.

Tonight: Late word out of Boulder, Colorado, tonight is that the grand jury will meet one more time. Will they finally tell us who they think may have killed JonBenet Ramsey?

But first FOX NEWS live.

(NEWS BREAK)

ZAHN: Tonight on THE EDGE: O.J. Simpson is back.

(BEGIN AUDIO CLIP)

going into a rehab." She got mad. She just got in her car. Now she's loaded out of her mind in her Mustang, driving around town. She needs to be stopped.

ZAHN: So what's he up to now? We'll have a report. Plus, a FOX exclusive. If Vermont authorities catch this woman, they'll take her son away. Why? They say she's not qualified to home school him. She says she is, claiming

The JonBenet Ramsey Grand Jury FOX NEWS NETWORK October 12, 1999, Tuesday

the schools are bad. Tonight we'll hear both sides, and you can be the judge. And later, an EDGE update. We told community. Well, he did, but not in person. And we're going to show you what happened.

All that's next on THE EDGE.

Leading THE EDGE tonight, the clock is ticking and time is running out for the grand jury investigating the murder of JonBenet Ramsey. Hundreds of members of the press are camped outside the courtroom tonight. One of them is FOX NEWS's Carol McKinley.

Carol?

CAROL MCKINLEY, FOX NEWS: Hello there, Paula.

It's "hurry up and wait" again for this grand jury. We just found out that this grand jury is coming back tomorrow. So on Wednesday of eight women and four men. We don't know what they're doing inside. We can only guess, but I do know that Dr. Henry Lee is very skeptical of the outcome. I talked with him on Monday, and he says the longer the grand jury meets with no additional evidence, it's like they're beating a dead horse.

(BEGIN VIDEOTAPE)

(voice-over): Grand jurors found themselves in the center of a media storm when they arrived at the Boulder County Justice Center Tuesday morning. The eight women and four men stayed behind closed doors most of the day, possibly deliberating, leaving the media to wonder outside.

People across the country are enthralled with the JonBenet Ramsey murder case, but most Boulder-ites are tired of it.

BOULDER RESIDENT: I have no opinion. Thanks.

BOULDER RESIDENT: Care not to talk about it at all.

BOULDER RESIDENT: No.

MCKINLEY: There were some residents willing to give an opinion.

BOULDER RESIDENT: The cops blew it.

BOULDER RESIDENT: Somebody reported a murder and they came in my house, I would be leaving in handcuffs, not after coffee, not after a drink, not after a week of tranquilizers.

BOULDER RESIDENT: This has gone on too long, and I don't think that much is going to happen with it, so...

MCKINLEY: Rumors were flying John and Patsy Ramsey were in Boulder Tuesday, but FOX NEWS has confirmed the couple is in Georgia waiting to hear news from the grand jury, just like everyone else. This panel has just over a week left in its term, but it probably won't need that much time. A decision is expected this week.

CRAIG SILVERMAN, FORMER DEPUTY DA OF BOULDER: You have to expect these grand jurors want justice for JonBenet.

MCKINLEY: Legal analysts say it's anyone's guess what the grand jury will decide.

SILVERMAN: If they're like the rest of the country, they probably have a diversity of opinions. But remember, it only takes nine out of twelve finding probable cause to indict.

The JonBenet Ramsey Grand Jury FOX NEWS NETWORK October 12, 1999, Tuesday

MCKINLEY: Former Boulder detective Steve Thomas (ph) has said publicly the police had probable cause early on in this case. Investigative sources tell FOX NEWS the grand jury has been stuck somewhere between probable cause and reasonable doubt and that DA Alex Hunter doesn't want to move forward unless he has reasonable doubt.

I talked to some people who saw Alex Hunter in his office today pacing back and forth. They say he looks very tense. I called the Georgia Bureau of Investigation, Paula, and these are the people who would go out and make a public arrest, if there's going to be one. They tell me they haven't heard from the Boulder police in months. In fact, they don't even know where John and Patsy Ramsey are.

We're live in Boulder. I'm Carol McKinley, FOX NEWS.

ZAHN: Well, that certainly wouldn't suggest an imminent arrest, would it.

MCKINLEY: No, it wouldn't. You know, it could be one of two things, Paula. It could mean that there's been an agreement for the Ramseys to be flown out here in a private jet and these things will be done in private, or it could mean there's not going to be any kind of indictment at all. If the Georgia Bureau of Investigation's out of the loop, it's pretty concerning.

ZAHN: Your sources have told you that the grand jury is hung up on probable cause or reasonable doubt. Do we have any idea what the specific evidence is that they're troubled by at the moment?

MCKINLEY: The specific evidence is this DNA, which points to no one, we keep hearing about. They found it in JonBenet's underwear. It's mixed with her own blood. They've gone out and tested hundreds of people to find the owner of that DNA. So far, no one's turned up. Prosecutors have tried to tell this grand jury, "Let's get past the DNA. Look at what we do have, a ransom note two and a half pages, plus three only -- only three known people who were in the house that night." But this DNA keeps rearing its ugly head, and this could be what's holding the grand jury up.

ZAHN: And you mentioned, Carol, that you had had a conversation with forensics expert Henry Lee, and he is on the record said how difficult it is for this grand jury to come up with any kind of verdict, based on the lack of evidence and/or witnesses. Is that also something that you hear that troubles the grand jury?

MCKINLEY: Well, I believe they have enough witnesses and they have Ramseys to help them out. I really think that Henry Lee is still hanging onto that DNA that doesn't point to anyone. Remember his history with the O.J. Simpson CASE. But Henry Lee's just another guy. It doesn't mean that that's what the grand jury thinks. We're just going to have to wait.

ZAHN: All right, Carol McKinley, thanks so much for that update.

Joining me now to discuss the investigation is Craig Silverman, a former chief deputy district attorney of Boulder, and criminal defense attorney Jeralyn Merritt.

Thank you both for joining us.

JERALYN MERRITT, CRIMINAL DEFENSE ATTORNEY: Hi, Paula.

SILVERMAN: Hi.

ZAHN: Thanks. Hello.

So Craig, what is your assessment of what the grand jury is dealing with at the moment?

SILVERMAN: Well, they're dealing with Alex Hunter. And let me correct you. I worked as a chief deputy in Denver, not in Boulder. I'm not sure I would have worked for Alex Hunter. He has a very unusual prosecutorial style.

He is by far the most liberal and probably timid prosecutor in all of Colorado. And I wouldn't be surprised if he's trying to persuade this grand jury not to indict.

But you know, the law is the law, and the law says that if there's probable cause, the grand jury is supposed to indict. Yet Alex Hunter may be trying to dissuade them from that, arguing "Hey, if there's not proof beyond a reasonable doubt, don't stick me with an indictment because then it would cause problems for me."

ZAHN: Jeralyn, would that be the right way to go for Alex Hunter, or is that not a legitimate stance to have?

MERRITT: I'm not sure that I agree with that assessment. First of all, it's true that the only thing the grand jury needs to indict is probable cause. However, the canons of ethics for prosecutors require that a case not be filed unless the prosecutor has a good-faith belief that he or she can prove that case by proof beyond a reasonable doubt.

However, in this instance, I believe that the DAs are trying mightily to get this grand jury to indict, but that something is stopping this grand jury. I agree with Carol McKinley that I believe it's the DNA. I believe it's the science. Henry Lee has also said that you need four things to make a good prosecution. You need a good crime scene, you need eyewitnesses, you need major pieces of physical evidence, and you need luck. He said, "In this case, we don't have any of those." So there may well not be an indictment.

ZAHN: Craig?

SILVERMAN: Who brought in Henry Lee? It was Alex Hunter. Alex Hunter, in his wisdom, chose to bring in Barry Scheck and Henry Lee, two incredibly smart people who had just been the most responsible for gaining O.J. Simpson an acquittal. That was their claim to fame. You know...

MERRITT: But they weren't...

SILVERMAN: ... Barry Scheck...

MERRITT: They weren't responsible...

SILVERMAN: Barry Scheck is a very...

MERRITT: ... for the crime scene in this case.

SILVERMAN: No, but it's highly predictable that if Henry Lee found a cockroach in the spaghetti in the O.J. Simpson case, he was going to find problems with this plate of pasta. We all knew the crime scene was compromised in this matter. Alex Hunter...

ZAHN: Let's talk about...

SILVERMAN: ... chose...

ZAHN: ... that for a moment, Craig...

SILVERMAN: Sure.

ZAHN: ... before you go any further. Just how compromised was it? We know, in fact, that the police allowed for Mr. Ramsey to taint the scene when he went and located his daughter himself.

SILVERMAN: Absolutely. And you know, he's the one who brought up his daughter. He's the one who handled his daughter. This stray DNA, God only knows where it may have come from. But aside and apart from the problems in the case, you have a ransom note which was an obvious indication of staging. And you just go back to common

sense and the utter preposterous scenario that a stranger, an intruder, would come into that house, do the things he did to JonBenet and then sit down and write the "War and Peace" of ransom notes. It just doesn't make sense.

MERRITT: But Craig, common sense does not substitute for science. And in order for you to have some scientific evidence, you're going to have to have evidence that's properly collected at the crime scene. It must be properly stored, properly tested. Otherwise you can't trust the integrity of the results.

We also don't know that anyone has made a determination for the -- even for the Colorado Bureau of Investigation, as to who wrote that ransom note. Without knowing who wrote the ransom note, it's pretty hard to figure out who is responsible for the death of this child.

ZAHN: But isn't it true that the Colorado Bureau of Investigation indicated that Patsy Ramsey very likely wrote that note?

MERRITT: I believe...

ZAHN: I thought that was the conclusion CBI drew.

MERRITT: I think their conclusion was that there are "indications" that Patsy Ramsey may have written the note, which is the lowest run on the handwriting totem pole.

ZAHN: All right, Jeralyn...

SILVERMAN: Right, but...

ZAHN: ... Craig, if you would, stand by. We're going to take a short break and continue our conversation.

And what do you think of the JonBenet Ramsey murder case? Will you an email or call us toll-free with your comments.

We'll be right back.

<22:11>

(COMMERCIAL BREAK)

ZAHN: And it's time to talk more about the JonBenet Ramsey murder investigation. Craig Silverman and Jeralyn Merritt are back.

Jeralyn, you mentioned this note that CBI indicated Patsy Ramsey might have written. Do you think it's a compelling piece of evidence?

MERRITT: I think if there was strong evidence that she wrote the note, it would be a compelling piece of evidence because I think it's obvious that whoever wrote the note was somehow involved in the death of this child. But I really believe that handwriting evidence is not science, to begin with. It's problematic when you try and get it introduced at trial. For example, in the Oklahoma City bombing case, the federal judge would not even allow the government's expert to give an opinion as to who wrote certain documents. So I think that the handwriting by itself is not going to be enough in this case.

SILVERMAN: Well, I...

ZAHN: And do you think that's something, Craig, that's giving the grand jury a problem?

SILVERMAN: No, I don't think so. I think handwriting is very compelling evidence. I have a person on death row

who I put there partially as a result of handwriting analysis. Your viewers can attest to the fact that they can identify relatives' handwriting. The ransom note is key. The whole scene was staged. This was not what the killer small foreign faction. Who would want to do that but for someone disguising a killing in the family?

MERRITT: But Craig, if it was an intruder and this killing does have earmarks of being a violent, brutal, planned murder, perhaps done for revenge, then that person would have tried to obscure their handwriting, as well.

SILVERMAN: You know, revenge against who? You know, they said they were a "small foreign faction." The FBI came, and you would think they would be concerned. Mr. Ramsey's business was associated with Lockheed-Martin. If there was a true international threat, I doubt the FBI would have walked away so fast. They understood what it was. This was, as so often is the case, a killing that most probably occurred within the family.

ZAHN: OK, thanks so much. We got to move on now.

Coming up next: He's back. Why did O.J. Simpson call 911 yesterday asking for help? We'll have the complete story when we come back.

<22:16>

(COMMERCIAL BREAK)

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