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Transcription of *The Case of: JonBenét Ramsey*

EPISODE ONE

September 18, 2016

WARNING: This program is for mature audiences only and contains graphic images that may be disturbing to some viewers and young audiences. It also contains recreations. Viewer discretion is advised.

(EXCERPTS FROM HOME VIDEO FOOTAGE)

PATSY RAMSEY (“PATSY”): Hello, I’m Patsy Ramsey. Daddy’s not here, but this is JonBenét, she’s four. Burke is seven, and we’d like to welcome you to our home and wish you a very merry Christmas! Wave, JonBenét.

(END OF FOOTAGE)

OPERATOR: Hello 9-1-1 Emergency.

PATSY: Police. We have a kidnapping. Hurry, please.

OPERATOR: Explain to me what’s going on, okay?

PATSY: There . . . We have a . . . There’s a note left and our daughter’s gone.

OPERATOR: A note left and your daughter is gone?

PATSY: Yes.

JIM CLEMENTE (“CLEMENTE”): On December 26, 1996 at 5:52 am, six-year-old JonBenét Ramsey was reported kidnapped by her mother. Later that day, she was found dead in her home.

UNKNOWN NEWSCASTER: In Boulder, Colorado, the parents of six-year-old JonBenét Ramsey say there is a child killer on the loose.

CLEMENTE: Soon pictures of this little girl became public, igniting a media frenzy and the eyes of the world focused on this shocking case.

FORMER DISTRICT ATTORNEY ALEXANDER HUNTER (“DA HUNTER”): The list of suspects narrows. Soon there will be no one on the list but you.

CLEMENTE: But the investigation stalled, and they never found the killer.

PATSY: Keep your babies close to you. There’s someone out there.

CLEMENTE: Twenty years later, this homicide remains unsolved. I'm Jim Clemente, I'm a retired FBI profiler. I'm an expert in the area of child sex crimes, child abductions, and child homicides.

LAURA RICHARDS ("RICHARDS"): My name's Laura Richards. I'm a criminal behavioral analyst and I've been trained by new Scotland Yard and the FBI.

CLEMENTE: I joined the FBI's Behavioral Analysis Unit in 1998 and we did a cold case review of the JonBenét Ramsey homicide. Originally it looked like a traditional kidnapping because there was a ransom demand. We found out: it clearly was not a kidnapping case. Within eight hours, the daughter was found in the house.

RICHARDS: My lens is firmly fixed. I'm a victim advocate. I want to get to the truth on behalf of JonBenét. It's something that's always stayed with me. Just wondering, you know, was this a predatory stalker? Was this an intruder? Was this a domestic violence or child abuse situation?

CLEMENTE: Our goal is to finally get to the truth and tell the world what actually happened to JonBenét Ramsey.

PATSY: Oh my God, please, hurry hurry hurry.

OPERATOR: Patsy? Patsy? Patsy?

CLEMENTE: We're really fortunate to have this space where we can actually build our war room and work.

RICHARDS: So this is really our think room, you know being able to go through the hypothesis, go through all the information and the facts, and I think that part is going to be invaluable.

CLEMENTE: What we need to do is a complete re-investigation. Starting right from scratch with the 911 call, the crime scene —

RICHARDS: — ransom note, and the sequence of events. You know, it's really important that we get that timeline absolutely clear in our own heads.

CLEMENTE: We hope to get the truth out about how she died.

RICHARDS: And that's the biggest question mark around this case.

CLEMENTE: So let's talk about what we know about the Ramseys: John, Patsy, JonBenét, and Burke. John Ramsey is in his second marriage, he had three kids from his first marriage.

RICHARDS: So Beth, John Andrew, Melinda.

CLEMENTE: Beth was killed in a car accident.

RICHARDS: So that was kind of the package that John came with. Patsy was actually fourteen years younger than him, so when they met they started courting each other. She was twenty-one, twenty-two.

CLEMENTE: She had been Ms. West Virginia.

RICHARDS: Right.

CLEMENTE: And so for him she was quite a trophy wife.

RICHARDS: She also graduated with a degree in journalism, so she was pretty smart herself at the University of West Virginia.

CLEMENTE: Didn't she work for John at one point?

RICHARDS: She did. John had a rising career in the computer industry. Access Graphic had a billion dollar turnover that very year that JonBenét was killed, so don't forget the lifestyle. They had two planes at one point and a thirty foot yacht. To everybody else they almost had the perfect family exterior.

CLEMENTE: This crime happened almost twenty years ago. JonBenét was just six-years-old, she would be twenty-six now. A grown woman. Maybe she would have her own family. And her brother Burke was almost ten-years-old at the time. He's twenty-nine now, a grown man.

RICHARDS: And then, of course, after JonBenét's death, tragedy strikes again when Patsy is diagnosed with Grade 4 ovarian cancer, and Patsy dies in 2006. You know, we really do need to understand them as people, and speak to as many people who can give us an understanding of who they were and the dynamics between them.

CLEMENTE: The most important thing is to go where the evidence takes us. The great thing is the people that we've been able to assemble. Many of us were involved in the initial investigation and the investigation over the last twenty years. Dr. Henry Lee, world-renown criminalist. He is so good at drilling down into the little details and scientific fact and reconstructing crimes.

RICHARDS: Jim Fitzgerald, who is a profiler and he's a forensic linguist. He was a former police officer too.

CLEMENTE: James Kolar was actually hired by the District Attorney's office. He reinvestigated the entire case. Stan Burke is somebody who actually teaches Statement Analysis at the FBI Academy.

RICHARDS: Then there's Dr. Werner Spitz.

CLEMENTE: He has an amazing background in forensic pathology.

RICHARDS: And of course with this case we really need to understand the autopsy report and what he can tell us about it. Twenty years on, putting together this elite and renowned team, and actually bringing these minds into one room, this has never been done before. And when you join up everybody's experience accumulatively, it's over 250 years of experience working in law enforcement.

DR. HENRY LEE ("LEE"): This case somehow touched my heart,. I wish some way can have a conclusion. Not really for the public. For JonBenét Ramsey.

JIM FITZGERALD ("FITZGERALD"): This is the one case that stuck in my craw. We have so much evidence, yet we just quite haven't put it together.

CLEMENTE: What we'd like to do is start up with the actual first thing that started the investigation, that is the 9-1-1 call. It was 5:52 am. Patsy calls the police.

9-1-1 OPERATOR: 911 emergency.

PATSY: Hi we need . . . police. 755 15th Street.

9-1-1 OPERATOR: What's going on there, ma'am?

PATSY: We have a kidnapping. Hurry, please.

9-1-1 OPERATOR: Explain to me what's going on, okay.

PATSY: There . . . We have a . . . There's a note left and our daughter's gone.

9-1-1 OPERATOR: A note was left and your daughter is gone?

PATSY: Yes.

9-1-1 OPERATOR: How old is your daughter?

PATSY: She's six-years-old. She's blonde. Six-years-old.

9-1-1 OPERATOR: How long ago was this?

PATSY: I don't know, I just found the note, and my daughter's gone.

9-1-1 OPERATOR: Does it say who took her?

PATSY: What?

9-1-1 OPERATOR: Does it say who took her?

PATSY: I don't know, there's – there's a ransom note here.

9-1-1 OPERATOR: It's a ransom note?

PATSY: It says "S.B.T.C." "Victory." Please.

9-1-1 OPERATOR: Okay. What's your name? Are you Pat –

PATSY: Patsy Ramsey, I'm the mother. Oh my God! Please.

9-1-1 OPERATOR: Okay, I'm sending an officer over, okay. Do you know how long she's been gone?

PATSY: No I don't! Please, we just got up and she's not here. Oh my God, please.

9-1-1 OPERATOR: Okay. Calm –

PATSY: Please send somebody.

9-1-1 OPERATOR: I am, honey.

PATSY: Please.

9-1-1 OPERATOR: Take a deep breath for me okay.

PATSY: Please hurry hurry hurry!

9-1-1 OPERATOR: Patsy? Patsy?

CLEMENTE: There's six seconds of something that's inaudible.

FITZGERALD: Patsy thought the phone call was ended, the last thing she ever thought was somebody was still listening to her.

(COMMERCIALS)

9-1-1 OPERATOR: Patsy? Patsy? Patsy? Patsy?

RICHARDS: Because the 9-1-1 call plays such a significant part in this case, Jim Fitzgerald is exactly the right person to be able to provide analysis.

FITZGERALD: There are, you know, many factors that are very interesting from a forensic linguistic perspective. The fifth word used is the plural pronoun "we".

PATSY: We have a kidnapping.

FITZGERALD: "We have a kidnapping." What does that even mean? Where's the ownership?

PATSY: She's blonde. Six-years-old.

CLEMENTE: She doesn't mention her daughter's name, she says my daughter, my six-year-old blonde.

RICHARDS: I'm the mother –

CLEMENTE: I'm the mother.

9-1-1 OPERATOR: Are you Pat –

PATSY: Patsy Ramsey, I'm the mother.

CLEMENTE: These are behavioral things that, I think, are extremely unusual.

9-1-1 OPERATOR: Take a deep breath for me, okay?

PATSY: Please hurry hurry hurry!

9-1-1 OPERATOR: Patsy? Patsy?

STANLEY BURKE ("STANLEY"): The hanging up, if you will – when you make that phone call, someone close to you has disappeared, you're sending out that phone call for help. I've looked at a lot of 9-1-1 calls over the years. They'll hold on until the police get there, that's your lifeline, that help indicates hope. The moment you hang up that phone, you end the hope. And for that phone to be hung up, you've got to ask yourself why.

FITZGERALD: Right. And if they're legitimately hoping for their child to be taken care of, rescued, saved, whatever. If there is something else going on then you have a different set of parameters involved.

CLEMENTE: And it's interesting that Patsy thought she had hung up the call and disconnected it while the dispatcher was actually calling out her name because she wanted to talk to her more, and keep her on the phone until the police arrived.

9-1-1 OPERATOR: Patsy? Patsy?

CLEMENTE: But she did not hang up the phone.

LEE: In the background, we heard some voices.

CLEMENTE: Some more voices. Who do you hear? In the 90's they tried to do enhancements of that tape.

9-1-1 OPERATOR: 9-1-1 emergency.

CLEMENTE: There's been a lot of controversy about what they've actually uncovered on the tape. And most of the general public has never heard the enhanced version. We want to use today's technology to actually nail down what exactly was said and by whom in those final moments of that tape.

PATSY: Oh my God!

9-1-1 OPERATOR: Patsy?

AUDIO ENGINEER: It's really distant.

RICHARDS: It's hard to make it out.

CLEMENTE: Yeah – what can you do to bring that up?

AUDIO ENGINEER: We could try a little noise reduction on that.

9-1-1 OPERATOR: Patsy? Patsy?

(SCREEN SHOWS “INAUDIBLE”)

CLEMENTE: Some real –

AUDIO ENGINEER: It's really distant. Yeah.

RICHARDS: It's hard to make it out.

CLEMENTE: Let's try that again.

9-1-1 OPERATOR: Patsy? Patsy?

CLEMENTE: Can you slow it down?

AUDIO ENGINEER: So this is the noise reduced.

9-1-1 OPERATOR: Patsy?

CLEMENTE: Oh, wow. I think I hear a man say, “We're not speaking –

RICHARDS: “speaking to you –

CLEMENTE: – to you.”

(SCREEN FLASHES “WE'RE NOT SPEAKING TO YOU”)

CLEMENTE: I think that's John Ramsey's voice.

JOHN RAMSEY (“JOHN”): JonBenét and I had a very close relationship, I will miss her dearly for the rest of my life.

CLEMENTE: “We are not speaking to you.”

(SCREEN FLASHES “WE'RE NOT SPEAKING TO YOU”)

RICHARDS: Well the tone is a parent talking to a child.

CLEMENTE: Yeah. I've never heard that before. Okay, so why don't you play it from there?

(AUDIO PLAYBACK RECORDING)

RICHARDS: There's another voice –

CLEMENTE: Wow, yeah.

RICHARDS: – a female voice.

CLEMENTE: Can you blow that up and slow it down a little bit? Just a little bit.

(AUDIO PLAYBACK RECORDING)

CLEMENTE: I don't know.

RICHARDS: It sounds like Patsy's voice to me.

PATSY: I did not kill JonBenét. I love that child.

(AUDIO PLAYBACK RECORDING)

CLEMENTE: Just, can you stretch it out a little bit more?

(AUDIO PLAYBACK RECORDING)

RICHARDS: I'm getting "Oh, something, Jesus," and then it repeats it.

CLEMENTE: I hear either "Holy Jesus," or "Help me, Jesus."

AUDIO ENGINEER: What I heard is "What did you do? What did you do?" That's what it sounds like through the speakers. I didn't listen on the headphones.

CLEMENTE: You wanna?

AUDIO ENGINEER: Yeah, yeah. Sure.

(AUDIO PLAYBACK RECORDING)

AUDIO ENGINEER: I do hear the "Jesus" the, the second time. Let's put that through this noise reduction.

CLEMENTE: Okay, great.

AUDIO ENGINEER: I'm showing it, just the noise in between the speech.

CLEMENTE: Got it.

AUDIO ENGINEER: So hopefully it just takes that out and leaves the speech. Here it comes

CLEMENTE: You could be right.

(AUDIO PLAYBACK RECORDING)

CLEMENTE: It's the same number of syllables but when you pointed that out, I think I hear the difference between the two sentences.

(SCREEN FLASHES "WHAT DID YOU DO? HELP ME, JESUS.")

CLEMENTE: The first part is a little blurry, but certainly, "What did you do?" is a very real probability here. Okay, so, let's go on to the next part.

(AUDIO PLAYBACK REORDING)

CLEMENTE: Stop there. Can you spread that out?

(AUDIO PLAYBACK RECORDING)

CLEMENTE: Oh, my god! "What did you find?"

RICHARDS: "What did you find?"

(SCREEN FLASHES "WHAT DID YOU FIND? WHAT DID YOU FIND?")

CLEMENTE: Right. "What did you find?" It sounds like a smaller voice though – it doesn't sound like a blooming adult.

RICHARDS: Right.

UNKNOWN VOICE: "What did you find? What do you find?"

RICHARDS: There were only four people in that house.

CLEMENTE: Right, one of them was dead.

RICHARDS: I believe we've heard John Ramsey's voice.

9-1-1 OPERATOR: Patsy?

UNIDENTIFIED MALE VOICE: "We're not speaking to you."

(SCREEN FLASHES "WE'RE NOT SPEAKING TO YOU")

RICHARDS: We've heard Patsy's voice

UNIDENTIFIED VOICE: "What did you do? Help me Jesus."

(SCREEN FLASHES "WHAT DID YOU DO? HELP ME, JESUS.")

RICHARDS: So we know the only other person in the address at the time is Burke.

CLEMENTE: Right.

UNIDENTIFIED VOICE: "What did you find?"

(SCREEN FLASHES "WHAT DID YOU FIND?")

RICHARDS: This is hugely significant.

CLEMENTE: Oh, my god.

RICHARDS: I mean this changes things because their account is that Burke was asleep at the time.

CLEMENTE: They made a point of saying he was asleep and he had nothing to do with it and that they never even asked him whether he heard anything.

9-1-1 OPERATER: Patsy? Patsy?

UNIDENTIFIED VOICES: "We're not speaking to you. What did you do? Help me, Jesus. What did you find?"

CLEMENTE: Now that we've heard this on the tape, it's really important that we speak to the 9-1-1 operator who received the call, Kim Archuletta. I really hope that we can talk to her to get her insights about any kind of behavior that she picked up that the tape might not have captured. How you doing, Kim? This is Jim Clemente. We would love to actually sit down and interview you, and I'm sure that you have a lot of things to say about what happened that day but also what happened subsequently.

KIM ARCHULETTA ("ARCHULETTA"): Yeah, um, I've always been under a gag order so I've never really talked to anybody. Um, so my side of the story has never really been heard.

(COMMERCIALS)

ARCHULETTA: Hi.

CLEMENTE: How you doing?

ARCHULETTA: Laura?

RICHARDS: Laura Richards, yeah, nice to meet you.

ARCHULETTA: Laura, nice to meet you.

CLEMENTE: She's Laura and I'm Jim Clemente.

ARCHULETTA: Jim Clemente, nice to meet you.

CLEMENTE: So nice to meet you.

ARCHULETTA: Kimberly Achuleta. This is the first time that anyone's asked for my opinion.

RICHARDS: In 20 years.

ARCHULETTA: In 20 years.

RICHARDS: So I want to play first of all in full –

ARCHULETTA: Okay.

RICHARDS: – so that we can hear, hear it

(EXCERPTS FROM AUDIO TAPE)

ARCHULETTA: 9-1-1 emergency.

PATSY: (UNINTELLIGIBLE) We have a kidnapping. Hurry please.

ARCHULETTA: Explain to me what's going on, okay?

PATSY: There – we have a; there's a note left and our daughter's gone.

ARCHULETTA: A note was left and your daughter's gone?

PATSY: Yes.

ARCHULETTA: Does it say who took her?

PATSY: What?

ARCHULETTA: Does it say who took her?

PATSY: I don't know, it's – there's a, there's a ransom note here.

ARCHULETTA: It's a ransom note? Okay, what's your name? Are you Pat –

PATSY: Patsy Ramsey, I'm the mother. Oh, my god! Please. Hurry, hurry, hurry.

ARCHULETTA: Patsy? Patsy? Patsy? Patsy?

(END OF EXCERPTS)

RICHARDS: What's your initial reaction to that, Kim?

ARCHULETTA: I just remember having that sunken feeling like something wasn't right. The problem was if you hear the frantic in her voice as she's speaking to me where she couldn't even answer my questions, it immediately stopped.

(EXCERPTS FROM AUDIO TAPE)

ARCHULETTA: What's your name? Are you Pat –

PATSY: Patsy Ramsey, I'm the mother. Oh, my god! Please. Hurry, hurry, hurry.

ARCHULETTA: Patsy? Patsy? Patsy? Patsy?

(END OF EXCERPTS)

RICHARDS: Was there a shift in kind of tone from sort of being very hysterical to suddenly –

ARCHULETTA: Right, right.

RICHARDS: – something quite different.

ARCHULETTA: Right. What bothered me immensely, it sounded like she said "Okay, we've called the police, now what?" And that disturbed me. So I remained on the phone trying to hear what was being said – sounded like there were two voices in the room, maybe three different ones. I had a bad feeling about this. To me it seemed rehearsed. Mm-hmm.

CLEMENTE: And that's your distinct memory; and has that stayed with you –

ARCHULETTA: Always.

CLEMENTE: – the entire 20 years?

ARCHULETTA: Yes. That's never changed. I know they did an enhancement, right?

CLEMENTE: Yeah. We did enhance the end of it.

RICHARDS: And it's interesting 'cause there are some bits that we can't quite make out but there are some very clear bits that we can.

CLEMENTE: Yeah, when we cleaned it up, we hear a man say "We're not speaking to you," and he's very stern, and then, I think, we hear Patsy saying something like "What did you do? Help me Jesus," or "Help me, Jesus. Help, me Jesus." And then Burke I think say "What did you find?"

ARCHULETTA: I wanted that case solved. I wanted someone to come talk to me, I wanted someone to get my testimony. When they did the grand jury, nobody talked to me.

CLEMENTE: Really? You weren't – you didn't testify in the grand jury?

ARCHULETTA: No. I had an investigator come to my house, told me there's a gag order. Do not talk about this until we go to court. And I never was talked to again. And it never went to court.

RICHARDS: What did you make of that? I mean —

ARCHULETTA: That's one of the reasons why I even stayed on until they disconnect because there were things being said that somebody needed to know.

RICHARDS: Right.

ARCHULETTA: It was never addressed. I think it really would have turned the case around.

RICHARDS: We spoke to Kim Archuletta, who was the 9-1-1 dispatcher at the time, and she said that the thing that stayed with her was the — as Patsy thought she had disconnected and she was typing up the call, she could hear a gear shift, an instant gear shift which was in direct contrast to the emotion of the call and she basically said that what she heard Patsy say was "Okay, we've called the police, now what?"

CLEMENTE: And then she said it went on, there was a conversation, she could hear other voices but she couldn't necessarily make that out. However, when we got the tape enhanced what we heard was a little different.

RICHARDS: You had John saying "We're not talking to you," very clipped. And then it could have been, "What did you do?" and "Help me, Jesus," from Patsy. And then the young boy's voice saying "Well, what did you find?" And we must remember that they did say in their statements that Burke was asleep. Why say he's asleep when he's clearly not. I believe we heard his voice on the 9-1-1.

CLEMENTE: And that absolutely changes the entire focus of this investigation and we should keep that in mind as we evaluate the rest of this evidence. So let's talk ransom note. Although the 9-1-1 call actually initiated this investigation, when the police arrived the first piece of physical evidence was that ransom note or letter because of the length of this particular note.

FITZGERALD: In the 380 some words in this ransom note, there's a treasure trove of information that's unprecedented in the annals of criminal justice history, as far as I know that both a ransom note requesting money and the body is left behind at the scene.

RICHARDS: "Mr. Ramsey, listen carefully. We're a group of individuals that represent a small foreign faction. We respect your business but not the country that it serves. At this time we have your daughter in our possession. She is safe and unharmed and if you want her to see 1997, you must follow our instructions to the letter.

CLEMENTE: You will draw \$118,000 from your account. \$100,00 will be in hundred dollar bills and the remaining \$18,000 in 20 dollar bills. Make sure you bring an adequate size attache

to the bank. When you get home you'll put the money in a brown paper bag. I will call you between eight and ten a.m. tomorrow to instruct you on delivery. The delivery will be exhausting so I advise you to be rested. If we monitor you getting the money early we might call you early to arrange an earlier delivery of the money and hence, an earlier pick up of your daughter.

FITZGERALD: Any deviation of my instructions will result in the immediate execution of your daughter. You'll also be denied her remains for proper burial. Two gentleman watching over your daughter do not particularly like you so I advise you not to provoke them. Speaking to anyone about your situation such as the police, FBI, etc will result in your daughter being beheaded. If we catch you talking to a stray dog she dies. If you alert bank authorities, she dies. If the money is in any way marked or tampered with, she dies. You'll be scanned for electronic devices and if any are found she dies.

STANLEY: You can try to deceive us but be warned we are familiar with law enforcement countermeasures and tactics. You stand a 99 percent chance of killing your daughter if you try to outsmart us. Follow our instructions and you stand a one hundred percent chance of getting her back. You and your family are under constant scrutiny as well as the authorities. Don't try to grow a brain, John; you are not the only fat cat around so don't think that killing will be difficult. Don't underestimate us, John. Use that good southern common sense of yours. It is up to you now, John. Victory. S.B.T.C.

CLEMENTE: I think this is one of the most important pieces of forensic evidence in this entire investigation. Stan, what do you think about the beginning of the letter?

STANLEY: I find it fascinating because first, it addresses, you know, it, the addressee, Mr. Ramsey. But then the next two words are "Listen carefully." And if we, we look at the letter here, this jumps out at me simply because, number one, it's a letter. What are we listening to?

RICHARDS: Right.

CLEMENTE: So it should say read carefully.

STANLEY: And I wouldn't even expect to "read carefully."

CLEMENTE: Right.

STANLEY: You have a missing child, you're gonna read this carefully. That's a given.

CLEMENTE: There seems to be multiple motives embodied in this document so you first start out with this foreign faction – that's always stuck out in my mind.

FITZGERALD: And what is a faction? It's just made up. So, what do you make of the amount and these really specific instructions about what size the bills should be?

STANLEY: The amount \$118 is very close to the bonus Mr. John Ramsey would have received or did receive that year.

CLEMENTE: Right.

STANLEY: That's a unique number The fact that it's so specific makes it stand out.

RICHARDS: He's a millionaire.

CLEMENTE: Yeah.

RICHARDS: I mean if you're gonna do this, you go large. I mean why would you go for \$118 when you can go for a million?

STANLEY: Right.

FITZGERALD: When the Boulder investigators came to me and showed me this letter, I noticed some quotes in here that I said, "Well, I recognize them from somewhere." And it was sort of early in the Internet days and it wasn't as easy to search things back then. But I rented a few movies that I thought I recognized these lines from and the first of 'em comes from these four sentences I'm about to read. So if you follow along with me here, on the second page we have some quotes borrowed from a cinematic version of a kidnapping of a young girl, the 1972 movie "Dirty Harry."

CLEMENTE: One of the things that we know from the actual crime scene video was that the house was filled with movie posters.

FITZGERALD: "If we catch you talking to a stray dog, she dies." In the movie, instead of it actually being a dog, a dog breed is actually mentioned. "If you alert bank authorities, she dies, she dies, she dies." Well, we're not done. Last page, "Don't try to grow a brain, John." A certain character who was an LAPD police officer who was on a runaway bus was talking to a mad bomber on a cell phone. The movie was "Speed."

STANLEY: This here, "If you alert bank authorities, she dies." You told us early on follow your instructions or she'll be beheaded, executed, beheaded, so why do you have to keep telling us over and over again? 76% of this is extraneous.

CLEMENTE: Really?

RICHARDS: 76%?

STANLEY: It's not necessary. To me, they're trying to sell this now. It's a sales job.

CLEMENTE: This whole thing could've been done in four lines. "We have your daughter. Withdraw \$118,000; put the money in a paper bag. I will call you between 8 and 10 AM. Don't, call the FBI or the police, or she'll die, S.B.T.C."

FITZGERALD: What you just said from a historical perspective is essentially what we have in the three ransom notes going back to Lindbergh, Weinberger and Whiles and one other mitigating factor in these other three kidnappings, the person was actually missing, wasn't dead in the house somewhere. We just have so much in the way of variation between these particular historical kidnappings and this letter.

CLEMENTE: Why don't we start actually building a linguistic profile? What we're trying to do is figure out who wrote this whole entire letter.

FITZGERALD: Writing ability I would say is high. We have an advanced writing style expressed throughout this letter. The only mistakes are found in the first paragraph. We had the concept of a foreign faction up here in the second sentence. Well, right below it we have the word "business" and if you'll notice, it's misspelled. There's an extra "s" in here. Perhaps someone who is not a native English speaker would in fact insert that extra "s." So what I noticed early on is that this was a purposeful mistake. This was done to tie in somehow to the concept that this person is a foreigner and perhaps does not speak English as their native tongue.

CLEMENTE: "Particularly," "enforcement," "countermeasures," they're all spelled properly.

FITZGERALD: What it tells me is there's an element of disguise involved. These misspellings, they were inserted for a reason to make it look like it's somebody other than who it really was. Language one, and I would clearly say it's English.

CLEMENTE: So they're native English speakers.

FITZGERALD: Yes. The first language they learned in life was English. I have no doubt about that. Age is not always easy to determine, but I would certainly say this person's an, an adult. No indication of sort of teenage slang, vernacular, so I would say we have someone, an adult, 30 or older. The last one and part of a linguistic profile is gender and this can be one of the trickiest ones to determine. There are at least six examples of what I would call maternalistic language. The very first sentence is already circled. Can you picture a mother telling their young child "Listen carefully, when you get home," not when you get back to your house, not when you get to your residence, "when you get home." "Do not particularly like you" – would a guy necessarily care if someone likes them or not in this context? I find in the thousands of cases I have worked over the years, when someone puts a statement in like that, it turns out to be a female.

(COMMERCIALS)

STANLEY: The less information you give in a ransom letter or note, the less of a chance you have of being caught. You don't want to leave clues.

RICHARDS: Right.

STANLEY: This does just the opposite.

RICHARDS: Right and this is high risk behavior, leaving such a long letter and the time it takes to write something like this, which –

CLEMENTE: Yeah and that, the fact that it was written in the house, not before the fact in preparation for a kidnapping, which you would think they would do, right?

STANLEY: Right, that's, that's – you're ri – exactly right, CLEMENTE.

LEE: The paper, the investigator found a pad. Also found two practice note.

CLEMENTE: That pad was actually Patsy's pad, right, from her little writing desk in the hallway.

FITZGERALD: That's my understanding, yes.

CLEMENTE: And the pen was actually found underneath –

FITZGERALD: The phone.

CLEMENTE: – the phone. Whoever wrote this managed to commit a murder, find the pad, find the pen, practiced a couple times because they didn't want to show bad penmanship or something, write it and then put the pad and pen back to where they normally are kept.

FITZGERALD: It makes no sense at all to do that, unless it's something other than what the note is making it appear to be.

RICHARDS: You know to go through all of this trouble and time, writing this note, so, I'd like us all just to write out the letter and I'm gonna put it to time.

STAN: I'm ready.

RICHARDS: Okay, let's begin. It's not about speed but it is about exactly what they have written in the note. A hand cramp. We're doing it a lot quicker and without dotting all the "I's" which noticeably, all the "I's" are dotted in this.

STAN: Wow, lots of uh –

RICHARDS: And that takes more time because you're being exact.

FITZGERALD: I didn't understand your instructions and I used all uppercase so I had no "I's" to dot.

RICHARDS: All right, I'm done.

STANLEY: (INAUDIBLE).

CLEMENTE: (Exhales), finally.

RICHARDS: 21 minutes.

CLEMENTE: Just mechanically, it took 21 and a half minutes just to write this thing. If it were original text, it would've taken so much longer 'cause somebody is thinking of what to write. But even if they did it this fast, that's 21 and a half minutes that they could've been caught.

STANLEY: Mm-hmm.

CLEMENTE: 21 and a half minutes that they stayed in the house longer than they needed to.

FITZGERALD: Assuming this is done by an outside person who broke into the house for the purposes of a kidnapping.

CLEMENTE: I think we can all agree this letter is clearly staged. What we have to decide through our investigation is whether it was staged by somebody in the family or somebody who came into this home. Because this case is an open investigation on the books, we have to be the investigators and dig up what we can find. Ron.

RON WALKER ("WALKER"): Hi Jim, good to see you.

CLEMENTE: Thanks for coming out. Ron Walker was the only FBI agent to visit the crime scene on that day. It's incredibly important for us to talk to him and get his insight. I was just telling Laura that unlike any of the other people who, who were first responders to the scene, you went as a behavioral analyst.

WALKER: Right.

CLEMENTE: You had already had that training, years of experience, you knew what to look for.

WALKER: Once it became obvious that it was a murder case rather than a kidnapping, then, the FBI really didn't have primary jurisdiction in the case.

RICHARDS: You know looking back, only one homicide a year was kind of what they were dealing with.

WALKER: Right.

RICHARDS: So they didn't have the knowledge and your, expertise.

CLEMENTE: What we'd like to do is build a timeline of what happened over that day. But the first day is the most critical.

RICHARDS: You're gonna have the answers to some of the gaps that we've got.

WALKER: Well, at some point uh, that morning, uh, the Boulder police department notified the FBI about a kidnapping for ransom of a child. That's the only information that they conveyed to me at that point. 5:52, the 911 call was made, next are the calls to the Ramsey friends, the Fernies and the Whites. Next one that I have is actually the arrival of Officer French and sometime after 6 o' clock, but an unknown time, is uh, the Ramsey friends arrive. And then the next thing and I don't have a time associated with this is the crime scene investigators and victims' advocates arrive. 8:10 is the time that uh, Arndt arrived at the house.

RICHARDS: Yeah.

WALKER: Uh, I got contacted around between 8:15, 8:30. I drove to the uh, to the FBI office in Denver to pick up the equipment that I thought I would need. 11 o'clock I arrived at the Boulder police department. 11:45 is the first time I have a discussion with uh, Sergeant Larry Mason. We discussed all the information that we had up to that point. What's going on at the house? What's going on with the police department? Who's doing what?

CLEMENTE: Once you got in there, how'd it progress from there?

WALKER: Well, uh, once I got in to the command post, I got a look at the ransom note. You know, first thing that caught my eye about the note itself was the length of the note, highly, highly unusual in uh, the realm of kidnappings.

RICHARDS: Right.

CLEMENTE: Yeah.

WALKER: A couple of things jump out at you right away at least from my perspective. Number one is uh, the whole idea of a small foreign faction. If you're gonna kidnap somebody, what you're gonna want to do is convey uh, an image of authority and power.

CLEMENTE: Right.

WALKER: You know we're a large group of terrorists who uh, have your daughter and we're gonna kill her unless you meet our demands.

CLEMENTE: Right.

WALKER: Not a small foreign faction.

RICHARDS: Right.

CLEMENTE: And it, it competes against itself.

WALKER: It does.

CLEMENTE: In general, abductions of children for a ransom is an extremely rare event.

WALKER: Right and much more prominent are the parental kidnappings –

CLEMENTE: Correct.

WALKER: – of a non-custodial parent or by a non-custodial parent. So it was my belief at this juncture that as I said, the, the uh, the ransom note was a red herring and that uh, it was staging. So it's even more important at that point for the detectives to maintain visual contact with the family. I wasn't so much concerned about Patsy because Patsy was in the solarium and she was surrounded by the family friends and she was crying. She wasn't gonna go anywhere and at this point uh, Larry Mason and I start talking about well, what are we gonna do to try to make sure the detectives there maintain visual contact with the family?

CLEMENTE: You want to patrol the crime scene.

WALKER: Well, more importantly, I want to control the movements of the people in that crime scene. About noon, Linda Arndt calls in to Mason and tells him that uh, Ramsey has been out of pocket for about an hour and a half.

RICHARDS: First when he reappears, his demeanor has changed.

CLEMENTE: He's agitated.

RICHARDS: He's agitated.

WALKER: The Boulder Police were still trying to get the detectives to come in, kind of an overwhelming scene or sense of confusion.

RICHARDS: The fact that was reported as a kidnapping, those officers that were available were actually focusing their energy and their time and their resources outside of the house.

WALKER: I thought that Linda Arndt should grab John Ramsey and tell John, "We're going to search the house from top to bottom" and from my perspective that was nothing but kindergarten make-work. Uh, I wanted him to be buy –

RICHARDS: Right.

WALKER: – but I wanted him to be busy in Linda Arndt's presence.

CLEMENTE: In the presence of her.

RICHARDS: Right.

WALKER: In the presence of the officer.

CLEMENTE: Got it.

WALKER: That way we're not gonna run into the situation where for an hour and a half he goes missing again.

RICHARDS: Right.

WALKER: But what I learned later on from Linda is that when she tells John, "We're going to search the house top and bottom and we're gonna start at the top." Ramsey is there with Fleet White. He grabs Fleet by the arm and makes a bee line for the basement door. John Ramsey opens the door, says something about finding his daughter and then turns the light on. Virtually every staged murder case that I have seen the perpetrator manipulates the arrival of friends or other family members who are then put in the situation where they actually discover the body –

RICHARDS: Right.

WALKER: – or they are with the perpetrator as the body is discovered.

CLEMENTE: They bring somebody along. They discover the body, but with a witness who can testify to their shock and awe and horror at what they find.

WALKER: So John Ramsey brings the body upstairs. He puts her down right here.

CLEMENTE: He puts her down on the ground, but right here is a living room couch, a coffee table, chairs. Why would he put her on the floor?

WALKER: By the time go I got there her body is in the living room –

RICHARDS: Right.

WALKER: – uh near the Christmas tree.

RICHARDS: So she's been moved again.

WALKER: Well Linda Arndt moved her the second time. Uh, she and Officer French are the only two people there now at this point.

RICHARDS: She's effectively having to control people walking through the crime scene?

WALKER: The way I learned this is uh, when Larry and I walked in the entrance, Officer French was standing right there.

CLEMENTE: Mm hm.

WALKER: And, and I asked them, I said, "Hey were you standing here when the body was found?" And he's says, "Yeah." He says, "Ramsey brought the body up and put it right there." I looked down at my feet and I said to French, I said, "You mean right here?" And he says, "Yeah, right there." What I'm thinking is crime scene contamination. I mean who else has walked on

that carpet? You know all the people in that day, the people that were there last week, uh traipsing in and out and now the body's put down there and now the body's picked up and moved yet again. So that's when it really first hit me about the nightmare –

CLEMENTE: Yeah.

WALKER: – that the forensic people were gonna have.

(COMMERCIALS)

CLEMENTE: Wow, massive. Part of doing a criminal investigative analysis is doing a crime scene reconstruction.

RICHARDS: We're rebuilding key rooms that relate to this case and those rooms are JonBenét's bedroom – you know that was the last place that she was seen alive, the spiral staircase where the ransom letter was found, the kitchen, and the basement including the wine cellar where JonBenét's body was eventually found.

EDDIE SCHMIDT: We can't turn back time inside the real house, but what we can do here, as much as we can, clinically and scientifically try to put it together.

RICHARDS: Reproduce it and put us in it.

CLEMENTE: It's incredibly important for us to actually see and feel what that house looked like and actually forming a hypothesis and a theory of how the crime was actually committed.

RICHARDS: I feel like it's taking me back in time.

WALKER: Uh, you've done a good job with the, the duplication.

RICHARDS: So this is where the letter was found, third step on the spiral staircase.

WALKER: Correct. Now a stranger would typically think the most logical place to find a note would be on a desk, on a table in the kitchen.

RICHARDS: The kitchen counter.

WALKER: Uh on the kitchen counter.

CLEMENTE: Why don't you take us through how you actually went through the basement?

WALKER: It took Sargent Mason and me only a few minutes to get from the police department to the Ramsey house.

RICHARDS: And what sort of time was this? This is around sort of...

WALKER: Uh, 1:20.

RICHARDS: Okay

WALKER: ...Somewhere around that time frame

RICHARDS: So quite close to the body being discovered?

WALKER: Oh yeah. Larry Mason and I came downstairs. I was actually following his lead. I was trying to orient myself because I had never seen the basement before and walked into the uh, the room that, I call it a game room. I think they call it a train room. And as I came back in this particular part of the room, the first thing I noticed obviously was the three sets of windows in the wall up there, uh and I noticed the broken window and the suitcase. When I see a blue suitcase below a window, the first thing that I'm thinking was the intent eventually by the, the perpetrator to put the body in a suitcase and remove the body from the crime scene? Did things move too quickly? Was the perpetrator who had that as his motive overtaken by events?

RICHARDS: Right, or what about concealing the body for a time too?

WALKER: Or concealing the body, right.

CLEMENTE: Right.

WALKER: I have to tell you that the first thing that jumped in my mind.

CLEMENTE: So where did you go next?

WALKER: We're looking around and Larry Mason pointed back there and he said, "That's the room where JonBenét's body was found." So at that point we both walked back to that particular room. It's just an odd feeling, almost like you're transported back to that particular room and time.

CLEMENTE: Feels like a tomb.

RICHARDS: It does.

WALKER: When Larry Mason and I came down here, the lights were on.

CLEMENTE: Right.

WALKER: Probably because John Ramsey had turned them on after he had opened the door.

CLEMENTE: Right, so you can go ahead and turn it on.

WALKER: By the time I got there her body is in the living room.

RICHARDS: John brings her up –

WALKER: John brings her up.

RICHARDS: – takes off the duct tape and the white blanket.

WALKER: Yeah, lays her down there. We didn't step into the room very far. Larry probably came over to this particular area here –

CLEMENTE: Uh huh.

WALKER: – and I just kind of stepped in the doorway to the left, didn't want to walk too much further into the room simply because this was the room where the child had been deposited for some period of time.

CLEMENTE: The statements that were made said that John called out that she was here before he turned the light on.

WALKER: From my perspective now I can look in here and see objects.

CLEMENTE: Right.

WALKER: But I don't know that I can necessarily identify objects.

CLEMENTE: Right.

WALKER: Now this just looks like a jumble of cloth.

CLEMENTE: Right. And how would you know that that was actually your daughter wrapped up in there?

WALKER: As I recall, he's never been asked those questions.

RICHARDS: Why was that?

WALKER: It was my belief that the philosophy that was kind of laid out for the police department that day was we have to treat them with kid gloves. Treat them with deference. Treat them as victims and not as suspects.

RICHARDS: What was the reason given?

WALKER: They were influential. They were wealthy.

RICHARDS: From what I can see, the influence here really had a very significant impact as to why people were allowed to come and go from the house.

WALKER: Yeah. Going through the list of things that initially puzzled me, but then I started thinking, when you add them all together, I started thinking, well, there's something really bizarre and odd about all of this.

CLEMENTE: Right.

WALKER: Right around the time that I was there, there was another detective there that I think had overheard John making a call for his airplane. This is after the body has been discovered.

RICHARDS: Right.

WALKER: Why does John Ramsey want to leave so quickly when he has to understand that there's going to be a police investigation, and his daughter has just been killed.

RICHARDS: You know, for me this isn't just a red flag, this is an absolute anomaly.

WALKER: First thing you do in a homicide case, if you have witnesses, is you separate them, you take them some place, and you get a statement.

RICHARDS: Right.

WALKER: And you have to get the Ramseys interviewed by the police, in that first 24 to 36 hours.

CLEMENTE: And the only problem is, they didn't get interviewed by the police.

WALKER: No, they didn't.

RICHARDS: That's why we need to speak to Fleet, because I really want to know what was going on in that house. Fleet and Priscilla White are what we would call significant witnesses. They were best friends to the Ramseys at the time, and they were at that home during those hours as it all unfolded.

CLEMENTE: I got a message from Fleet White. I think the important thing that we want to talk to Fleet about is the Ramseys' behavior that morning.

RICHARDS: I certainly find that a very curious decision, why you would invite your friends to your home address when you're in crisis and chaos.

CLEMENTE: Especially if they think that somebody actually came into their home and abducted their child. Why are they bringing in other friends?

RICHARDS: Right.

CLEMENTE: I know that the Whites are very concerned about talking openly about this case because they've had a really bad experience.

RICHARDS: Fleet was one of the first people to question John, and told him categorically to stop hiding behind his lawyer and to cooperate with the police.

NEWSCASTER: In a fourteen page open letter, Fleet White criticized the Boulder District Attorney and took particular aim at the Ramseys. White says the investigation has failed because the Ramseys have refused to fully cooperate with investigators.

CLEMENTE: So we're gonna go meet Fleet, but he said no cameras, so we're going to have to stop filming. It's more important that we have it than we have it documented.

RICHARDS: Agreed.

EDDIE SCHMIDT: You can tell him we've got a camera crew nearby, like we can actually come up, now, we can do it now. Or if we've got time at the end of the day. And if those times don't work, we'll do it any other time. We really, really want their story.

CLEMENTE: Alright.

EDDIE SCHMIDT: We'll see ya.

(COMMERCIALS)

EDDIE SCHMIDT: Wait, is this them? This is them! So what happened?

RICHARDS: Well, it's fascinating. They have so much knowledge, but there's a lot of pain here.

(ARCHIVE FOOTAGE)

FLEET WHITE: My wife Priscilla and I lived in Boulder since 1994. We were present at the Ramsey home when JonBenét's body was found.

PRISCILLA WHITE: Our family were publicly branded as murderers, torturers of young children, pedophiles, and perjurers.

(END ARCHIVE FOOTAGE)

RICHARDS: You know, they did have reservations. They are afraid and they don't want to see this ever happen again.

EDDIE SCHMIDT: Do you think they understood how committed you really are?

CLEMENTE: Yeah, they're willing to talk to us, but they just don't want to do it on camera. And when we were leaving Fleet took me aside and he said, Jim, I really think we have some really important information that will help you. And I said, of course you do, that's why we're here, and we'll keep coming back here as much as we have to to convince you that this is the right thing to do, because we really feel it is.

RICHARDS: So we need to strategize, we need to plan.

EDDIE SCHMIDT: Okay, well you guys are embedded.

RICHARDS: Our hope here is to try and get what we call community intelligence, to knock on their doors and unlock some of these secrets to try and crack this case wide open. (ON PHONE) I was wondering if I could just speak to you for a couple of minutes. I'm over here in the U.S. reinvestigating the JonBenét Ramsey case.

WOMAN: Well, let me stop you here. It was just a terrible thing that happened. But I don't want to talk to you about it.

WOMAN 2: We'd prefer not to talk about it. Yeah.

RICHARDS: It's incredibly frustrating when you're talking to people and not getting any answers. This is the Ramseys' church. I'm over here because I'm reinvestigating the JonBenét Ramsey case.

UNIDENTIFIED VOICE: We just don't comment on that.

RICHARDS: My name's Laura Richards...and a lot of people have been...if I could just tell you a little bit about who I am – and –

UNIDENTIFIED MALE VOICE: I think it might open a can of worms again. Look, we're just trying to get our life back together.

RICHARDS: You just get a sense that people are fearful to speak out. (ON PHONE, LEAVING MESSAGE) I'd like to really like to try and have a conversation with you so, please could you give me a call back – please give me a call back – many thanks, many thanks, many thanks. I'm getting a bit fed up with this.

CLEMENTE: It's critical for us to talk with people who can give us insight into the Ramseys private world. People who knew them, worked with them, and spent time in their home. When did you start working for the Ramseys?

BRIAN SCOTT ("BRIAN"): It might have been '94. That summer Patsy Ramsey gave me the job, hired me.

CLEMENTE: Really?

BRIAN: One of the things I remember was, she wanted pristine gardens. And I'm thinking to myself, okay. It seemed like a pretty good job, I could do, use my own hours and...

CLEMENTE: So how frequently did you see John?

BRIAN: Not very frequently at all. Once a season, maybe.

CLEMENTE: Did you ever run into the kids?

BRIAN: Yeah. Not Burke so much, but JonBenét would come out and she would often, I don't know, be playing relatively close to where I would be working. One of the biggest things that stands out is when I would be raking the leaves, in the fall.

CLEMENTE: Oh yeah?

BRIAN: I had all the leaves in a pile and she wanted to jump on them. I remember her saying it reminded her of the time she spent with her dad, you know.

CLEMENTE: Oh really?

BRIAN: Yeah.

CLEMENTE: So she didn't mind, you know, getting dirty, or messing up her hair?

BRIAN: No, she didn't mind. She seemed like a normal kid who just likes to play, and misses her father. I remember that.

CLEMENTE: Because everybody's image of her is, sort of dressed and made up to the max.

BRIAN: I don't know too much about pageantry, but I would think it demanded a lot of discipline and you know, focus on just certain talents that she had to hone in and get right. I do remember seeing her practicing the violin.

CLEMENTE: Oh, really?

BRIAN: And Patsy was out talking to me, and then I think she went back and checked in, said Hey you have to keep practicing, you know, don't put that down.

CLEMENTE: Oh really? And with respect to Burke, did he ever come out and play outside? Did you ever see him?

BRIAN: What I remember is he stuck to himself, he seemed a little more introverted. She was more engaging and more outgoing than him.

CLEMENTE: And so your first impression of Patsy – what was she like when you first met her?

BRIAN: Oh, she was very pleasant, very nice.

CLEMENTE: Did she ever come out?

BRIAN: She came out once in a while and we would talk about whatever. One of the things I remember was when they announced the OJ verdict.

(ARCHIVE FOOTAGE)

FOREMAN: We the Jury find the defendant not guilty of the crime of murder.

(END FOOTAGE)

BRIAN: I was at their house.

CLEMENTE: You were outside working on their garden.

BRIAN: Patsy came out and told me that OJ was declared innocent.

CLEMENTE: Really?

JOHNNY COCHRAN: If it doesn't fit, you must acquit.

BRIAN: I just remember, she came out and started talking to me about it.

CLEMENTE: Patsy?

BRIAN: Yeah. She thought OJ got away with murder. She didn't like that one bit. She did say, you can get away with murder in this country.

RICHARDS: Speaking to people who know the family, getting an understanding of who they were, what was going on prior is so important.

CLEMENTE: We're going to go now to see Patsy's friend, she was a photographer.

RICHARDS: She did the family portraits and she seemed to be pretty close with Patsy.

JUDITH PHILLIPS ("JUDITH"): Well, I first met the Ramseys in Atlanta, and we were more social friends.

RICHARDS: Right.

JUDITH: In Boulder we became even closer friends because we were on a softball team together, Moms Gone Bad, of all things – that's the name of our team. We had lots of friends. Lots and lots of friends, from Boulder. They were both really good hosts. You always felt really welcome when you walked through the door. Patsy was really fun to be around. She was a showgirl, so her clothing, her home – she is a girl that never compromised.

CLEMENTE: Did your daughter play with JonBenét?

JUDITH: Even though my daughter was Burke's age, she ended up playing with JonBenét.
(LAUGHS).

RICHARDS: Right.

JUDITH: Cause Burke was kind of, oh – girls, you know. There was one time when my daughter was playing with JonBenét and my daughter inquired about all the awards that were on

display. She goes “what’s that for, JonBenét?” And she goes, oh, “I’m in the pageant system.” But she didn’t make a big deal out of it.

RICHARDS: Right.

JUDITH: And, uh, she said, “but they really belong more to my mom. They’re more my mom’s trophies than they are mine.”

CLEMENTE: Mm-hmm.

JUDITH: I remember one particular Christmas party, that’s the first time JonBenét came down with a beautiful dress –

CLEMENTE: Really?

JUDITH: – and bleached blonde hair. I was shocked and I took Patsy aside and said, “You’re not dying her hair are you?” And she said, “Oh, no, Judith that’s from the summer sun in Charlevoix, Michigan.”

CLEMENTE: You think that was—

JUDITH: Oh, are you kidding?

CLEMENTE: Um, you were there. I’m not –

JUDITH: I was there. It was, “You’re lying to me.”

CLEMENTE: Mm-hmm.

JUDITH: It bothered me that she had to lie to me. Why didn’t she just tell me the truth?

CLEMENTE: Mm. Can you tell us about when you saw Patsy after JonBenét’s death?

JUDITH: She was not the same person that I had ever known. She looked exhausted and she kept repeating over and over again, “Who could’ve killed my baby? Who could’ve done this?”

RICHARDS: Was there any interaction that you had with Patsy or with the family after that?

JUDITH: No. That was it. I was cut off. We were told in, in our circle of friends in Boulder, “Do not talk to reporters. Do not talk to the police.”

CLEMENTE: Told by who?

JUDITH: I was called by one of the friends in the circle of friends.

CLEMENTE: What did that make you think?

JUDITH: I was surprised. My first thought was “If there was anything that I knew that could help with the investigation, I’m not gonna be silent.” I felt a duty to the memory of JonBenét. I loved her very much. You’re gonna make me cry. Um, I opened my doors up to reporters and then talked to the police twice and uh, they just cut me off as a friend. They felt I wo—betrayed them. You know at the time, I, I didn’t understand but in hindsight it’s because I told the—you know, I, I didn’t obey what all the other friends did.

CLEMENTE: How did you feel though when you saw them actually doing the opposite? They went on CNN.

JUDITH: I felt that they were hypocrites. And when Patsy said “Hold your babies close to you, there’s a, a murderer in town,” it frightened my daughter so much that she couldn’t sleep in her own bedroom for several months.

CLEMENTE: What did you think about that?

JUDITH: I thought it was bogus.

CLEMENTE: Really?

JUDITH: Yeah. In fact, Patsy asked a favor of me to go to the mayor.

CLEMENTE: Mm-hmm.

JUDITH: I knew the mayor because I had photographed her. Patsy said, “Please ask for protection for my family.” So I went to the mayor’s office and I said, “Patsy wants protection” and she said “There’s no murderer out there.”

RICHARDS: How does it make you feel now when you think 20 years have passed?

JUDITH: I feel angry.

CLEMENTE: Mm.

JUDITH: I feel angry that that little girl, still, after all these years, has not gotten justice. And I don’t believe she ever will.

(COMMERCIALS)

CLEMENTE: Although the statistics say if a child of that age is killed within their own home, it is most likely a family member that did it, the fact is, the brutality of this particular attack, says the exact opposite. This is a very bizarre dichotomy. It fights itself right from the beginning. Another critically important part of any murder investigation is, understanding how a person was killed.

RICHARDS: So, Ramsey ‘96 JonBenét.

CLEMENTE: Oh wow. Look at this.

RICHARDS: Yeah, the autopsy.

CLEMENTE: ‘Cause of death of this six-year-old female is asphyxia by strangulation, associated with cranial cerebral trauma. During the original autopsy, the medical examiner thought that the cause of death was asphyxiation by strangulation due to the rope tied around her neck. This is the kind of thing we’re gonna have to ask Werner Spitz about –

RICHARDS: Mm-hmm.

CLEMENTE: – because that word “associated with”, it’s very general.

RICHARDS: Yeah.

CLEMENTE: And is it before, is it after, is this –

RICHARDS: Were they both fatal? I mean –

CLEMENTE: Right.

RICHARDS: – you know I guess only Werner can tell us that.

CLEMENTE: We brought Dr. Spitz in. He’s an incredibly experienced forensic pathologist. His experience goes back all the way to the J.F.K. assassination and he was involved in the initial investigation brought in by the Boulder police department.

DR. WERNER SPITZ (“SPITZ”): You know I’ve seen some 60 thousand cases, so if I don’t –

RICHARDS: 60 thousand?

SPITZ: – Yeah – I don’t know everything. But this case, it made an impression on me. The Boulder police department called my office and asked would I agree to come to Boulder. You know as a forensic pathologist, I want to have firsthand information, where is what in the house?

CLEMENTE: I think we all feel the same way. We totally agree.

SPITZ: Exactly. But we did not get permission to get in.

CLEMENTE: Who wouldn’t let you in?

SPITZ: I believe the family. The police had to get permission from them. They told the police “No dice. He’s not coming to this house.” They did not want me in the house. Maybe, may just be, that I would figure something out that nobody else knows.

CLEMENTE: But then you reviewed the autopsy findings and the injuries and the sequencing. Can you tell us a little bit about that?

SPITZ: Well, she had a blow to the head on the right side. The bone underneath that area showed a perfectly rectangular defect. I didn't know at the time what caused this.

CLEMENTE: Okay.

SPITZ: But then I looked at the photographs and saw a three mag flashlight sitting on the kitchen counter.

CLEMENTE: Right.

SPITZ: And uh, I said, "Well I have to check whether that may have been the cause." And so –

CLEMENTE: And did you do experiments to –

SPITZ: I did that, yeah. I'll show you what I did.

CLEMENTE: Okay.

SPITZ: This is what I had an artist draw for me. This is how the flashlight fits to perfection approximately half an inch through the bone.

RICHARDS: So Dr. Spitz, this is the house that you didn't get to go and see. We're now in the kitchen.

CLEMENTE: The phone that she actually made the 911 call.

SPITZ: It's uncanny.

RICHARDS: So a lot of the detail that we have here –

SPITZ: Flashlight.

RICHARDS: – flashlight.

SPITZ: Yeah.

CLEMENTE: You've been thinking about this case for 20 years, right? What does that make you feel?

SPITZ: Well, it makes me feel eerie.

CLEMENTE: Eerie.

SPITZ: I relived this, you know, because this, this answers questions that I had at one time –

CLEMENTE: Really?

SPITZ: – and then never materialized.

RICHARDS: That must feel frustrating for you as well, not being allowed in and —

SPITZ: Oh yeah. It made me wonder what is being put away, hidden?

RICHARDS: Right.

SPITZ: And why?

RICHARDS: Do you believe that she was alive when she was struck on the head?

SPITZ: Oh, yes.

RICHARDS: And she was also alive when she was choked, strangled?

SPITZ: Please understand this, when a very severe injury to the brain occurs, because the heart has its own ability to produce contractions, to cause a false impression of life existing.

CLEMENTE: So she was virtually dead when the garrote was applied. So asphyxiation was not the way she actually passed away.

SPITZ: Yes. That is my advantage as a forensic pathologist. They did not know that so they applied a mechanism of death that at face value that, oh she was strangled. And then of course she has a blow to the head, so which is it? Well, it's very simple when I explain to you that yes, she was strangled to make believe that was the cause of death. She already was brain dead.

CLEMENTE: There's a few more injuries that we need to talk about, the neck injuries and the ligatures because I think this is also kind of really important, the fact that her hands were tied in this way with a slip knot.

CLEMENTE: Was it 15 or 18 inches between?

SPITZ: Fifteen and a half.

CLEMENTE: So this is where the next knot should be? Let me put this around. So you see this? The rope is actually over her sweater. It's not on her wrists.

SPITZ: That's right, she doesn't have any marks.

CLEMENTE: She doesn't have any marks. Could you help me with that?

RICHARDS: Well that's very unusual for it to be over clothing.

CLEMENTE: So if she's not unconscious, why doesn't she just do this?

RICHARDS: Or if she had duct tape on her mouth.

SPITZ: Yeah, but if she's dead...

CLEMENTE: So what does that tell you? This was staging.

SPITZ: You're totally correct.

CLEMENTE: So, let's look at the garrote?

SPITZ: Why does anybody need this contraption? Why do you need the stick?

RICHARDS: Right.

SPITZ: You can just put that around your hand and then do the same thing on the other hand, totally unnecessary. When you break into a house, isn't time of the essence?

RICHARDS: Right.

SPITZ: You want to come in, do your killing and, and leave. So why do you need this?

RICHARDS: It just complicates things. You spend more time there –

SPITZ: It's leaves evidence around.

RICHARDS: – and it leaves evidence.

SPITZ: You don't need that.

RICHARDS: Yeah and the knot's interesting because it does look to me like it's quite complicated.

SPITZ: It is. Was somebody who knows how to make knots.

RICHARDS: Right.

SPITZ: So this is a common knot –

RICHARDS: Right.

SPITZ: – from a sailor. The way I looked upon it is, this by itself without anything else would've told me this is a make believe type scene. Why do you need any garrote when a hand of an adult can squeeze a child like that?

CLEMENTE: Right. Okay, so the ultimate conclusion is, the garrote isn't what actually caused the death.

SPITZ: Correct.

CLEMENTE: The blow to the head did.

SPITZ: Correct.

LEE: I just want to play a devil's advocate.

CLEMENTE: Yeah sure, that's what we're here for, to discuss it.

LEE: We should find tissue and blood on the flashlight and also should have broken hairs. This area we should have trace evidence, blood, hair, tissue. That's why I suggest them to do some DNA and try to find tissue and blood. Apparently they did not find anything.

SPITZ: The skin is extremely elastic –

LEE: Yeah.

SPITZ: – so it would go with the impact and not hold on to the impact.

CLEMENTE: So the blow to her head was strong enough to break her skull, but not strong enough to break the skin?

SPITZ: The skull may break but the skin may not.

CLEMENTE: Right.

SPITZ: I have seen that so many times.

CLEMENTE: Right, so then that can explain why this was not a bloody crime scene.

SPITZ: There would not have been any blood –

CLEMENTE: Right.

RICHARDS: Right.

SPITZ: – not from that, anyway.

LEE: It could be the flashlight. I'm not saying it's not the flashlight, but anything similar to that shape, that width, with force can cause that, so I agree with you totally. The cause of the death is brain injury by blunt object.

CLEMENTE: We need to determine whether or not that flashlight could've made the fracture in the skull of JonBenét Ramsey and whether or not it took a tremendous amount of force to create that kind of fracture.

LEE: We don't have the complete picture.

(COMMERCIALS)

(VIEWER DISCRETION NOTICE)

WARNING: This program contains graphic images that some viewers may find disturbing.
VIEWER DISCRETION IS ADVISED.

(EXCERPTS FROM VIDEOTAPE)

REPORTER: A vital piece of missing evidence has reportedly been found in the JonBenét Ramsey murder case. Time Magazine is reporting police in Boulder, Colorado have found a flashlight that may have been used in JonBenét's murder.

(END OF EXCERPTS)

FITZGERALD: I'd like to think if I was one of the first investigators on the scene, all of a sudden there's a big 15 inch or so Maglite in the middle, I'd at least wanna say, "Hey who does that belong to?"

RICHARDS: This flashlight was never claimed, I believe, by anyone living at the address or by the police.

KOLAR: None of the officers claimed it was theirs. It was my understanding that it was a gift given to them and it was kept in the kitchen drawer.

CLEMENTE: And that is presumptively how it got in the house. The reason why we want to do impact test is to determine whether or not that flashlight could've made the fracture in the skull of JonBenét Ramsey and whether or not it took a tremendous amount of force to create that kind of fracture.

SPITZ: On the right side of the head there was an impact. The flashlight hit in the back of the head somewhere around on the right side, but towards the back where I'm showing her with my finder.

RICHARDS: Right.

SPITZ: The brain was bruised along the entire right side. Where the brain was bruised, energy waves went through the entire brain from the right side all over the – this is called a concussive impact that caused a concussion to the brain, in this case, a fatal concussion. The fracture to the skull preserved the appearance, the dimensions of the flashlight that was on the counter in the kitchen. Forensic pathologists always look for patterns because a pattern opens the door to what type of instruments were used.

CLEMENTE: Mm hm.

SPITZ: But one thing is important, there was not a drop of blood on the outside. Why was there not a drop of blood? Because there is an elasticity to the skin, so this is all blunt. Nothing here will cut the skin. When the flashlight came down if the flashlight went in for about half an inch, the skin was pushed in, broke the bone and did not cause any damage to the skin.

RICHARDS: Is there any way we can replicate that?

SPITZ: Remember that the human skull is an involved structure where's there's a uh solid bone, very thin, in a six year old maybe a sixteenth of an inch in thickness. Then there is a layer of spongy bone marrow, then there is another layer, so.

CLEMENTE: Mm hm, but we can do a representation of that.

SPITZ: Okay, you want to do it?

CLEMENTE: Sure, I'll try it. Okay.

(HITS BOARD)

CLEMENTE: So that's just like, like this diagram that you have?

SPITZ: That's exactly right, like that. See the main thing about this one is, the fact that it's totally rectangular. The head of the flashlight easily falls into that defect leaving no space. I've seen a lot of different kinds of injuries and this instrument here can be an amazing weapon.

RICHARDS: So would it take tremendous strength to do this?

SPITZ: No because this is a heavy object with three batteries in it. The skull of a six year old, we call them "eggshell skulls".

CLEMENTE: Got it.

RICHARDS: So you don't need much force – I mean I think that's just –

SPITZ: You don't need such huge amount of force. No that is a mistake. It could be an adult. It could be a child that did it.

(EXCERPT FROM DEATH OF INNOCENCE PG. 363)

The tremendous blow to JonBenét's head would have required the strength of a man.
– John & Patsy Ramsey.

(END OF EXCERPT)

CLEMENTE: Okay, so this would be exactly how tall JonBenét was...

RICHARDS: Right.

CLEMENTE: ...and...

RICHARDS: Three foot eleven.

SPITZ: Yes.

RICHARDS: So Dr. Spitz, we have a skull, but with pig skin over the top of it to act sort of like the scalp to see what it looks like if somebody hits it with a flashlight. We're trying to sort of simulate this –

SPITZ: I know.

RICHARDS: – as closely as we can as a sort of a scientific experiment, but this is quite hard to do, but we do need to do this just to see it, what it looks like.

SPITZ: Okay.

CLEMENTE: Because there's so much controversy about whether or not a child is actually capable of creating the defect in the skull. We thought it would be good if we actually bought in a child who is about ten years old to actually do the demonstration with him.

SPITZ: Sure.

RICHARDS: We're going to ask you to strike the skull. Where, where do you think Dr. Spitz, around about here?

SPITZ: Okay, do it here.

RICHARDS: Around about there, okay.

CLEMENTE: Are you ready.

BOY: Yep.

RICHARDS: Okay.

(BOY HITS DUMMY SKULL WEARING BLONDE WIG)

CLEMENTE: We'll just take it off here. We're just gonna peel this back.

RICHARDS: Oh wow.

CLEMENTE: And you can see how it's broken. It's very similar to the type of break that we saw on JonBenét.

SPITZ: The impact of the demonstration was a convincing confirmation of the association of the flashlight with that injury in the head.

LEE: For any injury, it's velocity. Velocity squared times the mass give you the energy. This is a lot of energy.

SPITZ: There was in my view, no doubt that this flashlight or one exactly like it caused that injury.

RICHARDS: And it didn't take tremendous strength to do that.

SPITZ: It did not.

(COMMERCIALS)

PATSY: There is a killer on the loose –

JOHN: Absolutely.

PATSY: – I will tell my friends to keep, keep you babies close to you.

RICHARDS: Within days of JonBenét's body being found the Ramseys speak to CNN before they've even given interviews to the Boulder Police department.

PATSY: There's someone out there.

CLEMENTE: So we have the first interview that the Ramseys did on January 1st on CNN.

RICHARDS: It's probably one of the most important because it was right at the start within days after their daughter being found murdered and they invite the media in and I think it's really interesting what they actually said at that press conference as well. It's not just about them being proactive. It's the content of what they said.

CLEMENTE: Right and they have not sat down with the police department to do separate interviews in order to rule them out as suspects in this crime, yet they're sitting down with CNN. We'd like to get your insights into what their behavior tells you and the words that are coming out of their mouths. With the help of Jim Fitzgerald doing forensic linguistic analysis and Stan Burke doing statement analysis we're gonna take a look at media appearances that the Ramseys have made over the years in the same way we deconstructed the ransom letter.

REPORTER: Why did you decide you wanted to talk now?

PATSY: We have to find out who did this.

JOHN: Not because we're angry, but because we've got to go on.

RICHARDS: Someone's breaking into your home, someone has killed and abused your child.

STANLEY: You're gonna be angry and you're gonna want to find out who did it and you want to see punishment. That's the natural response.

RICHARDS: Fitz and Stan are incredibly unique in their expertise. Jim Fitzgerald analyzes and dissects language choice. Stan Burke looks at things like the content of her statements and how much of it is potentially misleading.

REPORTER: Are you fully convinced that your daughter was kidnapped by some outsiders outside your family or circle of friends?

JOHN: Yes.

CLEMENTE: Shaking her head “no.” Shaking her head “no,” and then when John says “yes” she changes her head to a nod up and down.

STANLEY: What I find interesting here, Jim, is he said “yes.” That’s an answer to that question.

REPORTER: Are you fully convinced that your daughter was kidnapped?

JOHN: Yes.

STANLEY: Do you see anything else?

JOHN: It’s just so hard to know what, but we are, our family is a loving family, it’s a gentle family.

STANLEY: Why throw that in there? It’s not necessary; you have your answer “yes.”

CLEMENTE: Right.

STANLEY: But he wants to make sure the listener or the viewer hears we are a loving and gentle family. “Gentle,” that’s the message that’s being sent here. “For our grief to resolve itself we now have to find out why this happened.”

CLEMENTE: I mean why is it the “why” that’s important?

RICHARDS: It’s a very odd turn of phrase isn’t it?

JOHN: We cannot go on until we know why.

FITZGERALD.: This is probably a very honest question John and Patsy Ramsey are asking themselves. It’s very likely they know who did it and they may still be trying to figure out “why did this happen?”

RICHARDS: It’s like an unconscious utterance in a way.

FITZGERALD: Absolutely.

STANLEY: It’s almost like he jumped past that conclusion as to who did it, and now he wants to know –

JOHN: Until we know why.

STANLEY: – Why.

PATSY: There is a killer on the loose.

JOHN: Absolutely.

PATSY: I don't know who it is, I don't know if it's a he or a she, but if I were a resident of Boulder I would tell my friends to keep, keep your babies close to you. There's someone out there.

CLEMENTE: Well let me ask you this, John Ramsey and Patsy Ramsey got on national TV –

ELLIOT ZARET (“ZARET”): Right.

CLEMENTE: Was there anything that they said that struck you as odd?

ZARET: The whole thing was odd at that time and –

CLEMENTE: How did that affect the community here?

ZARET: I don't think people believed her.

CLEMENTE: What did you know about the Ramseys as a family? What was known in the community about them at that point?

ZARET: Very little. It's not like O.J. Simpson. They weren't famous people. Yeah. They had money, he has a successful company but they weren't nationally famous, so there was no compelling reason why this should've become the big sensation that it was. But it was the week after Christmas before New Year's – there's no news. It's a very quiet time for national news and that was when the 24 hour news cycle was still pretty young.

CLEMENTE: Mm-hmm.

ZARET: The idea of how you fill in this 24 hour gap when nothing's happening for a whole week drove, I think, a lot of what happened next which is there were these videos of this little girl in the pageants with the makeup on dancing almost seductively in a way that just seemed to the regional morays to be wrong and sexual in a way that a six-year-old shouldn't be. Growing up in the northeast pageants were not common. In the deep south, in Georgia where they're from, that's a normal thing for little girls to do.

RICHARDS: It sounds like it was a media circus very early on.

ZARET: Within days.

REPORTER: The murder of JonBenét Ramsey. Police should be looking for suspects. Worldwide media frenzy. JonBene's body was found here.

ZARET: It was every national newspaper, national newsmagazine. Three networks and every tabloid.

RICHARDS: I don't know – I was thinking about sort of with post O.J. I mean that context at the time is probably quite important in this particular case.

ZARET: Absolutely. I thought at the time that that had an influence potentially on what the police and district attorney were doing; especially, I think, more the D.A. But they didn't want to fall into some of the same pitfalls that the prosecutors in Los Angeles had. Being burned in court because the police didn't dot all the I's and cross the T's.

CLEMENTE: Mm-hmm.

REPORTER: Four months after their daughter's murder, the parents of JonBenét Ramsey have submitted to interviews with police. Patricia and Jon Ramsey met separately with Boulder Detectives for more than eight hours. JonBenét's body was discovered in the family home December 26th – but the Ramsey's had not agreed to formal interviews with police until now.

JOHN: We've been anxious to do this for some time and I can tell you, um, why it's taken us so long. We felt from the beginning an obligation to talk with the Boulder Authorities, let them do their formal interrogation of Patsy and I. Uh, that is, I think as you know, been successfully accomplished yesterday

STANLEY: Stop right there. Why is that such an accomplishment to go and talk to the police about the possible resolution of your daughter's homicide? What –

FITZGERALD: A hundred and twenty days after it happened.

STANLEY: Right. Why is that a successful accomplishment.

JOHN: For those of you who may want to ask, let me address very directly, I did not kill my daughter JonBenét. JonBenét and I had a very close relationship. I will miss her dearly for the rest of my life.

PATSY: I'm appalled that anyone would think that John or I would be involved in such a hideous, heinous crime. But, let me assure you, that I did not kill JonBenét. I did not have anything to do with it. I love that child with my whole of my heart and soul.

FITZGERALD: This last 30 to 60 second snippet we just watched, they are very convincing, quite frankly to me in those basic declarative statements.

PATSY: I did not kill JonBenét.

JOHN: I did not kill my daughter JonBenét.

FITZGERALD: I haven't seen John or Patsy be as adamant about any statement than these two.

RICHARDS: And they do come across, I have to say very well, you know in terms of the, the posturing in a way they present themselves.

REPORTER: What does it do to you to hear that somebody close to you may have done this to your daughter?

JOHN: It, as a, as a, um, person I think it makes you very um, much more guarded, um. We, we um, felt we lived in a safe community, we still do.

STANLEY: Compare this statement that he's making right now hemming and hawing, umming and awing, to what he said about four minutes ago. "I did not kill my daughter." Patsy, "I didn't murder my daughter." Now all of a sudden he's not even answering the question and, and the non sequiturs he's throwing out there he can't even put in cogent sentences. And what I find in situations such as this it's not just important what is said, it can also be just as important, if not more so, what is not said.

(EXCERPTS FROM TOMORROW'S EPISODE - OMMITTED)

(STATEMENT)

The killing of JonBenét Ramsey is a crime that, to this day, remains unsolved. The opinions and conclusions of the investigators who appear on this program about how it may have occurred represent just some of the number of possible scenarios. John Ramsey and Burke Ramsey have denied any involvement in the crime including in recent televised interviews. We encourage viewers to reach their own conclusions.

(END OF EPISODE)

(SHOW CREDITS – OMMITTED)

EPISODE TWO

September 19, 2016

(VIEWER DISCRETION DISCLAIMER)

CLEMENTE: Previously on The Case Of: JonBenét Ramsey.

9-1-1 OPERATOR: 9-1-1 emergency?

PATSY: Uh, we have a kidnapping.

CLEMENTE: On December 26th, 1996, at 5:52 AM, six-year-old JonBenét Ramsey was reported kidnapped by her mother. Later that day, she was found dead in her home. I'm Jim Clemente. I'm a retired FBI profiler. I'm an expert in the areas of child sex crimes, child abductions and child homicides.

RICHARDS: My name's Laura Richards. I'm a criminal behavioral analyst and I've been trained by New Scotland Yard and the FBI. I'm putting together this elite and renowned team. This has never been done before.

CLEMENTE: What we need to do is a complete reinvestigation, starting right from scratch.

9-1-1 OPERATOR: What's going on there ma'am?

PATSY: We have a kidnapping. Hurry, please.

9-1-1 OPERATOR: Okay, what's your name? Are you Pat –

PATSY: Patsy Ramsey, I'm the mother. Oh my, god!

ARCHULETTA: To me it was suspicious. It sounded like there were two voices in the room, maybe three.

CLEMENTE: We got the tape enhanced.

AUDIO ENGINEER: We could try a little noise reduction on this.

DISPATCHER: Patsy? Patsy?

UNIDENTIFIED VOICE: (INAUDIBLE).

JOHN: We're not speaking to you.

CLEMENTE: I think that's John Ramsey's voice.

JOHN: JonBenét and I had a very close relationship. We're not speaking to you.

STANLEY: You didn't testify in the grand jury?

ARCHULETTA: Nobody asked me.

CLEMENTE: Although the 911 call actually initiated this investigation, when the police arrived, the first piece of physical evidence was that ransom note.

RICHARDS: "We're a group of individuals that represent a small foreign faction."

FITZGERALD: From historical perspective, this is uncharacteristic of any kind of kidnapping letter I've ever seen.

STANLEY: Out of 370 words, 76% is extraneous.

CLEMENTE: This whole thing could've been done in four lines. They're trying to sell this now. It's a sales job.

FITZGERALD: So I would say we have someone, an adult, 30 or older. When someone puts a statement in like that, it turns out to be a female.

WALKER: So it was my belief that the ransom note was a red herring. The philosophy that was kind of laid out for the police department, that day, was we have to treat them with kid gloves.

FEMALE REPORTER: Police in Boulder, Colorado have found a flashlight that may have been used in JonBenét's murder.

SPITZ: The flashlight fits to perfection.

MALE INTERVIEWER: Are you fully convinced that your daughter was kidnapped? Yes.

FITZGERALD: Shaking her head, "No."

CLEMENTE: And then —

FITZGERALD: It's not just important what is said. It can also be just as important if not more so what is not said.

RICHARDS: So we're all here almost 20 years later and we're on a fact-finding mission. This is a reinvestigation and of course we've got some of the best brains, not just in the US, in the world, around the table trying to understand, you know, what went on in the house that night. This is a six-year-old girl who lost her life.

CLEMENTE: Do you believe that pieces of evidence point us outside the house to a kidnapper or somebody who's trying to make people believe they're a kidnapper or inside the house towards the family?

RICHARDS: On the one hand, John and Patsy were suspects, but then on the other, we have all the speculation around other possible suspects; very mixed motive, very different things.

CLEMENTE: We need to keep an open mind as to whether this is an intentional murder or whether there's something else that was made to look like an intentional murder.

RICHARDS: So let's discuss the potential for the intruder theory.

CLEMENTE: So the intruder theory basically is that somebody was able to surveil the family and find a time when they weren't in the house and get into the house and then when everybody else went to sleep, they write a ransom letter and then they took JonBenét, possibly used a stun gun to subdue her and then took her down to the basement, tied her up, killed her, but still left a ransom note.

LOU SMIT ("SMIT"): The person who killed JonBenét, sexually assaulted JonBenét. He did stun gun her. He did build a specialized garrote to kill her. Why he did all these things, I don't know, but JonBenét died a very brutal death in the furthest corner of the basement of that house.

CLEMENTE: In 2001, Lou Smit went on national television and this, for a lot of people, cemented the validity of the intruder theory.

RICHARDS: So one of the key issues with this case is the theory of an intruder coming through the basement. That was Lou Smit's theory, right?

KOLAR: Yes. Lou Smit, he was a Colorado Springs homicide investigator.

CLEMENTE: And he was hired by?

KOLAR: By Alex Hunter.

CLEMENTE: The district attorney at the time.

KOLAR: He spent about a week looking at, at the crime scene photos and such and came up with the theory of the, of the intruder.

RICHARDS: He was a good and respected homicide detective—

KOLAR: Oh, absolutely.

RICHARDS: a—in, in terms of, you know, he's getting results and clear (UNINTELLIGIBLE).

KOLAR: Absolutely.

RICHARDS: And because there was no history of abuse, no domestic violence, child abuse, in the house, ergo, he thought it must be an intruder.

CLEMENTE: Yeah. Why does it only have to be those two things?

RICHARDS: Two theories.

CLEMENTE: Parents can be involved in another way other than murder. It's not one or the other. There's a bunch of shades in-between and we have to look at every one of those. That's the responsibility of an investigator.

KOLAR: And, and that's something that seemed to escape a lot of the people who thought intruders were involved.

CLEMENTE: So why don't we look at the crime scene video? This is the stairway going down towards the basement.

RICHARDS: The children played down there.

CLEMENTE: Mm-hmm.

RICHARDS: And that's the window that he's saying that somebody came through and intended to go back out, right?

KOLAR: Right.

RICHARDS: So you can see that – I mean it doesn't open fully.

KOLAR: And there's, there's some type of a chase in the ceiling there.

RICHARDS: You would have to have your body over this direction.

CLEMENTE: Which window was actually broken?

KOLAR: It's the middle window that's open right there.

CLEMENTE: John did that to get into the house because on a number of occasions he'd locked himself out. But it was clearly before the death of JonBenét.

KOLAR: Oh, oh exactly, it was earlier that year. The pane had just never been replaced. The um, cobwebs in that corner, there you go.

CLEMENTE: Oh wow, okay, stop. Here you can see that all this dust and debris is already caught in it. It's weathered. It's got materials in it. It's very clear that this is not a brand new web.

KOLAR: That would not have survived someone going through that window.

SMIT: Notice Katie, too, that this is an area that's real hidden from view.

CLEMENTE: So this is Lou Smit opening the window.

KOLAR: So look, his entire hips fill that window.

RICHARDS: Mm-hmm.

CLEMENTE: Right. Go back where he's in the window sill and freeze it, please. When he's coming through, if there was a cobweb going across here, he would've knocked it out.

RICHARDS: And he fills the entire space.

CLEMENTE: And look where his hand is. His hand is holding the corner there, exactly where that spider web was.

KOLAR: Uh, I can imagine just the type of maneuvering you would have to make to get through climbing out and what type of destruction would've taken place with that.

CLEMENTE: Well, we'll try to do that and we'll see what happens.

RICHARDS: We certainly tried to get access to the house, but a lot of the layout had changed. So it made much more sense to actually recreate the house. Given that so much of the theories are speculative, we think it's so important to test out each hypothesis to establish whether it is even possible.

CLEMENTE: Laura, are you up there?

RICHARDS: Yep, I'm here, Jim.

CLEMENTE: How's your view from up there? How well can you see into this area?

RICHARDS: So not particularly well, and if we also think that this is a rod iron grate on top with some foliage as well, you're not really gonna get much of a vantage point –

CLEMENTE: So you can't –

RICHARDS: – to know what you're going into.

CLEMENTE: And you know what? This happened at night, so we're gonna have to cut the lights to simulate that.

RICHARDS: Right. So he'd have to lift up the rod iron grate.

CLEMENTE: And lean it against the house.

RICHARDS: Yep. So all the foliage would've been disturbed.

CLEMENTE: Right. How tight of a space is that there?

RICHARDS: Well, coming into it, I mean it feels pretty small and of course there's probably easier ways of getting in. So this doesn't open a huge amount.

CLEMENTE: Right.

RICHARDS: It's a tricky entry point. But there is a space.

CLEMENTE: All right, so, it's possible.

RICHARDS: To actually come through here, your body does have to come to the side because I don't have movement here. I mean I can hold on to here, but I'm gonna have to drop my body through.

CLEMENTE: Ah, all right. Cobwebs here, and some of the debris –

RICHARDS: Would be on my – the soles of my shoes as I'm walking through. In the crime scene video, this was completely intact and of course here's a photo showing that it was. And I was trying to be careful, but I'm not sure if the intruder or intruders, if they were coming through would really be thinking, "Hang on, there's a cobweb there. I must leave that intact."

CLEMENTE: Right.

RICHARDS: Particularly when so many other things were left at the crime scene.

CLEMENTE: The whole theory Lou Smit espouses is that this suitcase was left here in order for the intruder or intruders to get out through this window. You gotta figure out a way to get out of there and not further disturb what's left of these spider webs.

RICHARDS: Right. So I'm gonna give this a go.

CLEMENTE: You've completely wiped out that whole corner of spider webs.

RICHARDS: Right.

CLEMENTE: I mean it's just completely gone now. And look at the disturbance that you've made. This would've been very obvious to the crime scene investigators, but they did find the web here and they didn't find that disturbance.

RICHARDS: Right. So it makes no sense.

(COMMERCIALS)

RICHARDS: Certainly over the last few months, we've heard about all the theories that this was someone outside the family, an intruder, coming through the basement, who assaulted her sexually.

CLEMENTE: It says in the autopsy that there was some signs of this. Dr. Spitz, you reviewed the autopsy findings and the injuries and the sequencing. Can you tell us a little bit about that?

SPITZ: An autopsy technician brought for me a microscopic slide that was from the genital tract of this young lady –

CLEMENTE: Mm-hmm.

SPITZ: – uh, JonBenét.

CLEMENTE: Okay.

SPITZ: And I looked at that in the microscope. The amount of damage is almost nonexistent. There is a few fibers of wood in this microscopic slide.

LEE: Really look at that size, it's microscopic.

SPITZ: You probably wouldn't even have seen with the naked eye.

CLEMENTE: I think there's two possibilities. One is that that piece of wood was actually inserted there and the other is that it's secondary transfer.

LEE: A secondary transfer could be anything even during transfer the body, because don't forget the body had been moved up then moved quite a few times –

CLEMENTE: Right.

LEE: – in different locations, then the blanket was put on, so many manipulations at the scene.

KOLAR: But what would account for the blood in her underwear?

LEE: Underwear was only spot, could be from any other transfer. It's really no sexual assault here.

SPITZ: No. This finding is not indicative of a sexual assault.

RICHARDS: They're looking for the wrong type of person if this was not –

LEE: Exactly.

RICHARDS: – a sexually motivated crime, which we believe that it was not.

LEE: Mm-hmm.

MALE REPORTER: Police in Boulder, Colorado are reportedly investigating some new suspects.

MALE NEWS ANCHOR: Sources close to the case say the suspect had lived in Boulder.

FEMALE REPORTER: Investigators moved in John Mark Karr.

RICHARDS: Certainly JonBenét being in the beauty pageant circuit and the pictures that were seen of her, made up, could have you believe that this was a sexually motivated crime and many people bought into that.

CLEMENTE: What about the other injuries, the two marks on JonBenét's lower back?

SPITZ: The two marks could have been from a stun gun.

RICHARDS: The stun gun played a very key part in Lou Smit's theory.

CLEMENTE: Lou Smit suggested that a stun gun, possibly an air taser, was used to subdue JonBenét. We're gonna actually do a demonstration with a stun gun to try to determine if it leaves marks that are consistent with this or not consistent at all.

KOLAR: This is the sergeant with my department who's volunteered to be tased today. Um, we've all been tased previously during our law enforcement training.

CLEMENTE: We appreciate you being a test subject for us and we're gonna take this very seriously. We have medical personnel standing by in case there's any problem.

KOLAR: Jay, you get up on the pad here and face the other direction.

CLEMENTE: If the same amount of voltage goes through an adult male, or a forty-five pound six year old child, would the effect be magnified on a small person versus a large —

SPITZ: Sure, sure. It's magnified.

KOLAR: When you are ready you can say ready, but look that way.

JAY: I'm ready.

KOLAR: So in the long enforcement setting we're usually are indicating "Taser, taser!"

JAY: Ah! I'm okay.

CLEMENTE: How did that make you feel?

JAY: Adrenaline rush. Hard to stand still right now.

CLEMENTE: Are you subdued at all?

JAY: No, I just wanted to get away from it.

CLEMENTE: Would you mind if we looked at your back?

RICHARDS: Yeah, you can see the two marks now quite clearly.

SPITZ: This looks to me like an irritation.

RICHARDS: It's a lot wider than what I thought it would be. So it projects out.

CLEMENTE: Jay, generally, how much to you weigh?

JAY: 215.

CLEMENTE: Okay, 215 pounds. That's like almost five times what JonBenét Ramsey weighed. What do you think the experience would have been like for a 6 year old girl who only weighed 45 pounds?

JAY: I think especially if you were asleep when that happened, it would be fear and you know, screaming and trying to get away from it.

CLEMENTE: The whole theory was that it would subdue her, or make her unconscious.

RICHARDS: It does the actual opposite. It just doesn't make any sense. I mean, do we want to try a second round?

CLEMENTE: Well I think that's –

RICHARDS: Depends on how Jay's feeling, but we've obviously, that particular one we did over your clothing.

CLEMENTE: When you're ready, Jay, we'll –

KOLAR: Taser, taser.

JAY: Oww! Oh, God!

RICHARDS: That was even more violent.

CLEMENTE: So how does it feel?

JAY: This soon afterwards, I just feel everything. I mean, my heart's still slowing down.

RICHARDS: Does it make you feel energized, or – ?

JAY: Yes.

RICHARDS: It does.

CLEMENTE: They don't look anything like that.

SPITZ: If this were done to this kid, you would have a scream from this kid that would have goes through the entire building. Everybody in that house would have heard it.

(COMMERCIALS)

(EXCEPTS FROM NEWS FOOTAGE)

NEWSCASTER: The investigation of JonBenét Ramsey's murder is focused on her parents, but the boulder district attorney says no more. New DNA evidence clears the Ramsey family. In a letter she writes, "To the extent that we may have contributed in any way to the public perception that you might have been involved in this crime, I am deeply sorry."

(END OF EXCERPTS)

CLEMENTE: DNA technology has evolved significantly since 1996. Today trace DNA, or what some people call touch DNA, can actually be found in multiple situations and you have to actually understand what is the significance in any particular case. Since twenty years ago, DNA has gone from the science where we needed a lot of material in order to find something –

LEE: The first generation DNA.

CLEMENTE: Right. But now we only need one or two cells.

RICHARDS: Significantly, there is a foreign DNA profile found in JonBenét's underwear. Due to this many people believe this DNA profile one day will match to the killer.

LEE: The panty, here's some foreign DNA was found but not to any family members. That DNA maybe has no forensic value, it just has some innocent explanation got there. It's not a true piece of physical evidence to link somebody or to exonerate somebody. Come to my Institute of Forensic Science Center laboratory. Should test again for DNA. That can shed some light on the whole case.

(EXCERPTS FROM NEWS FOOTAGE)

NEWSCASTERS: DNA evidence clears the Ramsey family. DNA found in JonBenét's underwear has strong evidence of an intruder. Police should be looking for suspects outside of the Ramsey family.

(END OF EXCERPTS)

CLEMENTE: The DNA that was found on her panties and in her underwear tested against hundreds of people, and it hasn't matched any of them. What does that tell you about the circumstances of this?

LEE: Many times DNA not prove somebody guilty or innocent. It's not. Where the DNA was from, how that was transferred. You have to put all the pieces together.

CLEMENTE: Right.

LEE: Like a puzzle. Any reconstruction or scientific examination of the case will have to go through that rigorous testing.

CLEMENTE: The flashlight was found in the kitchen. The garrote, in the knots. The clothing. All of those things could be re-tested today, and I believe that more evidence would be found. These are not the actual items of evidence. We are doing representative tests on these and what you can find, how you find it, how you collect the evidence, and what it tells you.

SPITZ: A blow to the head on the right side – the flashlight fits to perfection.

LEE: Flashlight and batteries.

CLEMENTE: So should I take off my gloves and see what I leave on there?

LEE: Exactly.

CLEMENTE: When it was recovered, this flashlight didn't have any prints on it at all. Seems like any time somebody would push this button you'd leave a pretty good thumbprint there, but let's just try it. So what I'm going to do is I'm going to open this up, and I'm going to pick up these batteries and I'm gonna put them in and just handle them like I normally would.

LEE: Let's collect that.

CLEMENTE: So you're trying to get samples from all the areas.

LEE: Battery surface actually is excellent for fingerprints.

CLEMENTE: And they didn't find any fingerprints on the battery surfaces. That's unusual, because once they're put into the cylinder here, they're fairly protected, and you would think that any fingerprints would stay on them. It's possible somebody used gloves, wiped down the outside of this, and then wiped down the batteries and then put them back in.

RICHARDS: (UNINTELLIGIBLE) the flashlight. Did the family claim it?

CLEMENTE: There was a gift, of a flashlight given by John Andrew, John's son from the first marriage that was at least described in the same way.

LEE: So it's so crucial to establish this is from the home, or somebody else brought that. We should check DNA.

CLEMENTE: Right.

LEE: Not only outside. Also the battery.

CLEMENTE: On the original garrote we know there may be on the part of the knot that is tied up, there may be DNA in there that we can't get access to if the knot is never untied. It seems to be pretty strong, we've got to pull it tight.

LEE: If we get the real evidence, we can get the DNA from this area.

CLEMENTE: So these are packages that you bought, you purchased from different stores?

RICHARDS: Yeah.

LEE: The principle of this is to find out a new panty, whether or not we can find foreign DNA.

CLEMENTE: Right.

LEE: What we do, we make a microscopic examination, look at any indication and body fluid. So this has just come out of the package, nobody touched this package?

RICHARDS: No.

DR. LEE: Try to see any material, can you see that?

RICHARDS: Mhm.

CLEMENTE: Yeah.

LEE: Can you see that two dot? That even could be a blood stamp, too. DNA found on the panty, not necessarily the suspect deposited.

RICHARDS: Right.

LEE: Because this is a new panty, we know nobody wear it. So we just collect a sample. If we have DNA, then that DNA has to be during the manufacture process.

CLEMENTE: Right. Certainly if somebody packaged that in Thailand and sent it over here and left their DNA on it, they had nothing to do with this crime, they weren't even in this country.

LEE: That's a possibility. We collect all this evidence, then we're going to analyze. Once we get the results, I'm going to see you in Colorado, maybe answer some of the questions, whether or not this transferred DNA can be explained.

CLEMENTE: Dr. Lee, how are you doing?

LEE: We got some results.

CLEMENTE: Oh, really? That's good to hear. These are not the actual items of evidence, but we wanted to see what evidence you could get off the flashlight, the garrote, and panties.

LEE: So the first is the garrote.

CLEMENTE: The part of the knot that is tied up, there may be DNA in there.

LEE: That shows XY, that's a male. It's you, Jim.

CLEMENTE: Okay.

LEE: In addition, all these markers.

CLEMENTE: Wow.

RICHARDS: That's fascinating.

LEE: Now we'll look at the flashlight. The battery gave results.

RICHARDS: And now would you have seen this back in 1996 or is this all now, about technology advancing?

LEE: At that time, for some reason they only did four markers. But here we did sixteen markers.

CLEMENTE: That's a very strong sample then.

LEE: Very strong sample.

CLEMENTE: The DNA in the new technology is sensitive enough. Easily detect. Some of the samples clearly match one of us, or a mixture. And some, for example, the panties, did not match any of us because we did not touch. New, never worn before but had DNA on them.

CLEMENTE: The new panties —

LEE: The new panties — just random package — remember we opened it up?

CLEMENTE: Yes.

LEE: We all wear the gloves, so nobody touched the panty, and the panty had DNA.

CLEMENTE: Right.

LEE: Which indicative that DNA was left on during the manufacture process, when a worker handled the panty. And more likely a female because we found an X chromosome.

CLEMENTE: So a female worker either sewed them together or packaged them, and left transferred DNA on there. What the district attorney at the time, Mary Lacy said, was we do not consider your immediate family including you, your wife Patsy, and your son Burke to be under any suspicion in the commission of this crime.

RICHARDS: She says, unexplained DNA on the victim of a crime is powerful evidence. The match of male DNA on two separate items of clothing worn by the victim at the time of the murder makes it clear to us that an unknown male handled these items.

CLEMENTE: Dr. Lee, isn't it true that DNA can transfer from one garment that's worn on top of another garment? That just the friction pulling it on, wearing it, moving back and forth can transfer.

LEE: There are some studies even say, send a shirt to laundry sometimes can have a transfer come back.

CLEMENTE: It seems like District Attorney Lacey should not have exonerated anybody based on just transferred DNA.

LEE: I'm not a lawyer, so I don't know. I only look at the scientific evidence.

CLEMENTE: Got it.

LEE: DNA recovered from the case sample probably should be ignored. The DNA on the garrote is more important, the note, the pen. If they still have the flashlight, it's not too late.

RICHARDS: We really want to get the Boulder Police Department to work with you to re-examine everything.

CLEMENTE: I think they have to take your recommendations and re-test with newer technology, with more reliable DNA tests, all the evidence that they have. DNA is reliable evidence if you interpret it properly.

LEE: We can all look at it, and once we get the result we should let the evidence speak for itself.

STANLEY: You know from looking at everything that we've discussed, going back to the very basics, someone has died inside this house, okay. How did it happen and who's responsible for it?

CLEMENTE: When we put it all together, is there anybody here that has any opinion about whether or not this was a staged crime scene?

RICHARDS: (UNINTELLIGIBLE)

FITZGERALD: It is not a foreign faction who committed this crime.

CLEMENTE: All right, but what are the circumstance under which people stage crime scenes?

RICHARDS: Attention to be focused elsewhere.

CLEMENTE: Yeah, to push the attention somewhere, to redesignate what happened as something other than it was...

RICHARDS: Something else...

CLEMENTE: ...or cover-up to try to protect. Protect themselves. Protect somebody else.

FITZGERALD: To me this crime happened within the four walls of that home.

SPITZ: Yes, I believe this is an inside of the house killing.

LEE: So I think you can eliminate the outside intruder hypothesis. So more likely it's cover-up something. What to cover-up?

(COMMERCIALS)

GRETCHEN SMITH (ON THE PHONE): Hello.

CLEMENTE: Hello Gretchen, it's Jim Clemente. I called you yesterday.

GRETCHEN (ON THE PHONE): Where did you get my name from?

CLEMENTE: Do you know James Kolar?

GRETCHEN (ON THE PHONE): I do. So he's working with you?

CLEMENTE: Yes he is.

GRETCHEN (ON THE PHONE): Okay

CLEMENTE: Hello.

GRETCHEN: Hello.

CLEMENTE: How you doing?

GRETCHEN: Hi, come on in.

CLEMENTE: I'm Jim Clemente.

GRETCHEN: I'm Gretchen Smith. Hi.

CLEMENTE: Gretchen, nice to meet you.

KOLAR: I'm Jim. Gretchen how are you?

GRETCHEN: Hi. I remember you.

KOLAR: Nice to see you.

GRETCHEN: I was hired on to Boulder Police Department in 1990; just regular patrol and I worked the streets for several years.

CLEMENTE: What did you think about the fear in the community that there's a killer on the loose?

GRETCHEN: Well the fear from inside the department was not felt because some people felt that they knew who the murderers were –

KOLAR: Mm hm.

GRETCHEN: – however we wanted to make the community feel comfortable, so we would do extra patrol...

CLEMENTE: Mm hm.

GRETCHEN: – diligently.

CLEMENTE: I noticed going through the press releases that the Boulder Police made, they were pretty bold in saying they did not believe that there was a killer on the loose and the community was safe.

GRETCHEN: I think there was not a killer on loose or not some random killer roaming the neighborhoods looking for little girls.

KOLAR: There had been no other similar cases in the metro area either, either leading up to or after this event.

GRETCHEN: No, nothing. This was a one of a kind.

KOLAR: So that must've been pretty frustrating to see what was reported in the media about a killer being on the loose.

GRETCHEN: I think the media was led to believe that. There were other voices speaking to the media.

CLEMENTE: Who was that?

GRETCHEN: Uh, there was the DA's office

ALEX HUNTER: I want to say something to the person or persons that committed this crime.

GRETCHEN: Even though that may not have been the attitude of what was actually going on in the case.

ALEX HUNTER: We will see that justice is served in this case and that you pay for what you did.

GRETCHEN: The JonBenét case destroyed moral completely.

CLEMENTE: Really?

GRETCHEN: There was no moral. You know when you're a police officer; you want to work with the District Attorney's office.

CLEMENTE: Sure.

GRETCHEN: You should be partners in your job...

CLEMENTE: Because the goal...

GRETCHEN: ...and we weren't at all. The goal is to find the bad guy and put him behind bars.

CLEMENTE: What do you think was the basis behind that?

GRETCHEN: Well, the parents of the child, they had money. The District Attorney's office and some of the administration did not want to hear that an affluent member of the community was guilty of a crime like this. They didn't want to hear that. I don't think they wanted to solve this crime. And if they had to go down a different path that might not have been the truth, I think they were willing to do that.

ALEX HUNTER: We do not have sufficient evidence to warrant the filing of charges against anyone who has been investigated at this time.

REPORTER: Police detective Steve Thomas left the case and left behind a condemning resignation letter. Thomas implied the Ramseys had intimidated the DA's office saying quote, "Attempts to gather evidence were met with refusals and instead it was suggested that we ask for permission from the Ramseys before proceeding.

RICHARDS: Steve Thomas was certainly determined and committed to find out who killed JonBenét. Good to meet you. Thank you

STEVE THOMAS ("THOMAS"): Pleasure to meet you, Steve Thomas. This is likely the last time I'm going to talk about the case publicly, but I've been told that law enforcement uh and very credible and professional people were trying to make a difference and I knew that after this 20 year milestone, this might be the last opportunity, uh to be on the record. So I appreciate you having me.

CLEMENTE: So why don't we just get right down to it?

THOMAS: You bet.

RICHARDS: So what did your investigation reveal about Patsy's involvement?

THOMAS: I think she was the author of that ransom note. We know that was her pad. Her fingerprints were on that pad. The Sharpie pen we located that and ink matched it to the Ransom note which bore handwriting characteristics that some experts said were remarkably similar to Patsy's. If we found that body of evidence in the possession of any third party, uh that's pretty damning evidence, but in this case, for some reason, uh the district attorney wanted to create some parallel universe why it wasn't hers. I find it preposterous.

CLEMENTE: Did you feel you were hamstrung from the beginning?

THOMAS: Ah, it's the understatement of the, of the day Jim.

CLEMENTE: And—okay so who was responsible for that?

THOMAS: The District Attorney.

CLEMENTE: The District Attorney?

THOMAS: Of course. We never got search warrants for uh phone records, for credit card records. We were forced to search tens of thousands of Home Depot receipts by hand.

CLEMENTE: The DA never gave you any kind of warrants to get credit card records?

THOMAS: No.

RICHARDS: And that would just be standard practice —

STEVE: Standard phone, phone records.

RICHARDS: — in a case like this.

THOMAS: The police department engaged me to conduct the first official interviews with the Ramseys, uh and I was, as was the FBI, furious when we learned, uh that they had been provided uh, copies of police reports to prepare for a police interview uh, just contradictory to everything.

CLEMENTE: The whole point of the interview is to get their information from them —

THOMAS: That's exactly right.

CLEMENTE: — to find out exactly what happened before their tainted with other information.

THOMAS: That's right. I, I, I don't disagree with you. In June of '98 the core team of detectives along with the FBI agents and the personnel from the DA's office congregated in a small classroom, uh because we had been suggesting, we need a grand jury. People are slamming the doors in our face. Uh we need subpoena power. We need to collect evidence and I remember leaning against this cinderblock wall as your former colleague Bill Hagmaier —

CLEMENTE: He used to be my boss, yeah.

THOMAS: – said and I’m think I’m quoting verbatim, “Mr. District Attorney, no disrespect intended, but a little girl is moldering in the ground and something needs to be done. Are you going to call a grand jury?” And I’ll never forget Alex Hunter, the elected District Attorney’s response, “I need to get with my people. This is a political decision.” I leaned back after working this case for two years, against that cinderblock wall and thought to myself, I can’t do this anymore. I won’t do this anymore. The next day the FBI agents who were so vital and integral to this investigation said, “We can no longer be a part of this.”

CLEMENTE: So, but he did eventually convene a grand jury?

RICHARDS: They hear from key and significant witnesses and then what happens?

THOMAS: Uh, well I – in October of 1999 the District Attorney, upon the grand jury concluding, had a press conference and I – as much of an insider as anybody on this case –

CLEMENTE: Sure.

THOMAS: – was led to believe that the grand jury had disbanded uh with, without any further comment or vote. Knowing that all of the persons involved were sworn to a lifetime of grand jury secrecy, he folded those true bills up in effect, put them in his pocket, gave that carefully worded press conference that fooled me and everybody else. And for 14 years, nobody had any idea until a grand juror stepped forward and disclosed, “Hey we voted. We voted to indict.”

FEMALE REPORTER: The Boulder District court judge today approved the release of documents in the JonBenét Ramsey case.

MALE REPORTER: The Boulder Daily Cameras reported earlier this year that a grand jury had voted for an indictment of the little girl’s parents John and Patsy Ramsey. Alex Hunter, the District Attorney at the time of the grand jury chose not to prosecute the Ramseys.

THOMAS: Some cases in particular never leave you. How can you look back at this case now 20 years on uh, and not be angry?

RICHARDS: Everyone forgot about JonBenét.

THOMAS: That’s right.

RICHARDS: It became about politics and agendas and creating a smoke screen. Why?

THOMAS: Welcome to the Ramsey Investigation.

(COMMERCIALS)

RICHARDS: If the grand jury, those who heard all the evidence and heard from all the witnesses felt that there were a grounds to indict the Ramseys then Alex Hunter, you would, you know, it’s surprising that he decided not to prosecute them.

ALEX HUNTER: The Boulder grand jury has completed its work and will not return. No charges have been filed. 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.

CLEMENTE: So in light of the fact that we now know the grand jury did sign the two charges for Patsy and the two charges for John. It really puts in a different light the statement that Alex Hunter made in 1999 when the grand jury concluded its proceedings. The way he said it was very misleading as if they did not want to file any charges; but then later, he says I and my task force decided that there's not enough evidence to charge anybody. But he made it sound like the grand jury also agreed with him, not that he was actually totally contradicting what the grand jury did.

RICHARDS: Right, I mean, the words seemed to be very carefully chosen.

CLEMENTE: Yeah.

RICHARDS: It was in the public interest to know that actually the grand jury did return and recommends the charges for Patsy and John, but you would never understand that as we never did at the time.

CLEMENTE: Hello, is this Alex Hunter? How you doing? My name's Jim Clemente, I'm a retired FBI Agent. I'm actually trying to help bring closure to the JonBenét Ramsey case. You know, we're going into it with an open mind 'cause obviously we don't want to predetermine results but we do want to talk to anybody who has actual experience on the case so I wondered if you would be willing to talk to me? Okay, well, the call ended. I don't know if he ended it or,—

RICHARDS: I would call back —

CLEMENTE: ... or it just broke.

RICHARDS: — 'cause it could've just been reception.

CLEMENTE: Yeah, I'm sorry, I don't know what happened either, it could be my bad service, um. Well, I mean, we literally just want to — there's a lot of just misdirection and we want to, you know, we want to just sort of cut through all that. What are the, what's really going on, what really happened when you were at the helm.

RICHARDS: Mention Dr. Lee.

CLEMENTE: Um, the difference is though I'm, I'm working with Dr. Lee and — yeah, he's a great guy and he speaks very highly of you. Hmm, and what, I'm sorry — what statute is that, um, about? But the, the statute actually prevents you from talking about the evidence? Okay. Bye, bye. He said that the difficulty is that it's very hard to talk about this case without getting into grand jury information and, of course, he cannot discuss that.

ALEX HUNTER: Under no circumstances will I or any of my advisors discuss grand jury proceedings today or ever unless ordered by the court.

CLEMENTE: Laws in each state vary dramatically so it's really important for us to talk to an attorney who has not only worked in law, but in Boulder, Colorado to tell us the nuances of how that law is applied.

RICHARDS: So on or between December 25 and December 26, 1996, John Bennet Ramsey did unlawfully, knowingly, recklessly and feloniously commit a child to be unreasonably placed in a situation which posed a threat of injury to the child's life or health which resulted in the death of JonBenét Ramsey. The other count was John Bennet Ramsey did unlawfully, knowingly and feloniously render assistance to a person with intent to hinder, delay and prevent the discovery, detention, apprehension, prosecution, conviction and punishment of such a person knowing the person being assisted has committed and was suspected of the crime of Murder in the First Degree and Child Abuse Resulting in Death.

CLEMENTE: Does that mean that they're charging John with assisting Patsy if she did it and they're charging Patsy with assisting John if he did it.

LISA POLANSKY ("LISA"): It's legally possible in the state of Colorado for John to be assisting Patsy, Patsy to be assisting John.

CLEMENTE: Wouldn't they both then also be charged with the underlying crime, as opposed to just –

LISA: Yes. Normally, if they do an accessory charge which here is generally after the fact, it's usually somebody else. My opinion would be that there's a third person.

CLEMENTE: The only third person that's left is Burke Ramsey.

LISA: And it's a complicated area. Colorado's minimum age for prosecution is ten; ten years old. The science behind it, of course, would be that the child under ten is not psychologically able to commit a crime and they use the, the old common law term which is infancy which is to say that they cannot form the intent. If you look at the brain science, um, as we know the frontal lobe is not fully developed and that's where the executive functioning occurs. And so, it's difficult to say well, a kid clearly made a decision to do x, y, z with regard to Burke. He was nine –

CLEMENTE: Nine and eleven months.

LISA: – at the time of the crime.

CLEMENTE: Right.

LISA: So you have to go with the time of the crime.

CLEMENTE: Right.

LISA: I don't know how they would prosecute him because of that floor, that minimum age of 10. Let's just say it was, you know, you could say negligent homicide. Even if he was, you know, prosecuted now, you can't even prosecute him for that because he was not yet ten.

CLEMENTE: This is the screening room; it'll be a lot better than, than to look at it from a laptop.

RICHARDS: After JonBenét was killed, Burke's interviewed two weeks later by someone from the Department of Social Services at the behest of the family. They put the condition on it that it cannot be a Boulder police officer or detective.

CLEMENTE: I'm gonna be really interested in, in looking at his behavior. I'm a retired FBI Profiler, I'm an expert in the areas of child sex crimes, child abductions and child homicides.

RICHARDS: So this is the interview with Dr. Suzanne Bernhardt. As a criminal behavioral analyst, I've reviewed and advised on thousands of cases and I have a Master's in Forensic and Legal Psychology.

CLEMENTE: Let's look right at the beginning.

(EXCERPTS FROM VIDEOTAPE)

DR. SUZANNE BERNHARDT: So what did they tell you about why they wanted you to come talk to me?

BURKE: To see if they can find who... you know what.

DR. BERNHARDT: Well, let me tell you a couple things, Burke, first. My job is partly to get to know you as best as I can. Um, and make sure that you're okay cause things are kind of been hard, I imagine. Okay. Are you going to school?

BURKE: No, because we're trying to stay away from the press. My friend said that after school there's all these media people waiting there going "Hello, hello. Did you see Burke in class today?" "Um, no, I did not. I think he was absent." "Oh, thanks."

DR. BERNHARDT: So do you feel like you're pretty safe?

BURKE: Yeah.

DR. BERNHARDT: Yeah? Do you ever worry about it?

BURKE: Not really.

DR. BERNHARDT: No?

BURKE: I'm usually just playing my Nintendo.

DR. BERNHARDT: Yeah.

(END OF EXCERPTS)

RICHARDS: Alright, stop right there.

CLEMENTE: Well, I haven't seen any indication yet that this child has been through a recent trauma.

RICHARDS: He seems to have gone into sort of playful mode and the tone of it is completely off.

CLEMENTE: His sister disappears in the middle of the night; she ends up dead in the basement and he doesn't –

RICHARDS: Worry about himself or worry that they may come back for him. I mean that's another thing that normally plays on a child's mind.

CLEMENTE: Sure, especially somebody who's that young. I mean they're still very vulnerable.

RICHARDS: He was in the house at the time and doesn't seem to be –

CLEMENTE: Concerned at all.

(EXCERPTS FROM VIDEOTAPE)

DR. BERNHARDT: Do you have any secrets do you think?

BURKE: Um, I probably do –

DR. BERNHARDT: You do.

BURKE: – but I don't really remember them.

DR. BERNHARDT: Yeah.

BURKE: And if I did remember anything I don't think I'd tell you.

DR. BERNHARDT: Why not? I'm a good person to tell secrets to.

BURKE: Because they're secrets.

DR. BERNHARDT: That's true. I was just kidding.

(END OF EXCERPTS)

CLEMENTE: Alright well, what's interesting here, a couple of things. Any trained child interview specialist should know that the most important things are the things that people tell children are secrets. Those are generally the crimes that are committed against them and the crimes that they witnessed. Over the course of my career I've actually attended training and given training to child interview specialists. I don't know why she just totally gave up on that.

RICHARDS: Do you think she might circle back to it?

CLEMENTE: I don't know, we'll see.

(EXCERPTS FROM VIDEOTAPE)

DR. BERNHARDT: So have things changed at your house a lot?

BURKE: Uh, a lot, yeah.

DR. BERNHARDT: Yeah, what's changed?

BURKE: Well, you know, police have it blocked off and stuff.

DR. BERNHARDT: Well, what about for you and your parents?

BURKE: You know, my parents are sometimes crying.

DR. BERNHARDT: Yes.

BURKE: But, I'm, I'm basically just going on with my life, you know?

(END OF EXCERPTS)

RICHARDS: That's an odd turn of phrase to just go on with your life when your sister's been murdered and found in your house. I'm not sure you can just go on with your life. I mean children are very resilient and they do get on with things but this is right in the eye of the storm; everything has just happened. This is life-changing, this event, even for a nine-year-old boy.

(EXCERPTS FROM VIDEOTAPE)

BURKE: I'm basically just going on with my life, you know?

DR. BERNHARDT: So what do you think happened?

BURKE: I know what happened.

DR. BERNHARDT: You mean when she got killed? How do you think that happened?

BURKE: I think, well, I, I, I, I asked my dad where did they find her body? And my dad, my dad said "I found it down in the basement, and so..."

(END OF EXCERPTS)

CLEMENTE: Alright, hold up. So “I know what happened,” alright, “when she was killed,” right? And he said, “I asked my dad where did they find the body.”

RICHARDS: You know it’s what he’s not saying, what he would logically expect at that point is asking what happened to her.

(EXCERPTS FROM VIDEOTAPE)

DR. BERNHARDT: So what do you think happened?

BURKE: I know what happened.

DR. BERNHARDT: You mean when she got killed? How do you think that happened?

BURKE: I think, well, I, I, I, I asked my dad where did they find her body? And my dad, my dad said “I found it down in the basement, and so – I think that someone took her very quietly and tiptoed down the basement and then maybe maybe took a knife out and he went. You know, something like that.

DR. BERNHARDT: Do you think that’s how she died?

BURKE: Or maybe a hammer – hit her in the head maybe.

(END OF EXCERPTS)

CLEMENTE: You see that? That’s, that’s a physical demonstration. Let me back that up just a couple of seconds. Let’s see that again.

(EXCERPTS FROM VIDEOTAPE)

BURKE: ... and then maybe took a knife out and he went. You know, something like that.

DR. BERNHARDT: Do you think that’s how she died?

BURKE: Or maybe a hammer – hit her in the head maybe.

(END OF EXCERPTS)

RICHARDS: You know it’s just odd that he’s acting it out at all anyway. I mean most children would not kind of future project this or reenact it in a room.

CLEMENTE: And then on top of it all, there is no emotion, no appropriate emotion at all about this happening to his sister.

(EXCERPTS FROM VIDEOTAPE)

DR. BERNHARDT: Do you think that's how she died?

BURKE: Or maybe a hammer – hit her in the head maybe.

(END OF EXCERPTS)

JUDITH PHILLIPS: When Burke was born he was the apple of his parents' eyes. He could do no wrong, he got the full treatment of gifts and clothes and trips and you name it. But then when JonBenét came along and especially as she got older and her destiny was to be in the pageant system –

(EXCERPTS FROM VIDEOTAPE)

JONBENÉT: My name is JonBenét Ramsey and I'm five-and-a-half.

(END OF EXCERPTS)

JUDITH: That attention that Burke had switched from him to JonBenét.

CLEMENTE: And how did he react to that? Do you know?

JUDITH: I think he had a bad uh, Burke had a bad temper. It's like he had a chip on his shoulder. He had hit JonBenét.

CLEMENTE: When was that?

JUDITH: Before the murder I would have to say it was probably a year and a half. They were playing in the yard and apparently he hit her with a golf club right here.

CLEMENTE: And how did you find out about this?

JUDITH: Oh, I think I asked Patsy at the time when I was photographing them, what the scar was. She said that the kids were playing and Burke lost his temper and hit her with a golf club. After the murder, I took my daughter, Lindsay and myself, 'Cause Lindsay wanted to see Burke and they open the door and escorted me into the living room and Patsy came in. You know after talking to patsy for about ten minutes I went to get my daughter and there was Burke and I walked up to him and he said in this terse voice "Get away from me! Don't touch me. Leave me alone." And I put up my arms and said, okay. I won't, I won't touch you. There was something wrong.

(EXCERPTS FROM VIDEOTAPE)

DR. BERNHARD: So what did your parents tell you about your sister dying?

BURKE: I just – now when I got there to the house for the kind of funeral type thing. My dad says JonBenét is in Heaven now." Just kinda burst into tears.

DR. BERNHARD: I'll bet. How are they dealing with it now?

BURKE: I don't know, I kind forget about it 'cause I'm just going "beep."

DR. BERNHARD: You're just playing videogames all the time.

BURKE: Go, go, go, go, go, go.

(END OF EXCERPTS)

(COMMERCIALS)

KOLAR: Burke not really receiving a lot of attention, the distancing that he seemed to indicate. He might have developed some resentment and some anger, maybe perhaps toward his sister. He never asked Detective Patterson, who interviewed maybe an hour after JonBenét was found, if his sister had been found, what happened to her, you know when they're going to get her back. Nothing about his sister.

RICHARDS: Given than JonBenét was in the pageant circuit, and obviously that was Patsy's passion. So Patsy's attention was very focused and taken up with JonBenét, and of course I wonder how that would have felt for Burke.

CLEMENTE: One other connection, internal, in this family that we haven't discussed-- there were reports that Burke had a history of scatological problems.

KOLAR: One of the former housekeepers, as we mentioned, had talked about him smearing feces on a bathroom wall.

CLEMENTE: And there was a softball-sized ball of feces found in JonBenét's bed at some point. After they sealed off JonBenét's room, the crime scene technicians went through it. They apparently found feces spread on a box of candy that she had gotten the day before for Christmas.

RICHARDS: The media perception or community perfection can be that they're the perfect family, but once you start to scratch the surface, you see that that's not the case.

CLEMENTE: Alright, so let's move on to the Schuler interviews. This is about 18 months after JonBenét died. Burke is now 11-and-a-half-years-old and he's being interviewed by Detective Schuler.

DETECTIVE SCHULER: You know it's been a long painful process for you up to now, hasn't it? With your mom and dad?

BURKE: Probably.

DETECTIVE SCHULER: Why do you think you're here?

BURKE: You wanna find out who killed my sister.

CLEMENTE: It's pretty clear that Burke is sort of acting like a smart aleck here, like I'm smart and I'm proud of myself. You know, he lays back, so let's see how and if that changes.

DETECTIVE SCHULER: Did you hear mom and dad talking?

BURKE: I heard mom like going psycho.

DETECTIVE SCHULER: Going psycho?

BURKE: Yeah, like all like, you know.

DETECTIVE SCHULER: Did you go down to see what's going on?

BURKE: No, just stayed in bed.

DETECTIVE SCHULER: So what went through your mind then?

BURKE: That I thought, maybe JonBenét was missing. But that's not that likely, so, you know, what are the chances of that happening?

DETECTIVE SCHULER: Is there anything about that night, that if you can remember hearing anything that night?

BURKE: I don't remember anything. Because I was sleeping, you know.

DETECTIVE SCHULER: Did you sleep –

BURKE: I always sleep really deeply and I can never hear anything.

CLEMENTE: When he says “really deeply,” “never hear anything” – that's overselling. He's trying to convince Schuler rather than just convey that information, and typically when we see that kind of overselling it's because somebody is deceiving.

DETECTIVE SCHULER: What did you do next?

BURKE: Laid in bed with my eyes closed, trying to get to sleep. I was kind of wondering if something bad happened, you know. Well something bad happened, but what, I was trying to think of what might have happened.

DETECTIVE SCHULER: So you were curious?

BURKE: Yeah.

DETECTIVE SCHULER: When you're curious about something, what do you normally do?

BURKE: Try to find out what the answer is.

DETECTIVE SCHULER: Did you try and do that after mom came into the room?

BURKE: No, I figured somebody would probably come in and tell me or I would find out later in the day.

RICHARDS: He knows that something is unfolding. Most children would jump out of bed, probably – unless they're being told stay where you are – you would expect him to be asking and not just be accepting of when something unusual is unfolding.

DETECTIVE SCHULER: Now, when you go to bed at night, what was your normal routine? I mean, would you get a snack before you went to bed?

BURKE: Um, I might get a snack. Not usually.

DETECTIVE SCHULER: If you got a snack what would you normally get? Or what would mom let you have?

BURKE: Pudding or yogurt.

DETECTIVE SCHULER: Pudding and yogurt? Some parents let kids have cookies and candies and cereal, fruit and things like that.

BURKE: Yeah, she would suggest like fruit.

DETECTIVE SCHULER: So what kind of fruits would you typically have at home?

BURKE: Like pineapple, maybe.

DETECTIVE SCHULER: Yeah, do you like that?

BURKE: Yeah.

DETECTIVE SCHULER: Okay. Is that your favorite fruit?

BURKE: Probably.

DETECTIVE SCHULER: What was JonBenét's favorite snack?

BURKE: I don't think she had a snack.

DETECTIVE SCHULER: What about pineapple? Did she like pineapple.

BURKE: Yeah, she liked pineapple a lot.

RICHARDS: So one of the key issues with this case comes back to something that might look quite innocuous and inconsequential, but it also tells us a lot about what probably went on.

CLEMENTE: In JonBenét's small intestine, there was a piece of organic material that looks like pineapple.

LEE: I want to know the condition of the pineapple.

SPITZ: You mean, degree of digestion? Did the pathology report indicate what the pineapple looked like, or the gastric contents?

CLEMENTE: What it says is, "the proximal portion of the small intestine contains fragmented pieces of yellow to light green tan apparent vegetable or fruit material which may represent fragments of pineapple."

RICHARDS: "The remainder of the small intestine is unremarkable."

LEE: Which means, it's way after the meal.

SPITZ: They had just had been for dinner at the Whites'. That suggests that the meal had been ingested some time to allow digestion, and evacuation from the stomach.

CLEMENTE: So she completely digested her dinner, and after that, she then ate this pineapple.

SPITZ: Correct, that's correct. Chances are she ate a modest amount of food that day, but she digested it, so you're talking about hours.

LEE: So you start linking all those dots, it gives us a possible timeline.

SPITZ: Yes, you approximately know the time that they came back home.

KOLAR: JonBenét was asleep when they got back.

RICHARDS: We know that John Ramsey put her to bed.

SPITZ: The pineapple was ingested subsequently.

CLEMENTE: We do know that JonBenét's, reportedly, her favorite dessert was pineapple and milk. There's a bowl that looks like it's pineapple with milk sitting on the table.

LEE: The bowl of pineapple really had quite a few pieces, so something interrupted them –

CLEMENTE: Interrupted.

LEE: – they did not finish eating.

CLEMENTE: Dr. Spitz, do you want to look at the dining room?

SPITZ: Yeah, I would like to see the bowl with the pineapple.

CLEMENTE: There we go.

RICHARDS: So, Dr. Spitz, this is the original picture of the pineapple.

CLEMENTE: What we know from forensics is that both Burke's and Patsy's fingertips are on the bowl, and Burke's are on the teacup. Patsy had said, I think, that she actually could not have prepared this because this size spoon is actually too big for a bowl like that, so she would never have done that. Did Burke prepare himself some tea and pineapple and milk?

RICHARDS: There are fingertips on the bowl, and on the tea.

SPITZ: Were JonBenét's fingerprints on any of this?

RICHARDS: They were not.

CLEMENTE: But it's certainly reasonable to believe that JonBenét may have snatched one piece.

SPITZ: Right, directly with her fingers. For estimating time of death, this is important.

CLEMENTE: Isn't it possible that JonBenét came down and saw that Burke was eating this, and took one piece? She didn't touch the bowl, she didn't touch the spoon –

SPITZ: You know, I have three grandchildren myself. Kids will do that. They'll go by and pick out a piece with their fingers.

RICHARDS: Right. And being a bit cheeky, and then maybe running off.

SPITZ: Swallowing is a voluntary act.

RICHARDS: Right.

SPITZ: You have to want to swallow. If she was wanting to swallow, she was alive and conscious.

CLEMENTE: Do you think this could have been the tipping point that started the the entire rest of the cascade of events that happened on the day she died?

SPITZ: Could be.

DETECTIVE SCHULER: Can you tell me what this picture is?

BURKE: That's the dining room table.

DETECTIVE SCHULER: Can you describe that to me?

BURKE: It's a bowl of...oh...something...looks like glass with a tea bag in it.

DETECTIVE SCHULER: Does that look like cereal inside there?

BURKE: No, it looks a little big, one piece right there for cereal. Maybe like fruit, there wouldn't be a spoon in it. I dunno.

RICHARDS: Such a simple question to ask, so why isn't he just saying what it is? He's evading any answer and is uncomfortable about answering. This should be an insignificant conversation.

CLEMENTE: He looks like he's about to jump out of his seat, and he was like leaning all the way over the picture. It was really weird how he did that. It's a very dramatic change in behavior. I think he's aware that that piece of pineapple in JonBenét's stomach actually creates a major problem in terms of the timeline of when and how she was killed.

(COMMERCIALS)

DETECTIVE SCHULER: Would you ever go downstairs in the basement and play?

BURKE: Yeah, I had a train, electric train there.

DETECTIVE SCHULER: How about the last year you lived there? Did you play there much?

BURKE: Um...sort of.

KOLAR: When the Boulder Police Department asked me to investigate the JonBenét case, I was looking at the stun gun, and the abrasions. And the autopsy described them as abrasions versus burn marks. Even the Taser company said, these are not the type of marks that would have been left by one of their stun guns. When I asked for the one to one photos to be done of these, with the air Taser – and as you've seen the stun gun marks did not align with the weapon that was being proposed.

RICHARDS: Right.

KOLAR: And I thought that was pretty significant.

RICHARDS: Right. And these, these particular wounds, they're on her side.

KOLAR: They were on her lower left back if I recall.

RICHARDS: Right.

KOLAR: And so a Sargent at my office said, hey – I might have found something that could possibly be responsible for these injuries. He talked about the O-gauge track, and I asked Boulder PD to do some one to one photos with this as well as with the train tracks. These pins that connect the tracks together, you can see that the scaled pictures of the two outside pins of the train track matched exactly to the injuries on JonBenét. You've got this train room and pieces of track here in this room, and then there were pieces of train track in the crime scene video that were on the floor in Burke's room as well. I thought it was an incredible discovery, to find a toy in the house that could have been responsible for these injuries.

SPITZ: If you look carefully at those two marks in her back, there is a central defect within each of the marks. That defect is from something penetrated through the skin. She was obviously without a blood circulation at the time, and the reason is that she had no circulation is that there was no evidence of blood in the pictures that were taken of those two marks.

RICHARDS: So if we think that JonBenét took the blow to the head, you know she's on the floor, she doesn't seem to be breathing or she's not conscious – then somebody using a piece of train track –

KOLAR: Trying to see if they can get a response from her, waking JonBenét. Is this something an adult would try to use to get a response from an unconscious girl? An adult would have been calling 9-1-1 for an ambulance.

RICHARDS: Right.

KOLAR: Like the note pad, and the pen that was used for the ransom note, this was another piece of evidence that could have been used in this assault on JonBenét, and it was in the home, in the train room downstairs as well as in Burke's bedroom.

DR. SPITZ: You know, I would have to conclude that it's either this or something like it.

(COMMERCIALS)

RICHARDS: Jim and I have certainly tried to speak with John and Burke and really just give them an opportunity to speak.

CLEMENTE: We've called John and a number of times, left a number of messages on his voicemail and they just did not want to talk to us. So from the statements that the Ramseys have made, we need to look at what happened according to the family.

KOLAR: So, the morning of Christmas.

JOHN: Our normal tradition is that I go downstairs, turn on the Christmas tree lights. The kids came down. We opened presents.

RICHARDS: They both got very nice gifts. JonBenét got the bike and a doll.

KOLAR: After Christmas celebration and breakfast, they went to the White dinner party.

SPITZ: Well, then they came back home.

JOHN: Uh, JonBenét was asleep in the back of the car. I carried her upstairs and put her to bed.

RICHARDS: And we know Burke is playing with a toy and he was with John.

JOHN: He was putting together a little plastic toy that he'd gotten for Christmas. I helped him finish it so he could get off to bed and uh, then I went to bed myself.

KOLAR: It's the next morning, Patsy, she got up to go downstairs to put on some coffee.

LEE: Supposedly, when Mrs. Ramsey comes downstairs, she found a note on the stair steps.

CLEMENTE: Right. Either before she saw the note or after she saw the note, depending on which statement she gave, she looked in JonBenét's room, saw she was gone.

FITZGERALD: John woke up. At some point she woke him up.

JOHN: I heard Patsy scream. I ran downstairs. She told me that JonBenét was missing, that there was a ransom note. I said call the police. Sometime during that frantic period we checked on Burke. He appeared to be asleep to us.

CLEMENTE: They claim that he was asleep the entire time, that they never woke him up, never asked him if he heard anything, never asked him if he knew where JonBenét was.

KOLAR: Right.

CLEMENTE: Right after Patsy makes that 9-1-1 call, she calls two family friends, the Fernies and the Whites and invites them to come over. This is when the police arrived.

KOLAR: And then it's my understanding that John went downstairs in the basement.

JOHN: I was trying to determine how someone could have gotten into our house. I saw a partially open window with broken glass and a suitcase beneath the window.

CLEMENTE: Then John came upstairs and apparently Detective Arndt asked him to search the house from "top to bottom." So, again, John went down to the basement with Fleet White. He went into the wine cellar.

JOHN: I opened the door and found JonBenét.

CLEMENTE: When they find the body, he disturbs the crime scene, takes the tape off of her mouth, uh, undoes one of the ligatures and then brings the body upstairs. He puts her on the floor and then Linda Arndt moves the body to the living room on the floor there. Eventually the body ends up in the morgue and an autopsy is performed.

SPITZ: In my view, this would have been so easy to figure out if they had not used lawyers who shut the door to any additional uh –

CLEMENTE: Investigation.

SPITZ: – investigation.

CLEMENTE: Yeah, I believe the Ramseys distanced themselves from the investigation while at the same time claiming to the world through media appearances that they were fully cooperating.

JOHN: We spoke with the police approximately eight hours on the 26th, another two hours on the 27th. The impression that we haven't spoken with the police is, is totally false.

CLEMENTE: Now that we've been investigating for months, we've been working together as a team, I think we need to actually try to piece together everything that happened. Anybody who does a legitimate investigation will look at all the evidence and see where that evidence takes you. So we have to test every theory and the ones that remain, are the ones that are supported by the evidence.

RICHARDS: I think some people have the theory that actually what had happened that night was that after a stressful day of Christmas, that there was potentially an accident. JonBenét, you know, wet herself or the bed and that Patsy just sort of snapped.

FITZGERALD.: As we know in profiling, uh, past behavior is the best indicator of future behavior and from my understanding of the Ramsey family, I don't believe there's been any indicators of a violent domestic abuse.

STANLEY: That child is a huge investment for her. You know, a lot of time, a lot of effort has gone into that child.

FITZGERLAD.: Money.

STANLEY: They had plans for that child, a lot of money, a lot of resources.

FITZGERALD: She seemed to uh, be living vicariously in, in some ways through her, her daughter with the whole beauty pageant thing going on.

STANLEY: And just to, to snap and, and just all of a sudden take that away –

FITZGERALD: Basically from zero to a 120 –

STANLEY: Yeah –

FITZGERALD: – with a hammer over the head, for mom.

LEE: I agree with you.

RICHARDS: We've discussed the intruder theory that this was somebody from outside the house.

SPITZ: No, I don't believe that it was somebody from the outside.

CLEMENTE: I don't think the evidence that stands up to scientific or behavioral scrutiny indicates that somebody came in from outside that home and killed JonBenét.

RICHARDS: And of course, you know, the media is speculating on a pedophile or a sex offender. Dr. Lee said that the DNA evidence in this case is totally erroneous.

LEE: That DNA has no forensic value. It's really no sexual assault here.

RICHARDS: James, I'm interested to know what exactly you think happened in the house that night.

KOLAR: My hypothesis was that I think the Ramseys came home around 9:30, 10 o'clock. I think JonBenét was asleep. I think John did carry her upstairs. Patsy remained downstairs with Burke and served him the tea and the pineapple. I think that accounts for the physical evidence as well as the latent prints. Then I think she got JonBenét up to make sure she used the toilet so she didn't wet the bed that night. JonBenét was up, she may or may not have brushed her teeth. That stuff was out on the counter. And then I think she was up and awake enough, but she maybe was still hungry and she went downstairs. In the meantime, Patsy continued packing for the Michigan trip. I think if Burke was upset about circumstances or Christmas presents, he probably would've been upset about her trying to snag a piece of pineapple. Out of anger he may have struck her with that flashlight.

SPITZ: I think we all agree on that.

CLEMENTE: Yeah.

FITZGERALD: Yes.

RICHARDS: Absolutely.

LEE: Sure, yeah, I agree with that.

SPITZ: Okay.

(USE OF FICTIONAL RECREATIONS VISUALLY DEPICTING KOLAR'S STATEMENTS)

LEE: However, I think it's not the intentional murder.

CLEMENTE: I agree. There's no evidence to support it.

STAN: So you don't think there was malice of forethought? Something happened and caused her death.

LEE: Spur of the moment or something like that.

CLEMENTE: Or accidental death. It doesn't necessarily have to be a murder.

SPITZ: How can that be an accidental death?

FITZGERALD: I, I know I –

SPITZ: I cannot see anybody, even a child, taking a heavy object like a flashlight and hitting it on somebody's head as an accident.

CLEMENTE: Maybe in anger he swung it faster than he thought it would. We're talking about a ten-year-old, who by the way, had hit the same person in the head with a golf club and what happened?

SPITZ: Nothing happened.

CLEMENTE: Nothing happened, so –

SPITZ: Yeah, because he didn't hit that with that same force that he used the flashlight.

CLEMENTE: Well, yeah, and that is—that's, that's assuming that he understood.

FITZGERALD: A golf club is designed to be swung and hit a ball, maybe accident. A flashlight is designed to shed light.

LEE: Yes, for adult.

STAN: Right.

LEE: Let's say "Don't steal my pineapple!"

RICHARDS: In the blink of an eye.

SPITZ: You don't die from that.

LEE: Yeah, that's not the – I don't think that's an intent kill.

CLEMENTE: Maybe it comes down to what accident means to you. For me, legally, what an accident means is if somebody who did not form the intent to kill –

SPITZ: But still –

CLEMENTE: – did something –

SPITZ: – still hits you with a lot of impact.

CLEMENTE: That could be a fact, but what you don't know –

UNKNOWN: Not necessarily.

CLEMENTE: – is what's going on in his head.

SPITZ: But you don't know that either.

LEE: Well, nobody knows! I don't think here have any elements of an intent to kill.

CLEMENTE: I don't think so, either. But I think what we do find though is an intent to mislead

—

LEE: Mislead.

CLEMENTE: — an intent to cover-up.

STANLEY: I think early on we discussed the lack of the family actually getting involved with the investigation to begin with. And that is so atypical of what I see in a case where someone close to you has passed away. You'll do whatever you can to get the case resolved. We didn't see that here. But maybe we did. Maybe we saw it with her brother. "Do everything we can to protect this child." We see it in the letter. It's a sales job, trying to take the cops down a certain avenue. And we see it in the press conferences.

PATSY: God knows who you are and we will find you.

STANLEY: Every step along the way we see it.

KOLAR: I thought Patsy made a couple telling statements. One was during one of the other interviews she said that they loved their children, They would do anything for their children. In the DSS interview where she said she would have nothing left to live for if she lost Burke. That seemed to me motive for a cover-up and I know there was some debate as to whether or not both parents are involved in the cover-up right away, but I think the mixed motives is in the ransom note. You know whether it's a sexual assault pedophile or —

CLEMENTE: Terrorism or —

KOLAR: — terrorism.

RICHARDS: Political.

KOLAR: Mixed motives make it pretty clear that both parents are involved.

CLEMENTE: Yeah, I mean, I think from a profiling perspective, mixed motives tells us that it's a high probability that it's more than one person involved in staging, right?

FITZGERALD: Arguably, yes, and that's been the experience that we've had looking at staged crime scenes uh, over the years. And I think that's what we have here in the language utilized, as well as the crime scene itself, the body and everything else. Within an hour of this crime being committed, there's probably a cover-up starting with whatever they did to the body and certainly the writing of this letter, the 9-1-1 call, everything that happened later. But I don't think Burke

was involved in the cover-up. He was not directly involved in writing letters. He certainly didn't do the phone call to 9-1-1. He may have been there in the room as we found out later.

BURKE: What did you find?

RICHARDS: The only other person in the address at the time, is Burke.

CLEMENTE: Right.

FITZGERALD: Now was he interviewed later on by uh, investigators and child psychological experts and did he perhaps say some things that perhaps were not exactly true that happened that night, that's very possible.

BURKE: I don't remember hearing anything because I was sleeping, you know. But I, I always sleep real deeply. I can never hear anything.

FITZGERALD: But as far as the cover-up itself, I would say primarily, it's John and Patsy who were involved in that.

CLEMENTE: I think the most likely probability is that the adults in that family, John and Patsy Ramsey – and this is consistent with what the grand jury wanted to indict them for – staged this to look like a monster predator had come in their house and killed their daughter. It's my opinion that the Ramsey family did not want law enforcement to resolve this case and that's why it remains unsolved.

FITZGERALD: 100% agree.

SPITZ: But what do you expect to accomplish by bringing this case back to life?

FITZGERALD: In the 20 years since this horrendous death, I have no doubt someone involved in this homicide talked to someone about what happened and uh, I would only hope at some point the persons who may have heard something from John Ramsey, from Burke Ramsey, perhaps the late Patsy Ramsey, would still come forth. I'd love to hear from them.

(COMMERCIALS)

CLEMENTE: This is it. I can't imagine what it was like for the first responders here to find a six-year-old girl dead.

RICHARDS: This is a young girl who has become a footnote in her own murder.

CLEMENTE: This case has both haunted me since the beginning and pissed me off.

RICHARDS: It's just so sobering in the reality that a six-year-old child lost her life.

CLEMENTE: I think in the end this was about two parents, deeply cared for the daughter they lost and wanted to protect the child they had remaining.

JOHN: JonBenét and I had a very close uh relationship. Uh I will miss her dearly for the rest of my life.

PATSY: I loved that child with my whole of my heart and soul.

(STATEMENT)

The killing of JonBenét Ramsey is a crime that, to this day, remains unsolved. The opinions and conclusions of the investigators who appear on this program about how it may have occurred represent just some of the number of possible scenarios. John Ramsey and Burke Ramsey have denied any involvement in the crime including in recent televised interviews. We encourage viewers to reach their own conclusions.

(END OF EPISODE)

(SHOW CREDITS – OMITTED)

(END OF SHOW)

EXHIBIT C

253 F.Supp.2d 1323
United States District Court,
N.D. Georgia,
Atlanta Division.

Robert Christian WOLF, Plaintiff,
v.
John Bennet RAMSEY and Patricia
Paugh Ramsey, Defendants.

No. CIV.A.1:00-CV-1187-J.

|
March 31, 2003.

Individual named as a potential murder suspect by parents of murdered child in parents' book concerning the unsolved murder and on national television brought claims against parents for libel and slander stemming from the book and the television comments. On parents' motion for summary judgment, the District Court, Carnes, J., held that: (1) forensic document examiner was sufficiently qualified to allow him to testify as an expert; (2) self-proclaimed handwriting expert was not qualified to provide reliable handwriting analysis; (3) forensic document examiner's testimony would be limited to testimony concerning the similarities and differences between parent's writing sample and alleged ransom note; (4) statements published in parents' book were defamatory; (5) individual failed to establish that statements in book were published with actual malice; and (6) statements made on network television, even if slanderous, were not malicious for purposes of individual's slander claim.

Motion granted.

West Headnotes (11)

[1] Evidence

⚙ Competency of expert

Forensic document examiner was sufficiently qualified to allow him to testify as an expert in the field of forensic documents' examination in slander and libel action brought by individual named as a potential murder suspect by parents of murdered

child on national television and in parents' book, where examiner had served as the past president of the American Society of Questioned Document Examiners, had earned a Bachelor of Science in criminal justice and a Masters of Forensic Science, had successfully completed a two-year resident training program in the forensic science of questioned document examination at the U.S. Army crime laboratory, and had taught forensic document examination the Federal Law Enforcement Training Center. Fed.Rules Evid.Rule 702, 28 U.S.C.A.

4 Cases that cite this headnote

[2] Evidence

⚙ Competency of expert

Self-proclaimed handwriting expert was not qualified to provide reliable handwriting analysis in slander and libel action brought by individual named as a potential murder suspect by parents of murdered child on national television and in parents' book, where expert had never taken certification exam, had never completed an accreditation course in document examination or been an apprentice to an certified document examiner, and had never worked in a crime lab. Fed.Rules Evid.Rule 702, 28 U.S.C.A.

3 Cases that cite this headnote

[3] Evidence

⚙ Examination of expert

Forensic document examiner failed to show sufficient reliability in the methodology that he used to reach his conclusion that he was "100 percent certain" as to the identity of the writer of alleged ransom note, and thus expert's testimony in slander and libel action brought by individual named as a potential murder suspect by parents of murdered child on national television and in parents' book would be limited to testimony concerning the similarities and differences between parent's writing sample and alleged ransom note. Fed.Rules Evid.Rule 702, 28 U.S.C.A.

4 Cases that cite this headnote

[4] Libel and Slander

☞ Construction of defamatory language in general

Under Georgia law, as a general rule the question of whether a published statement is defamatory is a question for the jury; nevertheless, when faced with a summary judgment motion in a defamation action, the trial judge should read and construe the publication as a whole, and thereafter may find that it is not defamatory, that it is defamatory, or that it is ambiguous and the question is truly one for a jury. West's Ga.Code Ann. § 51-5-1.

1 Cases that cite this headnote

[5] Libel and Slander

☞ Construction of language used

Libel and Slander

☞ Construction of defamatory language in general

Under Georgia law, in considering whether a writing is defamatory as a matter of law, the court should look at what construction would be placed on it by the average reader. West's Ga.Code Ann. § 51-5-1.

2 Cases that cite this headnote

[6] Libel and Slander

☞ Imputation of falsehood, dishonesty, or fraud

Libel and Slander

☞ Words Imputing Crime and Immorality

Under Georgia law, "libel per se" consists of a charge that one is guilty of a crime, dishonesty or immorality. West's Ga.Code Ann. § 51-5-1.

1 Cases that cite this headnote

[7] Libel and Slander

☞ Assault, burglary, robbery and homicide

Under Georgia law, statements published in parents' book indicating that parents and others considered plaintiff to be a potential suspect in the brutal murder of their child and suggesting that there was some basis for the suspicion were defamatory, for purposes of defamation action brought by individual alleging that parents could not believe that the individual, or anyone else was a viable suspect in the murder, because the parents knew that they were the perpetrators of the crime. West's Ga.Code Ann. § 51-5-1.

Cases that cite this headnote

[8] Libel and Slander

☞ Criticism and Comment on Public Matters; Public Figures

In the context of a defamation action, a "limited purpose public figure" is an individual who voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues.

Cases that cite this headnote

[9] Libel and Slander

☞ Existence and Effect of Malice

In the context of a defamation action, "actual malice" is knowledge that the defamatory matter was false or that it was published with reckless disregard for whether it was false or not.

Cases that cite this headnote

[10] Libel and Slander

☞ Criticism and comment on public matters and publication of news

Under Georgia law, individual named as a potential murder suspect by parents of murdered child in parents' book concerning the murder failed to establish that when parents wrote the book, they in fact entertained serious doubts as to the truth of the publication, as required to prove actual malice in individual's defamation action

against parents alleging that parents could not believe that the individual, or anyone else was a viable suspect in the murder, because the parents knew that they were the perpetrators of the crime, given that the weight of the evidence was more consistent with a theory that an intruder murdered the child than it was with a theory that a parent did so, and that individual failed to prove that parents were responsible for authoring alleged ransom note. West's Ga.Code Ann. §§ 51-5-1(1), 51-5-6.

Cases that cite this headnote

[11] **Libel and Slander**

✦ Criticism and comment on public matters and publication of news

Under Georgia law, statements made on network television by parent of murdered child arguably suggesting that parent believed that individual was his daughter's killer and network's display of a picture of the individual, even if slanderous, were not malicious for purposes of individual's slander claim against parents. West's Ga.Code Ann. § 51-5-4(a).

Cases that cite this headnote

Attorneys and Law Firms

*1325 Sean R. Smith, Thomas MacIver Clyde, Dow Lohnes & Albertson, Atlanta, Daniel M. Petrocelli, phv, Charles P. Diamond, phv, O'Melveny & Myers, Los Angeles, CA, Richard Neal Sheinis, Hall Booth Smith & Slover, Atlanta, Andrew R. Macdonald, phv, Boulder County Attorney Office, Boulder, CO, David Lewis Balser, McKenna Long & Aldridge, Joe Dally Whitley, Alston & Bird, Atlanta, GA, for Steve Thomas, Alexander Hunter, Fleet White, Jr., City and County of Boulder, a subdivision of the State of Colorado, Robert E. Cook, movants.

*1326 Darnay Hoffman, phv, Law Offices of Darnay Hoffman, New York City, Evan M. Altman, Office of

Evan M. Altman, Atlanta, GA, for Robert Christian Wolf, plaintiff.

James Clifton Rawls, Eric Schroeder, S. Derek Bauer, Powell Goldstein Frazer & Murphy, L. Lin Wood, Jr., Office of L. Lin Wood, Atlanta, GA, for John Bennett Ramsey, Patricia Paugh Ramsey, defendants.

ORDER

CARNES, District Judge.

This case is presently before the Court on defendants' motion for summary judgment [67]; defendants' motion in limine to exclude the testimony of Cina Wong and Gideon Epstein [68]; and defendants' motion for oral argument [79].¹ The Court has reviewed the record and the arguments of the parties and, for the reasons set out below, concludes that defendants' motion for summary judgment [67] should be **GRANTED**; defendants' motion to exclude the testimony of Cina Wong and Gideon Epstein [68] should be **GRANTED** as to Ms. Wong and **GRANTED in part and DENIED in part** as to Mr. Epstein; and defendants' motion for oral argument [79] should be **DENIED**.

BACKGROUND

This diversity case is one of the many civil suits that arose in the wake of the widely-publicized and unsolved murder of six-year-old JonBenét Ramsey in Boulder, Colorado, on December 26, 1996. Plaintiff Robert Christian Wolf is a Boulder, Colorado, resident who was named by defendants, JonBenét's parents, on national television and in their book about their daughter's murder, *The Death of Innocence: The Untold Story of JonBenét's Murder and How Its Exploitation Compromised the Pursuit of Truth* (hereinafter referred to as the "Book"), as a potential suspect in JonBenét's death. Plaintiff claims that, to the extent defendants expressed an opinion that he might have killed their daughter, defendants knew such a statement to be untrue because defendant Patsy Ramsey killed her daughter and John Ramsey assisted her in covering up the crime.

The Court draws the undisputed facts from "Defendants' Statement of Undisputed Material Facts" ("SMF") [67]

and “Plaintiffs Response to Defendants’ Statement of Material Facts” (“PSMF”), in which plaintiff does not dispute the overwhelming majority of defendants’ factual allegations. When plaintiff has disputed a specific fact and pointed to evidence in the record that supports its version of events, the Court has viewed all evidence and factual inferences in the light most favorable to plaintiff, as required on a defendant’s motion for summary judgment. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986); *McCabe v. Sharrett*, 12 F.3d 1558, 1560 (11th Cir.1994); *Reynolds v. Bridgestone/Firestone, Inc.*, 989 F.2d 465, 469 (11th Cir.1993). In addition, the Court has reviewed plaintiff’s separate statements of disputed material facts [88] (“PSDMF”), which consist, for the most part, of a restatement of theories espoused by former Boulder Police Detective Steven Thomas², (PSDMF ¶¶ 44–75), *1327 and of a lengthy recounting of statements previously made by defendants, accompanied by editorial comments suggesting such statements to be untruthful, but without an explanation or evidence for such an assessment. (PSDMF ¶¶ 103–117, 120–249, 250–261.)³ When the Court could discern a material factual dispute from this pleading, the Court has drawn all inferences in a light most favorable to plaintiff. Accordingly, the following facts are either not disputed or are viewed in the light most favorable to plaintiff.

I. The Timeline of the Crime and the Crime Scene

Sometime on the night of December 25 or the early morning of December 26, 1996, JonBenét Ramsey was murdered. (SMF ¶ 2.) JonBenét’s body was found in the basement of defendant’s home. (SMF ¶ 5; PSMF ¶ 5.) Defendants have never been charged, arrested, or indicted for any offense in connection with the murder of JonBenét, and they deny any involvement in her death, although they have been under an “umbrella of suspicion” from almost the beginning of the murder investigation. (SMF ¶¶ 6–7; PSMF ¶¶ 6–7.)

On the night of December 25, 1996, the Ramsey family attended a Christmas party at the home of their friends Fleet and Priscilla White. (SMF ¶ 12; PSMF ¶ 12.) Nothing out-of-the-ordinary occurred at the party and the Ramsey family appeared happy. (SMF ¶ 13; PSMF ¶ 13.) On the drive home from the party, JonBenét and her brother Burke fell asleep in the car. Defendants put the children to bed when they returned home and then went to

bed soon thereafter. (SMF ¶ 13; PSMF ¶ 13.) The family planned to rise early the following morning because they were to fly to Charlevoix, Michigan for a family vacation. (SMF ¶ 13; PSMF ¶ 13.)

JonBenét and Burke’s bedrooms were located on the second floor of the Ramsey home. There was also an empty guest bedroom on the second floor, located atop the garage. Defendants’ bedroom was located on the third floor of the Ramsey home in a converted attic space. The home also contained a basement. (SMF ¶ 14; PSMF ¶ 14.) There were two stairwells leading from the second floor to the ground floor level. The back stairwell led into the kitchen, where there was a butler door that led into the basement.

Defendants claim they were not awakened during the night. A neighbor who lived across the street from defendants’ home, however, reported that she heard a scream during the early morning of December 26, 1996. Experiments have demonstrated that the vent from the basement may have amplified the scream so that it could have been heard outside of the house, but not three stories up, in defendants’ bedroom. (SMF ¶ 148; PSMF ¶ 148.) The following morning, defendants assert they woke around 5:30 a.m. and proceeded to get ready for their trip. While Mr. Ramsey took a shower, Mrs. Ramsey put back on the same outfit she had on the night before and reapplied her *1328 makeup. (SMF ¶ 15.) Mrs. Ramsey then went down the backstairs towards the second floor, then the spiral stairs to the ground floor, where, on a step near the bottom of the stairs, she discovered a handwritten note on three sheets of paper that indicated JonBenét had been kidnapped (the “Ransom Note”). (SMF ¶ 16.)

Plaintiff, however, contends that Mrs. Ramsey did not go to sleep the night of December 25, but instead killed her daughter and spent the rest of the night covering her crime, as evidenced by the fact she was wearing the same outfit the following morning. (PSMF ¶ 15.) He further posits that Mrs. Ramsey authored the Ransom Note in an attempt to stage a crime scene to make it appear as if an intruder had entered their home. (PSMF ¶ 16; PSDMF ¶¶ 38–39.) Plaintiff theorizes that, at some point in the night, JonBenét awoke after wetting her bed⁴ and upon learning of the bed-wetting, Mrs. Ramsey grew so angry that an “explosive encounter in the child’s bathroom” occurred, during which tirade, Mrs. Ramsey “slammed” JonBenét’s head against “a hard surface, such as the edge of the

tub, inflicting a mortal head wound.” (PSDMF ¶¶ 45, 47.) Plaintiff has provided no evidence for this particular theory.⁵

Plaintiff further contends, based again solely on Mr. Thomas's speculation, that “Mrs. Ramsey thought JonBenét was dead, but in fact she was unconscious with her heart still beating.” (PSDMF ¶ 47.) Mr. Thomas then surmises that “[i]t was that critical moment in which she had to either call for help or find an alternative explanation for her daughter's death.” (PSDMF ¶ 48.) Plaintiff then speculates that Mrs. Ramsey chose the latter route and spent the remainder of the night staging an elaborate coverup of the incident.⁶

Specifically, plaintiff theorizes that, with Mr. Ramsey and Burke still asleep, Mrs. Ramsey moved the body of JonBenét to the basement, returned upstairs to draft the Ransom Note, then returned to the basement where she “could have seen—perhaps by detecting a faint heartbeat or a *1329 sound or slight movement—that although completely unconscious, JonBenét was not dead.” (PSDMF ¶¶ 49–50.) In Mr. Thomas's scenario then, rather than being grateful that her child was alive, Mrs. Ramsey nevertheless decided to finish the job off by fashioning a garrote from one of her paintbrushes, looping the cord around the girl's neck, and then choking JonBenét to death. (PSDMF ¶¶ 51–52.) Plaintiff notes that the fact JonBenét was “choked from behind” is consistent with the murder being committed by someone who knew JonBenét and did not want to look at her face as he or she killed her.

After murdering her child and staging the crime, plaintiff opines that, to cover her tracks, Mrs. Ramsey must have taken the items she used in the staging out of the house, “perhaps dropping them into a nearby storm sewer or among Christmas debris and wrappings in a neighbor's trash can.” (PSDMF ¶¶ 53–54.) Indeed, the sources for the duct tape and cord used in the crime were never located, nor sourced,⁷ to defendants' home. Plaintiff claims that Mrs. Ramsey next placed the Ransom Note in a place “where she would be sure to ‘find’ it.” (PSDMF ¶ 53.)

Mrs. Ramsey disputes the above recitation of facts. She claims that, upon waking, she put back on the same clothes she had on the night before and applied her makeup. She then states she went downstairs to prepare for their departure on the family trip. (SMF ¶ 17.) As she

descended the back stairwell, she discovered the Ransom Note and read only those few lines stating that JonBenét was kidnapped, but “safe and unharmed,” and demanding \$118,000 for her return. (SMF ¶ 17; PSMF ¶ 17.) Mrs. Ramsey immediately screamed and proceeded to check JonBenét's room, which was empty. (SMF ¶ 18; PSMF ¶ 18.) After hearing Mrs. Ramsey's scream, Mr. Ramsey ran downstairs and met Mrs. Ramsey in the stairwell. Together, they checked on their son who appeared to be asleep in his room. (SMF ¶ 18; PSMF ¶ 18.) Mr. Ramsey then went downstairs to read the Ransom Note, while Mrs. Ramsey called the police, informing them that her child had been kidnapped. (SMF ¶ 19; PSMF ¶ 19.) In addition to calling the police, defendants called several friends to their house, including Fleet and Priscilla White, who promptly came to the defendants' home. (SMF ¶ 20; PSMF ¶ 20.)⁸

Plaintiff contends Mr. Ramsey probably first grew suspicious while reading the Ransom Note that morning, which surmise is again based solely on the opinion of Mr. Thomas. (PSDMF ¶ 56.) Plaintiff speculates that upon examining the Ransom Note, Mr. Ramsey “must have seen his wife's writing mannerisms all over it, everything but her signature.” (PSDMF ¶ 56.) Upon determining that his wife was involved in JonBenét's disappearance, plaintiff surmises that Mr. Ramsey chose to protect his wife, rather than to facilitate the capture of his daughter's murderer. (PSDMF ¶ 57.) Mr. Ramsey asserts, however, that he never once suspected his wife *1330 to be involved in the crime. (PSDMF ¶¶ 254–255.)⁹

A series of events transpired that severely compromised the crime scene. Office Rick French of the Boulder Police arrived at the defendants' home in a marked car a few minutes before six a.m., followed soon after by Detective Linda Arndt. (SMF ¶ 21; PSMF ¶ 21.) Contrary to normal protocol, the police did not seal off the defendants' home, with the sole exception being the interior of JonBenét's bedroom. In other words, any person in the Ramsey house could, and often did, move freely throughout the home. (SMF ¶ 21; PSMF ¶ 22.)

The Whites arrived at defendant's home at approximately 6:00 a.m., and Mr. White, alone, searched the basement within fifteen minutes of arrival. (SMF ¶ 23; PSMF ¶ 23.) Mr. White testified that when he began his search, the lights were already on in the basement and the door in

the hallway leading to the basement “wine cellar” room¹⁰ was opened. (SMF ¶ 25; PSMF ¶ 25; White Dep. at 147, 151–52.) He further testified that a window in the basement playroom was broken. (SMF ¶ 26; PSMF ¶ 26; White Dep. at 28, 152 & 154.) Under the broken window, Mr. White states there was a suitcase, along with a broken shard of glass. (SMF ¶ 27; PSMF ¶ 27; White Dep. at 28–29, 156–59, & 265.) He does not, however, remember whether the window was opened or closed.¹¹ (SMF ¶ 28; PSMF ¶ 28; White Dep. at 153.) Mr. White also opened the door to the wine cellar room, but he could not see anything inside because it was dark and he could not find the light switch. (SMF ¶ 29; PSMF ¶ 29; White Dep. at 159–61.)

Later that same morning, at around ten a.m., Mr. Ramsey also searched the basement area alone. He testified he found the broken window partially open. (SMF ¶ 30; PSMF ¶ 30; J. Ramsey Dep. at 30.) Under the broken window, Mr. Ramsey also saw the same suitcase seen earlier by Mr. White. Mr. Ramsey testified that the suitcase belonged to his family, but was normally stored in a different place. (SMF ¶ 31; PSMF ¶ 31; J. Ramsey Dep. at 17.) *1331 Mr. Ramsey then returned upstairs. Plaintiff theorizes that Mr. Ramsey actually found JonBenét's body at this time. (PSDMF ¶ 57.)

Later that afternoon, Mr. Ramsey and Mr. White together returned to the basement at the suggestion of the Boulder Police. (SMF ¶ 32; PSMF ¶ 32; White Dep. at 212–217; J. Ramsey Dep. at 17–20.) During this joint search of the basement, the men first examined the playroom and observed the broken window. (SMF ¶ 33; PSMF ¶ 33.) The men next searched a shower stall located in the basement. (SMF ¶ 34; PSMF ¶ 34.) Mr. Ramsey then noticed a heavy fireplace grate propped in front of a closet and Mr. White moved the grate so the closet could be searched. (SMF ¶ 35; PSMF ¶ 35.) Upon finding nothing unusual in the closet, the men proceeded to the wine cellar room. Mr. Ramsey entered the room first, turned on the light and, upon discovery of JonBenét's dead body, he exclaimed “Oh my God, my baby.” (SMF ¶ 36, 37; PSMF ¶ 36, 37; White Dep. at 162–63, 193–93.)

JonBenét had black duct tape covering her mouth, a cord around her neck that was attached to a wooden garrote, and her hands were bound over her head in front of her; she was covered by a light-colored blanket. (SMF ¶ 38; PSMF ¶ 38.) A “Barbie” nightgown belonging to

JonBenét was also found in the wine cellar near her body. (SMF ¶ 149; PSMF ¶ 149.) *JonBenét's* blood was found only on her body and the Barbie nightgown. (SMF ¶ 150; PSMF ¶ 150.) Mr. Ramsey ripped the duct tape off JonBenét's mouth and attempted to untie her hands. (SMF ¶ 39; PSMF ¶ 39.) He then carried her body upstairs. (SMF ¶ 39; PSMF ¶ 39.) It was only upon the discovery of JonBenét's body that the Boulder police began to secure properly the home as the crime scene. (SMF ¶ 53; PSMF ¶ 53.)

JonBenét's body was bound with complicated rope slipknots and a garrote attached to her body. (Defs.' Br. In Supp. Of Summ. J. [67] at 19; SMF ¶ 163; PSMF ¶ 163.) The slipknots and the garrote are both sophisticated bondage devices designed to give control to the user. (SMF ¶¶ 161, 164; PSMF ¶¶ 161, 164.) Evidence from these devices suggests they were made by someone with expertise using rope and cords, which cords could not be found or “sourced” within defendants' home. (SMF ¶ 169; PSMF ¶ 169.) The garrote consisted of a wooden handle fashioned from the middle of a paintbrush, found in the paint tray in the boiler room. The end of a nylon cord was tied to this wooden handle and, on the other end, was a loop with a slipknot, with JonBenét's neck within the loop. (SMF ¶¶ 157–158; PSMF ¶¶ 157–158.) The end portion of the paintbrush used to construct the garrote was never found. (SMF ¶ 159; PSMF ¶ 159.) No evidence exists that either defendant knew how to tie such knots. (SMF ¶ 162; PSMF ¶ 162.) Further, fibers consistent with those of the cord used to make the slip knots and garrote were found on JonBenét's bed. (SMF ¶ 168; PSMF ¶ 168.) Although plaintiff agrees the garrote is the instrument used to murder JonBenét, he argues that the cord with which the wrists were tied would not have bound a live child and is evidence of a staging. (PSDMF ¶ 51.)

The black duct tape used on JonBenét's mouth has also not been sourced to defendants. (SMF ¶ 170; PSMF ¶ 170.) Both ends of the duct tape found on her were torn, indicating that it came from a roll of tape that had been used before. (SMF ¶ 171; PSMF ¶ 171.) No similar duct tape was found in the house, nor is there evidence that defendants ever used or owned such duct tape. (SMF ¶ 172; PSMF ¶ 172.) Plaintiff also notes that the strip of duct tape found on JonBenét's mouth *1332 had a bloody mucous on it and a “perfect set of child's lip prints, which did not indicate a tongue impression or resistance.” (PSDMF ¶ 53.) Animal hair, alleged to

be from a beaver, was found on the duct tape. (SMF ¶ 183; PSMF ¶ 183.) Nothing in defendants' home matches the hair. (SMF ¶ 183; PSMF ¶ 183.) Dark animal hairs were found on JonBenét's hands that also have not been matched to anything in defendants' home. (SMF ¶ 184; PSMF ¶ 184.)

Several recently-made unidentified shoeprints were found in the basement, imprinted in mold growing on the basement floor. (SMF ¶ 151; PSMF ¶ 151.) In particular, a shoeprint of a "HI-TEC" brand mark on the sole of a shoe was found. (SMF ¶ 152; PSMF ¶ 152.) Defendants do not own any "HI-TEC" brand shoes, and none of the shoes found in their home match the shoeprint marks. (SMF ¶ 153; PSMF ¶ 153.) Another partial shoeprint was found near where JonBenét's body was found. (SMF ¶ 155; PSMF ¶ 155.) This shoeprint left only a partial logo. The owner of the "HI-TEC" shoe that made the shoeprints at the murder scene has never been identified. (SMF ¶ 154, 155; PSMF ¶ 154, 155.) In addition, on the wine-cellar door, there is a palmprint that does not match either of defendants' palmprints. (SMF ¶ 156; PSMF ¶ 156.) The individual to whom it belongs had not yet been identified. (SMF ¶ 156; PSMF ¶ 156.)

Finally, items were left behind that defendants assert they did not own. (Defs.' Br. In Supp. Of Summ. J. [67] at 18–19.) A baseball bat not owned by the Ramseys found on the north side of the house has fibers consistent with fibers found in the carpet in the basement where JonBenét's body was found. (SMF ¶ 185; PSMF ¶ 185.) A rope was found inside a brown paper sack in the guest bedroom of defendants' home, neither of which belonged to defendants. (SMF ¶ 181; PSMF ¶ 181.) Small pieces of the brown sack material were found in the "vacuuming" of JonBenét's bed and in the body bag that was used to transport her body. (SMF ¶ 181; PSMF ¶ 181.) Brown cotton fibers on JonBenét's body, the paintbrush, the duct tape and on the ligature were not sourced and do not match anything in the Ramsey home. (SMF ¶ 181; PSMF ¶ 181.)

The autopsy of JonBenét's body was conducted on December 27, 1996 by the Boulder County Coroner's Office. (SMF ¶ 40; PSMF ¶ 40.) The cause of JonBenét's death was asphyxia by strangulation associated with craniocerebral trauma. (SMF ¶ 41; PSMF 41.) The autopsy report supports the conclusion that she was alive before she was asphyxiated by strangulation and that she

fought her attacker in some manner. (SMF ¶ 42–43, 46, 48; PSMF ¶ 42–43, 46, 48.) Evidence gathered during the autopsy is consistent with the inference that she struggled to remove the garrote from her neck. (SMF ¶ 44; PSMF ¶ 44.) Moreover, both parties agree the autopsy report reveals injury to JonBenét's genitalia consistent with a sexual assault shortly before her death. (SMF ¶ 48; PSMF ¶ 48.)¹² Although no head injury was visible when she was first discovered, the autopsy revealed that she received a severe blow to her head shortly before or around the time of the murder. (SMF ¶ 51; PSMF ¶ 51. *See also* Report of Michael Doberson, M.D., Ph.D. at 6(C) attach. as Ex. 3 to Defs.' Ex. Vol. I, Part A *1333 (stating the "presence of hemorrhage does indicated that the victim was alive when she sustained the head injury, however the relative small amount of subdural hemorrhage indicates that the injury occurred in the perimortem (close to death)¹³ period."))

The coroner took nail clippings from JonBenét. *Male* DNA was found under JonBenét's right hand fingernail that does not match that of any Ramsey. (SMF ¶ 174; PSMF ¶ 174.) Defendants also assert that *male* DNA was found under JonBenét's left hand fingernail, which also does not match that of any Ramsey. (SMF ¶ 173.) In addition, *male* DNA was found in JonBenét's underwear that does not match that of any Ramsey and has not yet been sourced. (SMF ¶¶ 175, 178; PSMF ¶¶ 175, 178.) The Boulder Police Department has yet to identify the male whose DNA was found at the crime scene. (SMF ¶ 177; PSMF ¶ 177.) Finally, a Caucasian "pubic or auxiliary" hair was found on the blanket covering JonBenét's body. (SMF ¶ 179; PSMF ¶ 179.) The hair does not match that of any Ramsey and has not been sourced. (SMF ¶ 180; PSMF ¶ 180.)

Finally, the coroner's report notes injuries on the right side of JonBenét's face and left lower back. While defendants assert that these injuries are consistent with the use of a stun gun, plaintiff notes that the coroner's report does not expressly state the injuries were the result of such an instrument. (SMF ¶ 47; PSMF 47.) Dr. Michael Doberson, a forensic pathologist retained by defendants who examined the Boulder Coroner's autopsy report and autopsy photos, concludes the injuries to "the right side of the face as well as on the lower left back are patterned injuries most consistent with the application of a stun gun." (Report of Michael Doberson, M.D., Ph.D. at 5(A), attach. as Ex. 3 to Defs.' Ex. Vol. I, Part A.)

II. The Ransom Note

The Ransom Note is believed by all parties to have been written by the killer or an accomplice of the killer and remains an extremely important clue in the murder investigation. (PSDMF ¶ 14.) Plaintiff claims that the single best piece of evidence that ties Mrs. Ramsey to the crime is the Ransom Note. (*Id.*) Mrs. Ramsey, however, flatly denies that she had anything to do with the note's creation. (SMF ¶ 189; PSMF ¶ 189.) Due to the pivotal role the Ransom Note plays in plaintiffs' allegation that Mrs. Ramsey was the murderer of her child, the facts surrounding the Ransom Note will be discussed in detail.

The Ransom Note was quite long, and in fact is one of the longest ransom notes in the history of kidnapping cases. (PSDMF ¶ 17.) This fact is important because the longer a document is, the harder it becomes to disguise one's handwriting. (PSDMF ¶ 19.) The Ransom Note is addressed to Mr. Ramsey alone and purports to be written by a group of individuals who "represent a small foreign faction" that have kidnapped defendants' daughter and seek \$118,000 for her safe return. The Ransom Note was signed "S.B.T.C.", after the salutation "Victory!". (Ransom Note at 3.) The author of the Ransom Note instructs Mr. Ramsey to "[u]se that good southern [sic] common sense," an obviously inaccurate reference as Mr. Ramsey was originally from Michigan, whereas Mrs. Ramsey was originally from West Virginia. (*Id.*)

*1334 In addition, the Ransom Note was drafted on paper taken from the middle of a pad of paper located at defendants' home and with a pen found at defendants' home. Additional sheets were missing from the pad and were never located at defendants' home. The pen used to write the Ransom Note was sourced to defendants' home and found placed back in its normal place by the phone. Finally, there was another page in the pad that had written on it "Mr. and Mrs. I," which many believe to have been an early "false start" of the Ransom Note. (PSDMF ¶ 51.)

Both parties agree that the Ransom Note is not an ideal specimen for handwriting analysis, primarily due to the type of writing instrument, a broad fiber-tip pen, used to draft the note. This type of pen distorts and masks fine details to an extent not achievable by other types of pen, as for example a ball point pen. (SMF ¶ 243; PSMF ¶ 243.) In addition, the stroke direction used to construct certain letters and subtle handprinting features, such as hesitations and pen lifts, are difficult to ascertain because

of the pen used in the Ransom Note. (SMF ¶ 244; PSMF ¶ 244.) Finally, the handwriting in the original Ransom Note showed consistency throughout the entire writing. (SMF ¶ 246; PSMF ¶ 246.) One of the most common means to disguise one's handwriting is to attempt to make the script erratic throughout the text. In sum, for the above reasons, the Ransom Note is not an ideal specimen for handwriting analysis. Nevertheless, the writer does not appear to have been trying to disguise his or her handwriting.

During the investigation, the Boulder Police Department and Boulder County District Attorney's Office consulted at least six handwriting experts. (SMF ¶ 191; PSMF ¶ 191.) All of these experts consulted the original Ransom Note and original handwriting exemplars from Mrs. Ramsey. (SMF ¶ 205; PSMF ¶ 205.) Four of these experts were hired by the police and two were hired by defendants. (SMF ¶ 191; PSMF ¶ 191.) All six experts agreed that Mr. Ramsey could be eliminated as the author of the Ransom Note. (SMF ¶ 194; PSMF ¶ 194.) None of the six consulted experts identified Mrs. Ramsey as the author of the Ransom Note. (SMF ¶ 195; PSMF ¶ 195.) Rather, the experts' consensus was that she "probably did not" write the Ransom Note. (SMF ¶ 196; PSMF ¶ 196.)¹⁴ On a scale of one to five, with five being elimination as the author of the Ransom Note, the experts placed Mrs. Ramsey at a 4.5 or a 4.0. (SMF ¶ 203; PSMF ¶ 203.) The experts *1335 described the chance of Mrs. Ramsey being the author of the Ransom Note as "very low." (SMF ¶ 204; PSMF ¶ 204.) The two experts hired by defendants both assert that this evidence strongly suggests that Mrs. Ramsey did not write the Note. (SMF ¶ 254.)

Plaintiff, however, asserts that his retained experts believe Mrs. Ramsey to be the author of the Ransom Note. Indeed, Gideon Epstein and Cina Wong, the handwriting experts proffered by plaintiff, opine that they are "100 percent certain" Mrs. Ramsey wrote the Ransom Note. (SMF ¶ 256; PSMF ¶ 256; PSDMF ¶¶ 1-2.) In contrast to the experts relied upon by defendants and by the Boulder Police Department, however, neither of these experts have ever seen or examined the original Ransom Note. (SMF ¶ 256; PSMF ¶ 256.) In fact, Mr. Epstein and Ms. Wong do not know what "generation" copy of the Ransom Note they examined. (SMF ¶ 257; PSMF ¶ 257.) Ms. Wong received her copy of the Ransom Note and certain writings alleged to be historical writings of Mrs. Ramsey from the tabloid, *The National Enquirer*. (SMF ¶ 258;

PSMF ¶ 258.) Although it is widely considered “very important” to consult the original versions of writings when engaging in handwriting analysis, plaintiff asserts it was impossible for his experts to consult such materials because defendants failed to provide him with original exemplars.¹⁵ (PSMF ¶¶ 259–260.) Mr. Epstein, however, consulted with some of his peers, who concur with his analysis.¹⁶ Defendants’ experts base their conclusion that Mrs. Ramsey is not the author of the Ransom Note on the “numerous significant dissimilarities” between the individual characteristics of Mrs. Ramsey’s handprinting and of that used in the Ransom Note. (SMF ¶ 247.) For example, defendants asserts Mrs. Ramsey’s written letter “u” consistently differs from the way the same letter is written throughout the Ransom Note. (SMF ¶ 248.) Plaintiff’s experts responds that this variation may be due to a conscious effort by Mrs. Ramsey to change her handwriting or to her heightened stress level. (PSMF ¶ 248.) In support of their conclusion that Mrs. Ramsey authored the Ransom Note, plaintiff’s experts assert that there are similarities between letters found in the Ransom Note and exemplars and that the note contains proofreader marks¹⁷ of the kind often used by newspaper reporters and journalists. (PSDMF ¶ 41.) Plaintiff also notes that Mrs. Ramsey was a journalism major in college. (PSDMF ¶ 42.)

*1336 Other experts believe the Ransom Note may have been authored by other people. In addition to Mrs. Ramsey, there were other individuals “under suspicion” who had their handwriting analyzed and who were not eliminated as the possible author of the Ransom Note. (SMF ¶ 205; PSMF ¶ 205.) For example, forensic document examiner Lloyd Cunningham cannot eliminate plaintiff as the author of the Ransom Note. (SMF ¶ 279; PSMF ¶ 279.) Plaintiff’s exgirlfriend has also testified that she was “struck by how the handwriting in the note resembled [plaintiff’s] own handwriting” and believes that he is the note’s author. (J. Brungardt Aff. ¶ 43.) Further, to the extent that the use of a single editing mark might suggest to plaintiff’s experts that Mrs. Ramsey was the author, given her bachelor’s degree in journalism, one should also note that plaintiff, himself, has a Masters’ degree in journalism. (*Id.* ¶ 13.)

III. The Investigation of the Murder

At the time of JonBenét’s murder, the Boulder Police Department had limited experience in conducting a

murder investigation. (SMF ¶ 70; PSMF ¶ 70.) Commander Jon Eller was primarily responsible for the investigation, which was his first murder investigation. (SMF ¶ 67; PSMF ¶ 67.) One lead detective assigned to the case, Steven Thomas, had no prior experience with a murder investigation and had previously served as an undercover narcotics officer. (SMF ¶ 68; PSMF ¶ 68.) Finally, the officer who took charge of the investigation in October 1997, Mark Beckner, also had limited homicide experience. (SMF ¶ 69; PSMF ¶ 69.)

Many mistakes were made during the course of the investigation. For example, a series of events compromised the crime scene, as discussed *supra*. Moreover, the police did not request to interview defendants separately on the day that JonBenét’s body was found. (SMF ¶ 57; PSMF ¶ 57.) They did, however, question defendants jointly at various times on December 26, 27 and 28, and, soon thereafter, began to focus the investigation on defendants as the main subjects. (SMF ¶¶ 54, 71–72; PSMF ¶¶ 54, 71–72.) Pursuant to the FBI’s suggestion that the Boulder Police publicly name defendants as subjects and apply intense media pressure to them so that they would confess to the crime, the police released many statements that implied defendants were guilty and were not cooperating with police. (SMF ¶¶ 74–75; PSMF ¶¶ 74–75.) In addition to official police releases, many individual officers also released information about the investigation without official authorization, some of which disclosures were highly confidential and potentially undermined the investigation.

During the course of the investigation, defendants signed over one hundred releases for information requested by the police, and provided all evidence and information requested by the police. (SMF ¶ 61; PSMF 61.) Upon request, within days after the murder and in the months that followed, defendants provided the police with historical handwriting samples and supervised written exemplars. (SMF ¶ 55; PSMF ¶ 55.) Defendants also gave hair, including pubic hair, and DNA samples to the police. (SMF ¶ 56, 60; PSMF ¶ 56, 60.) Despite widespread criticism that defendants failed to cooperate in the murder investigation, defendants note that they agreed, on at least three occasions, to be interviewed separately by representatives of the police or the Boulder County District Attorney’s Office. (SMF ¶ 62; PSMF ¶ 62.)

In March 1997, Andrew Louis Smit was hired by the Boulder District Attorney's Office due to his extensive experience as a homicide investigator for thirty years. (SMF ¶ 94; PSMF ¶ 94.) Detective Smit *1337 is widely considered to be an expert investigator who has successfully cracked other child murder investigations. (See, e.g., SMF ¶ 94; PSMF ¶ 94; Hunter Dep. at 46–47; Steven Thomas, *JonBenét: Inside the Ramsey Murder Investigation* 167–169 (2001).) During the course of his tenure with the police department, Detective Smit became familiar with all aspects of the murder investigation. (SMF ¶¶ 95–96; PSMF ¶¶ 95–96.) He resigned from the investigation at some point in September 1998, however, because he felt that the Boulder Police Department refused to investigate leads that pointed to an intruder as the murderer of JonBenét, and instead insisted on focusing only on defendants as the culprits. (SMF ¶¶ 97, 101; PSMF ¶ 97, 101.) Two other men, *Detective Steve Ainsworth* and Assistant District Attorney Trip DeMuth, who also believed the evidence pointed toward an intruder as the killer, were soon thereafter removed from the investigation. (SMF ¶¶ 98–100; 102; PSMF ¶ 99–100; 102.)

In June 1998, the Boulder police presented their evidence to the Boulder County District Attorney. (SMF 84; PSMF ¶ 84.) At some point in the summer of 1998, then-District Attorney Alex Hunter decided to convene a grand jury to investigate the murder of JonBenét and possibly bring charges. (SMF ¶ 86; PSMF ¶ 86.) On October 13, 1999, the grand jury was discharged by District Attorney Hunter with no indictment issued. (SMF ¶ 91; PSMF ¶ 91.) The District Attorney, and all other prosecutors involved in the proceedings, believed at that time that there was insufficient evidence to bring charges against any person, including defendants, in connection with the murder. (SMF ¶¶ 91–92; PSMF ¶¶ 91–92.)

IV. Publicity Surrounding the Crime

Beginning on the morning of December 26, 1996, there has been and continues to be considerable public interest and media attention devoted to JonBenét's murder and the subsequent investigation into the crime. As discussed *supra*, the Boulder Police Department utilized the press, in an attempt to “smoke out” JonBenét's killer. In addition to this intentional use of the press, a number of leaks of confidential information, at various stages of the murder investigation, served to hamper the ability of the Boulder Police Department to conduct an effective investigation into crime. Finally, many people have attempted to

capitalize on and profit from the widespread interest in JonBenét's murder. Indeed, plaintiff has attempted to gain a book deal and the chief theorist behind plaintiff's claims, former Detective Steve Thomas, also wrote a book. Likewise, the defendants have written a book about the murder, entitled *The Death of Innocence: The Untold Story of JonBenét's Murder and How Its Exploitation Compromised the Pursuit of Truth*. (SMF ¶ 8.)

Defendants assert that they wrote their book in response to media speculation that they were involved in their child's murder and to correct inaccurate media reports. Plaintiff, in contrast, asserts that defendants' Book was authored in an attempt to “escape prosecution for the murder of JonBenét.” (PSMF ¶ 8.) The Book sets forth defendants' account of the investigation of their daughter's murder and their view that the police did not adequately investigate several leads. (SMF ¶ 9; PSMF ¶ 9.) In the Book, defendants promote the theory that an unknown intruder entered their home and murdered their daughter. (SMF ¶ 2, 11.) Defendants state they believed when writing the Book, and believe now, that the statements contained in the Book represent either truthful fact or sincere opinion. (SMF ¶ 9.)

Defendants' Book names five people, including plaintiff, whom defendants contend *1338 should be further investigated. (SMF ¶ 328; PSMF ¶ 328.) For example, one lead mentioned is Michael Helgoth, a man who committed suicide two months after the murder and one day after District Attorney Hunter issued a statement that the authorities were narrowing their search for the murderer of JonBenét Ramsey. (SMF ¶ 281; PSMF ¶ 281.) Indeed, a stun gun was found near Mr. Helgoth's body, as well as boots with a HI-TEC logo like that left on the basement floor of defendants' home. (SMF ¶ 281; PSMF ¶ 281.) See discussion *supra* at 1332, 1333.

Another lead mentioned is Gary Oliva, a transient with a history of child molestation, who was seen in the Boulder area in December 1996, picked up his mail one block from the Ramsey home, and was present at a memorial service for JonBenét. (SMF ¶ 282; PSMF ¶ 282.)

Another purported lead was Bill McReynolds, who portrayed Santa Claus at a Christmas Party at defendants' home in December 1996, whose wife had written a play about a young girl held captive in a basement, whose daughter had been kidnapped and sexually assaulted

twenty-two years to the day before JonBenét's death, and who had written a card to JonBenét that was found in her trash can after the murder. (SMF ¶ 283; PSMF ¶ 283.)

Finally, another lead identified by Detective Smit was plaintiff, who in his estimation presented too many "unanswered questions." (SMF ¶ 284; PSMF ¶ 284.) Defendants identified all of these men, and others, in their book as possible suspects. (SMF ¶ 328; PSMF ¶ 328; *The Book* at 165–168, 199–201, 215–216, & 310–312.) In addition, the Book discusses, but does not name, eight other leads. (SMF ¶ 328; PSMF ¶ 328.) In Chapter 33 of the Book, defendants present a detailed profile of the murderer. The profile offered is that of a male ex-convict, aged 25–35, who is familiar with and owns a stun gun. (SMF ¶ 329; PSMF ¶ 329.) The passage at issue from the Ramsey book, that is the heart of the present libel claim, criticizes the Boulder Police Department for failing to investigate these possible leads in the murder investigation. (SMF ¶ 180; PSMF ¶ 180.)

In addition to authoring the Book, defendants have appeared on various news programs. (PSDMF ¶¶ 105–118.) On March 24, 2000, defendants appeared on NBC's "Today Show," a television broadcast, in a segment taped in February 2000 with Katie Couric. (SMF ¶ 330; PSMF ¶ 330.) It is from this broadcast that plaintiff's slander claim arises. Defendants did not have any influence or control over the visuals displayed when they spoke, were not told that a photograph of plaintiff would be displayed during their appearance on the show, and were not told before taping what specific questions would be posed to them during the taping. (SMF ¶ 331; PSMF ¶ 331.) In other words, defendants had no editorial control over how the interview was edited or presented. (SMF ¶ 332; PSMF ¶ 332.) During the interview, Mr. Ramsey stated that:

I can tell you when when we first started looking at—at one particular lead early on—my reaction was This is it. This is the killer. And our investigator said 'Whoa, whoa, whoa.' He'd say, 'Don't do a Boulder Police on me. Don't rush to conclusions'—

(Transcript of Interview attach. as Tab 38 to Defs.' Ex., Vol. 1; J. Ramsey Aff. ¶ 19.) He claims that these statements were not in relation to plaintiff, but rather to Michael Helgoth,¹⁸ although plaintiff's photograph was being superimposed on the *1339 telecast by NBC. (SMF ¶¶ 335; 338.) Plaintiff contends that the above statement,

however, was intended by defendants to relate to him. (PSMF ¶¶ 335, 338.)

For his part, plaintiff too has appeared before the media and profited from discussing and critiquing the murder investigation. (SMF ¶ 292; PSMF ¶ 292.) In 1997, plaintiff voluntarily gave an interview to *Hard Copy*, a syndicated television program, in which he claimed to be a suspect in the murder of JonBenét and for which he received \$5,000 compensation. (SMF ¶ 293; PSMF ¶ 293.) In addition, plaintiff discussed his status as a suspect with the news tabloid, *The National Enquirer*, and received \$250 for that interview. (SMF ¶ 294; PSMF ¶ 294.) In addition, plaintiff provided information to Lawrence Schiller for use in his 1998 book about the murder, entitled *Perfect Murder, Perfect Town*. In several passages, attributed to plaintiff, the latter discusses his arrest and interrogation by the Boulder Police Department. (SMF ¶¶ 295–296; PSMF ¶¶ 295–296.)¹⁹

Plaintiff also attempted to capitalize on his association with the murder investigation through a book deal. On plaintiff's computer was a letter dated March 2, 1999, addressed to David Granger of *Esquire* magazine, discussing his status as a suspect in the murder and his related media and print appearances. (SMF ¶ 298; PSMF ¶ 298.) The letter requests a "generous fee" in return for plaintiff authoring a book about JonBenét's murder. (SMF ¶ 298; PSMF ¶ 298.)

Plaintiff's counsel Darnay Hoffman also became interested in the case early in the murder investigation and has contributed to the continued media interest through the filing of various lawsuits. In March 1997, Mr. Hoffman sent a letter to the Boulder County District Attorney Alex Hunter suggesting that Charles Lindbergh had killed his child in a hoax kidnapping and that one of the defendants had killed JonBenét in a similar type hoax. (SMF ¶ 339; PSMF ¶ 339.) In May 1997, Mr. Hoffman sent Mr. Hunter a second letter in which Mr. Hoffman theorized that Mrs. Ramsey killed her daughter, through a blow to the head, in a fit of rage caused by unhappiness, depression and marital problems. (SMF ¶ 340; PSMF ¶ 340.) The Boulder authorities did not take Mr. Hoffman's unsubstantiated theories seriously and considered much of his submissions to be "off the wall." (SMF ¶ 341; PSMF ¶ 341.)

In the fall of 1997 Mr. Hoffman began to solicit the involvement of various handwriting experts, claiming that, although prior expert reports given to the Colorado Bureau of Investigation showed Mrs. Ramsey to be at the “very lowest end of the spectrum, i.e. there is little or no basis for a match,” it would be a “career move” for an expert to submit an affidavit for use by Mr. Hoffman. (SMF ¶ 343; PSMF ¶ 343.) Indeed, forensic document examiners were eager to jump into the high-profile investigation. In July 1997, Ms. Wong, now plaintiff's expert, had originally contacted defendants' attorneys and offered to analyze the Ransom Note and point out weaknesses in analysis by “Government handwriting experts.” (SMF ¶ 342; PSMF ¶ 342.) Defendants declined such an offer. *1340 In September 1998, Ms. Wong wrote District Attorney Hunter, Assistant District Attorney Michael Kane, and Judge Roxanne Bailin, asking to testify before the Grand Jury. (SMF ¶ 347; PSMF ¶ 347.) By letter dated January 20, 1999, Mr. Hunter rejected the request, informing Ms. Wong that it was his opinion that she did not use scientifically reliable methods, her testimony would be inadmissible, and that she lacked credibility. (SMF ¶ 348; PSMF ¶ 348.) In addition, Mr. Epstein, defendants' other handwriting expert, also wrote to Mr. Hunter, at sometime before the end of 2000, to offer his assistance in examining the Ransom Note. (SMF ¶ 349; PSMF ¶ 349.) Mr. Hunter did not take Mr. Epstein up on his offer, either. (SMF ¶ 349; PSMF ¶ 349.)

On November 14, 1997, Mr. Hoffman filed a Complaint in the District Court for Boulder County, Colorado, on his own behalf as a plaintiff, asking that Mr. Hunter be forced to explain why he had not filed murder charges against Mrs. Ramsey. (SMF ¶ 344; PSMF ¶ 344.) Attached to the Complaint was the affidavit of Ms. Wong who, notwithstanding her earlier overture to the Ramseys, now claimed that Mrs. Ramsey had written the Ransom Note. (SMF ¶ 345; PSMF ¶ 345.) Mr. Hoffman's complaint was dismissed on January 20, 1998. (SMF ¶ 346; PSMF ¶ 346.)

In March 2000, Mr. Hoffman again filed suit, again on his own behalf as plaintiff, against defendants in the Supreme Court of New York, County of New York, for \$25,000,000 in damages based on the allegation that he was defamed by certain passages in the defendants' Book. (SMF ¶ 353; PSMF ¶ 353.) On April 21, 2000, Mr. Hoffman dismissed this complaint. (SMF ¶ 354; PSMF ¶ 354.)

In addition, Mr. Hoffman has served as a long time source to news tabloids for information about the investigation. (See, e.g., John Latta, “JonBenét's Dad Was Framed by Mom, say insiders,”) NATIONAL EXAMINER, June 24, 1997 (insider referred to is Mr. Hoffman); Art Dworkin, “JonBenét's Dad Lied Under Oath to Hide Death Fight,” NATIONAL EXAMINER dated March 7, 2000 (quoting Mr. Hoffman's comments about Mr. Ramsey's deposition testimony); Art Dworkin, “Five Years Later JonBenét Parents Are Doing Little To Find Killer,” NATIONAL EXAMINER, December 11, 2001 (quoting Mr. Hoffman as stating, among other things, that defendants “JUST DON'T CARE” about their daughter's murder investigation.)²⁰

V. History of This Case

Plaintiff filed suit on May 11, 2000, alleging intentional infliction of emotional distress. He amended his Complaint on June 15, 2000 to add claims for libel and slander stemming from the Book and from comments by Mr. Ramsey on NBC's “Today” show, respectively. Mr. Wolf has stipulated that he is a limited public figure. (See Stipulation [8].) On February 9, 2001, the Court denied defendants' motion to dismiss. (See Order dated February 12, 2002[15].)

After discovery ended, plaintiff withdrew his claim for intentional infliction of emotional distress. (See Stipulation of Dismissal [64].) The libel and slander claims still remain. On August 30, 2002, defendants filed the present motion for summary judgment [67].

*1341 There are also other motions currently pending before the Court. On August 28, 2002, defendants filed a motion in limine to exclude the testimony of Cina Wong and Gideon Epstein as plaintiff's experts [68]. On the same day, defendants also moved for oral argument on defendants' motion for summary judgment as to the remaining claims [79].

DISCUSSION

I. Motion in Limine to Exclude Testimony

Defendants have filed a motion in limine to exclude the expert testimony of Cina Wong and Gideon Epstein [68], two witnesses proffered by plaintiff as “forensic document examiners.” For the reasons discussed below, the Court

concludes that defendants' motion should be **GRANTED** as to Ms. Wong and **GRANTED in part and DENIED in part** as to Mr. Epstein.

A. *Daubert* Principle

Federal Rule of Evidence 702 is quite liberal in the scope of evidence it deems properly admissible. The Rule states in relevant part that:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Fed.R.Evid. 702. The trial court must, however, act as a gatekeeper and determine, at the outset, whether the purported expert is qualified to express a reliable opinion based on sufficient facts or data and the application of accepted methodologies. *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 152, 119 S.Ct. 1167, 143 L.Ed.2d 238 (1999). *See also Daubert v. Merrell Dow Pharm.*, 509 U.S. 579, 592–93, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993).²¹

In performing this gate-keeping responsibility, the Supreme Court has articulated four factors the court may consider:

- (1) Whether a theory or technique can be or has been tested;
- (2) Whether it has been subjected to peer review and publication;
- (3) Whether, in respect to a particular technique, there is a high known or potential rate of error and whether there are standards controlling the technique's operation; and

- (4) Whether the theory or technique enjoys general acceptance within a relevant scientific community.

Kumho Tire, 526 U.S. at 149–50, 119 S.Ct. 1167 (citing *Daubert*, 509 U.S. at 592–94, 113 S.Ct. 2786) (internal quotations marks and alterations omitted). These various factors are not an exhaustive list of all possible ways to assess reliability, nor must all of the factors be applied in every case. *Id.* at 150, 119 S.Ct. 1167. Depending *1342 on the facts of the case and the type of testimony being challenged, it may very well be unreasonable to apply all of these factors. *Id.* at 151, 119 S.Ct. 1167. Accordingly, the trial judge is given discretion in determining how and in what manner to make reliability determinations pursuant to *Daubert*. “The burden of laying the proper foundation for the admission of expert testimony is on the party offering the expert, and admissibility must be shown by a preponderance of the evidence.” *Allison v. McGhan Med. Corp.*, 184 F.3d 1300, 1306 (11th Cir.1999). *Accord U.S. v. Gilliard*, 133 F.3d 809, 815 (11th Cir.1998)(stating that expert testimony is admissible only if its proponent demonstrates the underlying methodology is reliable and relevant).

B. Background on Handwriting Analysis

Defendants argue that the opinions of plaintiffs' expert should not be admitted because the field of forensic document examination is not sufficiently reliable. In their Brief in Support of the Motion in Limine, defendants argue that the “science” of handwriting analysis does not meet the reliability standards of Rule 702: as the theoretical bases underlying this science have never been tested; error rates are neither known nor measured; and the field lacks both controlling standards and meaningful peer review. (Br. In Supp. Of Mot. In Limine [68] at 2.)

In examining defendants' contention, the Court notes that both parties agree that the field of forensic document examination is premised on the assumption that no two persons' handwriting is exactly alike; instead, each person has a unique handwriting pattern that allows the person to be identified through a comparison of proper handwriting specimens.²² (SMF ¶ 209; PSMF ¶ 209.) Forensic document examination involves the subjective analysis and assessment of writing characteristics found in a person's handwriting or handprinting style, by examination of subtle and minute qualities of movement such as pen lifts, shading, pressure and letter forms. (SMF

¶ 210; PSMF ¶ 210.) Handwriting identification is an inexact endeavor that “cannot boast absolute certainty in all cases.” (SMF ¶ 212; PSMF ¶ 212.) Two or more handwriting experts can reach different conclusions of authorship, even when examining the same questioned document and handwriting exemplars. (SMF ¶ 213; PSMF ¶ 213.)

Forensic document examiners are generally trained through a “guild-type” apprenticeship process, in which supervised trainees study methods of document examination described by the field's leading texts. (Defs.' Mot. In Limine [68] at 3; Epstein Dep. at 40–41.) The only recognized organization for accrediting forensic document examiners is the American Board of Forensic Document Examiners (“ABFDE”). (Defs.' Mot. In Limine [68]; Epstein Dep. At 36.) There are common terms used within the field. For example, the unidentified writing is generally referred to as the “questioned document.” (SMF ¶ 214; PSMF ¶ 214.) Writings prepared by a person in the past in the normal course of business are referred to in the field as “historical writings” or “course-of-business” writings. (SMF ¶ 215; PSMF ¶ 215.) In contrast, writings prepared on request for the purpose of comparison are referred to as “request exemplars.” (SMF ¶ 216; PSMF ¶ 216.) Ideally, a handwriting expert should consult the original unidentified writing, not a *1343 copy, to increase the reliability of his or her assessment. (SMF ¶¶ 218–219; PSMF ¶¶ 218–219.) The most reliable method of forensic document examination occurs when an examiner compares both historical writings and request exemplars to the questioned document. (SMF ¶ 217; PSMF ¶ 217.)

The recognized method for forensic document analysis occurs in several important steps. First, the expert determines whether a questioned document contains a sufficient amount of writing and enough individual characteristics to permit identification. After determining that the questioned document is identifiable, the expert examines the submitted handwriting specimens in the same manner. If both the questioned document and the specimens contain sufficient identifiable characteristics, then the expert compares those characteristics often through the use of a chart. (SMF ¶¶ 230–232; PSMF ¶¶ 230–232.) For example, the slant of the writing, the shapes of the letters, the letter connections, the height of the letters, the spacing between letters, the spacing between words, the “I” dots and “t” crosses are

aspects of handwriting that can be used for comparison. Next, the expert weighs the evidence, considering both the similarities and the differences of handwriting, and determines whether or not there is a match. (SMF ¶ 232; PSMF ¶ 232.) Ignoring differences between characteristics is a frequent cause of error in handwriting identification. (SMF ¶ 233; PSMF ¶ 233.) Similarly, dismissing differences as merely the product of intentional disguise is another common mistake made in the analysis. (SMF ¶ 235; PSMF ¶ 235.) In addition, an examiner should not know the identity of the comparators and should consult more than one comparator to increase the reliability of his or her analysis. (SMF ¶¶ 256–57 & 268–72; PSMF ¶¶ 256–57 & 268–72.)

In addition to a recognized methodology, there are some accepted standards that should be employed when engaging in handwriting analysis. One standard is that the genuineness of the historical writing or request exemplar must be verified; that is, the forensic document examiner should ensure the purported author is the true and historical writing is indeed the author. (SMF ¶ 223; PSMF ¶ 223.) In addition, any differences between the questioned document and the comparison writings are generally considered to be more significant than are similarities, when attempting to determine whether someone is the author of a questioned document. (SMF ¶ 224; PSMF ¶ 224.) The reason that similarity, by itself, is not dispositive is because most people are taught handwriting as children from the same or similar “notebook styles” and, therefore, many people will share common handwriting characteristics called “class characteristics.” (Defs.' Mot. In Limine [68] at 4; Albert S. Osborn, *QUESTIONED DOCUMENTS* 226 (2nd Ed. Patterson Smith, 1973), attach. to Defs.' Evid. In Supp., Vol. I, at Tab 16.) The existence of even one consistent fundamental difference between writings, however, has historically been viewed as a legitimate basis for concluding that two writings were not produced by the same person.²³ (SMF ¶ 225; PSMF ¶ 225.) Finally, it is generally accepted that consistent characteristics present over the course of a long writing should be viewed as genuine characteristics of the author's handwriting, and not the product of an attempt to disguise. (SMF ¶ 237; PSMF ¶ 237.)

*1344 Based on the above undisputed information, the Court concludes, as a general proposition, that forensic document examiners, who are equipped with the proper background qualification and who employ

the accepted methodology in their analysis, can serve to assist the trier of fact, in some regards, through providing reliable testimony about similarities or differences, or both, between a questioned writing and comparative exemplars.²⁴ Such a holding is consistent with the precedent established by the Eleventh Circuit in *U.S. v. Paul*, 175 F.3d 906 (11th Cir.1999). In *Paul*, the Eleventh Circuit held that a forensic handwriting expert can, in some instances, assist the “jury or trier of fact to understand the evidence or to determine a fact in issue.” *Id.* at 911. In *Paul*, the expert was deemed qualified to provide reliable testimony based on his thirty years of experience in the field and application of widely accepted methods of analysis. Likewise, this Court concludes that when a forensic handwriting expert possesses the proper qualifications and when he or she employs reliable methodology, the testimony can qualify as “specialized knowledge” that can be admitted pursuant to Federal Rule of Evidence 702. *See also United States v. Jolivet*, 224 F.3d 902, 906 (8th Cir.2000) (affirming the district court’s admission of forensic document expert testimony and finding such opinion reliable because the expert was well-qualified in handwriting analysis and his testimony “may be properly characterized as offering the jury knowledge beyond their own and enhancing their understanding of the evidence before them.”). *Accord United States v. Jones*, 107 F.3d 1147, 1160–61 (6th Cir.), *cert. denied*, 521 U.S. 1127, 117 S.Ct. 2527, 138 L.Ed.2d 1027 (1997).

C. Background and Qualifications of Plaintiff’s Experts

Although the Court has concluded that a proper expert may assist a jury in a comparison of handwriting between a known and an unknown piece of writing, that conclusion does not mean that a person can be deemed as an expert in forensic document examination merely by announcing himself as such. Indeed, defendants assert that plaintiff’s experts, in particular Ms. Wong, lack the necessary credentials to qualify as experts. (Defs.’ Br. In Supp. Of Mot. In Limine [68] at 5–7; Reply Br. In Supp. Of Mot. In Limine [90] at 2.) For the reasons discussed below, the Court agrees with defendants that Wong is not qualified to provide expert testimony. The Court, however, finds that Epstein is qualified to present certain expert testimony in this case.

[1] Mr. Epstein is a forensic document examiner who served as the past president of the American Society of Questioned Document Examiners, is a registered member

of the ABFDE, and has authored several authoritative texts in the field. (PSDMF [88] ¶ 1; Epstein Aff. ¶¶ 12–15.) He has a Bachelor of Science in Criminal Justice from the University of Nebraska, a Masters of Forensic Science from Antioch School of Law, successfully completed a two-year resident training program in the forensic science of Questioned Document Examination at the U.S. Army Crime Laboratory *1345 in Fort Gordon, Georgia, and has trained with the Post Office Identification Laboratory. (*Id.* ¶ 2.) Plaintiff notes that Mr. Epstein has “appeared in 200 cases over a thirty year period, having examined thousands of documents ...[has] established questioned document laboratories for not only the U.S. government, but for those of Eastern Europe and the Philippines as well, while teaching hundreds of government document examiners their professions.” (Pl.’s Br. In Opp. To Defs.’ Mot. In Limine [87] at 8.) In addition, Epstein has taught Forensic Document Examination at the George Washington Graduate School of Forensic Sciences, the Federal Law Enforcement Training Center, and in programs offered to the United States Army Criminal Investigators. (Epstein Aff. ¶¶ 6–7.) The Court concludes that Mr. Epstein’s background constitutes sufficient qualifications to allow him to testify in the field of forensic documents’ examination. *See, e.g., United States v. Paul*, 175 F.3d at 911 (finding handwriting expert with fourteen years of experience should be admissible); *United States v. Velasquez*, 64 F.3d 844, 846 (3rd Cir.1995) (finding same); *United States v. Gricco*, 2002 WL 746037, *2 (E.D.Pa. April 26, 2002) (finding forensic document analyst with similar extensive qualifications to be qualified as an expert).

[2] In stark contrast to Epstein, Wong has never taken a certification exam, completed an accreditation course in document examination, been an apprentice to an ABFDE certified document examiner, or worked in a crime lab. (Wong Dep. at 87–112.) She does, however, claim nearly ten years of experience in the field. (Pl.’s Br. In Opp. To Defs.’ Mot. In Limine [87] at 9.) She, however, is not a member of the ABFDE, the sole recognized organization for accreditation of qualified forensic document examiners. Although she is the former vice president of the National Association of Document Examiners (“NADE”), (PSDMF ¶ 2), defendants note that this organization does not meet ABFDE certification requirements, has no permanent office and has no membership requirements other than the payment of a fee. (Defs.’ Mot. In Limine [68] at 6.) Wong, herself,

admits that NADE does not require specialized training or experience for its certification. (Wong Dep. at 87–89.) Finally, even Epstein, plaintiff's other expert, testified that Wong is not qualified to render opinions in this case. (Epstein Dep. at 32–33.) Accordingly, the Court concludes Ms. Wong is not qualified to provide reliable handwriting analysis in this case. Therefore, the Court **GRANTS defendants' motion in limine to exclude the testimony of Ms. Wong** and the Court does not consider Ms. Wong's testimony in its analysis of defendants' summary judgment motion.

D. The Reliability of Epstein's Proffered Testimony.

Although the Court has concluded, as a general matter, that Epstein is qualified to testify as a forensic documents examiner, it must still determine the parameters of his expertise with regard to the opinions he seeks to offer. Specifically, Epstein claims that he can state, with absolute certainty, that Mrs. Ramsey is the author of the Ransom Note. The Court, as gatekeeper, must therefore examine the methodology that he puts forward in support of such a categorical conclusion. First, Epstein states that he used the standard methodology of forensic document examiners when assessing the Ransom Note and Mrs. Ramsey's writing samples. (Epstein Aff. ¶ 25.) He initially determined that he had a sufficient amount of handwriting by Mrs. Ramsey to allow an examination. (*Id.* ¶ 26.) He then proceeded to examine the submitted materials for similarities and dissimilarities. (*Id.*) After conducting the examination, he then determined that *1346 the original writing and the exemplars matched to a “one hundred percent” degree of certainty. (*Id.* ¶¶ 26, 31.) Finally, he consulted other forensic document analysts who approved of his methodology and result. (*Id.* ¶ 32.)

Defendants move to exclude the testimony of Epstein because they assert that the methodology he employed does not meet the accepted standards of handwriting analysts. In particular, defendants argue that Epstein's opinions are not reliable because he did not consult the original Ransom Note, original handwriting exemplars of Mrs. Ramsey, nor original course-of-business writings of Mrs. Ramsey. (Defs.' Mot. In Limine [68] at 8.) Epstein acknowledges the importance of consulting original documents in an article he coauthored, appearing in the 1971 edition of *Identification News*, a publication of the International Association for Identification. (SMF ¶ 220; PSMF ¶ 220.) In this text, Epstein writes that:

All investigative agencies should be aware of the limitations that are imposed upon the Questioned Document Examiner by the submission of copies (Xerox, Photo, or Thermofax) in place of the original. By having to use the copies, the examiner is being deprived of one of the most important elements of scientific examination, the study of line quality of the writing. Those breaks, pressure areas, and even spacing, can often be attributed to the mechanical method of reproduction and not to the actual writing itself. A qualified conclusion based on examination of only copies is not rare. **ATTEMPT TO OBTAIN THE ORIGINALS WHENEVER POSSIBLE.**

(SMF ¶ 129; Hans M. Gideon & Gideon Epstein, “The Obtaining of Proper Handwriting Exemplars and Standards,” emphasis in original, Ex. A to Jordan Aff., Tab. 23.) The parties also agree that mechanical copying may distort the writings or eliminate subtleties, such as pen lifts, hesitations, pressure or “feathering.” (SMF ¶ 222; PSMF ¶ 222.) Notwithstanding his previous warnings about the use of copies, Epstein testified in this case that copies produced today are of a higher quality than those generated at the time the article was produced and, therefore, some of the concerns expressed in the article have been mitigated. He still agreed, however, that it is optimum to review the original. (PSMF ¶ 219.)

It is undisputed that a number of subtle and critical handprinting features observable on examination of the original Ransom Note cannot be observed from an examination of a machine copy of the Ransom Note. (SMF ¶ 245; PSMF ¶ 245.) Plaintiff's experts, however, were not afforded the opportunity to consult the original Ransom Note, original exemplars, or the course-of-business writings of Mrs. Ramsey. Defendants refused to provide original exemplars, despite plaintiff's discovery requests.²⁵ (Pl.'s Br. In Opp. To Defs.' Mot. In Limine [87] at 20.) The Court concludes that any reliability concerns stemming from Epstein's failure to consult the originals should go to the weight of his testimony, but should not bar its admission, completely. To hold

otherwise could create a perverse incentive for individuals not to allow an opponent access to original documents, in order to render those expert's opinion inadmissible.

[3] In short, the Court is satisfied as to Epstein's ability to testify concerning perceived similarities and differences in Mrs. Ramsey's known handwriting and the Ransom Note. Any criticism of Epstein's analysis by defendants goes to the weight of *1347 his testimony. Of more concern to the Court, however, is the reliability of Epstein's ultimate conclusion concerning the identity of the writer of the Note. As noted, Epstein claims that he is "100 percent certain that Patsy Ramsey wrote the [R]ansom [N]ote," and in his professional opinion "*there is absolutely no doubt she is the author.*" (Pl.'s Stmt. Of Disp. Mat. Facts [88] ¶ 1.) (emphasis added)

Nowhere in the submissions provided by plaintiffs is there any attempt to show by what methodology Mr. Epstein reaches a conclusion of absolute certainty that a given person is, in fact, the writer of a questioned document.²⁶ Defendants persuasively argue that Epstein was unable to identify any unique characteristics of Mrs. Ramsey's handwriting that were mimicked in the Ransom Note. (Def.'s Mtn. in Lim. [68] at 9). Instead, Epstein bases his conclusion on perceived similarities between the two. *Id.* Yet, as noted by defendants, Epstein never indicates how many similarities or what kind of similarities are required before he can reach absolute certainty, 50% certainty, or no certainty, at all. Further, as defendants also note, whenever encountering any differences between the known writing of Mrs. Ramsey and the Ransom Note, Epstein finds refuge in the explanation that Mrs. Ramsey must have been trying to disguise her handwriting. (*See id.*) While it is, of course, possible that differences between known writing and questioned documents are the result of a known writer's efforts to disguise her handwriting, it is just as plausible that the differences can occur because the known writer is *not* the author of the questioned matter. On that issue, Epstein offers no hint of the methodology that he employs to distinguish between disguised writing and writing that is simply being provided by two different people.

The underlying notion behind *Daubert*, and all good science, is that a given premise or principle should be capable of being tested to determine whether the principle is, in fact, sound. Thus, if Epstein indicated, for example, that whenever a writer of known material has x number

of similarities, there is a given probability that the writer wrote the note—and if this methodology had been tested by reliable means in the past—then Epstein would have shown reliability in the methodology that he used to reach a determination of the likelihood of his conclusion. As it is, however, Epstein's explanation for his conclusion seems to be little more than "Trust me; I'm an expert." *Daubert* case law has indicated that such an assertion, which seems to be based more on intuition than on scientific reasoning, is insufficient.

Accordingly, the Court concludes that while Epstein can properly assist the trier of fact by pointing out marked differences and unusual similarities between Mrs. Ramsey's writing and the Ransom Note, he has not demonstrated a methodology whereby he can draw a conclusion, to an absolute certainty, that a given writer *1348 wrote the Note.²⁷ Such a holding is consistent with numerous other districts that have allowed a qualified handwriting expert to testify as to the "similarities" between a challenged document and a known exemplar, but have not allowed the expert to express his ultimate "opinion" on the matter. *See, e.g., United States v. Van Wyk*, 83 F.Supp.2d 515, 524 (D.N.J.2000) (allowing an expert to testify about "the specific similarities and idiosyncrasies between the known writings and the questioned writings, as well as testimony regarding, for example, how frequently or infrequently in his experience, he has seen a particular idiosyncrasy."); *United States v. Rutherford*, 104 F.Supp.2d 1190, 1194 (D.Neb.2000) (limiting a forensic document examiner's testimony to "identifying and explaining the similarities and dissimilarities between the known exemplars and the questioned documents."); *United States v. Hines*, 55 F.Supp.2d 62, 68 (D.Mass.1999) (permitting forensic examiner to testify about unique features common or absent in the writings). *But see United States v. Lewis*, 220 F.Supp.2d 548, 552 (S.D.W.Va.2002) (finding that proponent of forensic document expert had failed to establish testimony's reliability); *United States v. Saelee*, 162 F.Supp.2d 1097, 1106 (D.Alaska 2001) (excluding handwriting expert testimony in its entirety as inherently unreliable). Therefore, Defendants' Motion in Limine to Exclude the Testimony of Mr. Epstein is **GRANTED, IN PART, AND DENIED, IN PART.**

II. Summary Judgment Motion

As noted, plaintiffs complaint asserts both a libel and slander claim, two subcategories of defamation. *See Nida v. Echols*, 31 F.Supp.2d 1358, 1375 n. 33 (N.D.Ga.1998). Plaintiff asserts that defendants' mention of him as a suspect in the Book is a knowing falsehood because defendants knew that Mrs. Ramsey actually committed the murder and that Mr. Ramsey helped her cover it up. In short, plaintiff's success in this litigation requires him to prove, by clear and convincing evidence, that defendants killed their child.

Defendants have moved for summary judgment [67]. In addition, defendants have moved for oral argument on defendants' motion for summary judgment [79]. Because the parties have provided thorough briefs, the Court finds it unnecessary to hold an oral argument. Accordingly, defendants' Motion for Oral Argument [79] is **DENIED**. Based on the record presently before it, and for the reasons stated below, the Court concludes that defendants' motion for summary judgment should be **GRANTED**.

A. Summary Judgment Standard

Summary judgment is not properly viewed as a device that the trial court may, in its discretion, implement in lieu of a trial on the merits. Instead, Rule 56 of the Federal Rules of Civil Procedure *mandates* the entry of summary judgment against a party who fails to make a showing sufficient to establish the existence of *every* element essential to that party's case on which that party will bear the burden of proof at trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). In such a situation, there can be no genuine issue as to any material fact, as a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial. *Id.* at 322–23, 106 S.Ct. 2548.

***1349** The movant bears the initial responsibility of asserting the basis for his motion. *Id.* at 323, 106 S.Ct. 2548; *Apcoa, Inc. v. Fidelity Nat'l Bank*, 906 F.2d 610, 611 (11th Cir.1990). The movant is not required to negate his opponent's claim, however. The movant may discharge his burden by merely “‘showing’—that is, pointing out to the district court—that there is an absence of evidence to support the nonmoving party's case.” *Celotex*, 477 U.S. at 325, 106 S.Ct. 2548. After the movant has carried his burden, the nonmoving party is then required to “go beyond the pleadings” and present competent evidence²⁸ designating “‘specific facts showing that there is a genuine

issue for trial.’ ” *Id.* at 324, 106 S.Ct. 2548 (quoting FED. R. CIV. P. 56(e)). While the court is to view all evidence and factual inferences in a light most favorable to the nonmoving party, *Samples v. City of Atlanta*, 846 F.2d 1328, 1330 (11th Cir.1988), “the mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no *genuine* issue of *material* fact.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247–48, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986).

A fact is material when it is identified as such by the controlling substantive law. *Id.* at 248, 106 S.Ct. 2505. An issue is genuine when the evidence is such that a reasonable jury could return a verdict for the nonmovant. *Id.* at 249–50, 106 S.Ct. 2505. The nonmovant “must do more than simply show that there is some metaphysical doubt as to the material facts ... Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no ‘genuine issue for trial.’ ” *Matsushita Electric Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586–87, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986) (citations omitted). An issue is not genuine if it is unsupported by evidence, or if it is created by evidence that is “merely colorable” or is “not significantly probative.” *Anderson*, 477 U.S. at 249–50, 106 S.Ct. 2505. Thus, to survive a motion for summary judgment, the nonmoving party must come forward with specific evidence of *every* element material to that party's case so as to create a genuine issue for trial.

B. Libel Claim

Georgia law defines libel as “a false and malicious defamation of another, expressed in print, writing, pictures, or signs, tending to injure the reputation of the person and expose him to public hatred, contempt, or ridicule.” O.C.G.A. § 51–5–1(a). Truth is an absolute defense under Georgia law: if plaintiff cannot prove falsity, the libel and slander claim must fail. O.C.G.A. § 51–5–6; *Cox Enterprises, Inc. v. Thrasher*, 264 Ga. 235, 237, 442 S.E.2d 740, 742 (1994). In addition, “[t]o be actionable, the libel must be “published”—i.e., communicated to a third party.” *Mullinax v. Miller*, 242 Ga.App. 811, 814, 531 S.E.2d 390, 392 (2000). There is no dispute over the fact that the allegedly defamatory comments in this case, contained in defendants' book, were indeed published. The parties do disagree as to whether the statements were libelous and, if so, whether defendants acted with malice.

1. Were the statements libelous?

[4] [5] As a general rule, the question of whether a published statement is defamatory is a question for the jury. *Mead v. True Citizen, Inc.*, 203 Ga.App. 361, 362, 417 S.E.2d 16, 17 (1992) (citations omitted). Nevertheless, when faced with a summary judgment motion in a defamation action, the “[t]rial judge should read and construe the publication as a whole, and thereafter may find that it is not defamatory, that it is defamatory, or that it is ambiguous and the question is [truly] one for a jury. In considering whether a writing is defamatory as a matter of law, [the court should] look ... at what construction would be placed on it by the average reader.” *Mead*, 203 Ga.App. at 362, 417 S.E.2d at 17 (citations omitted).

The passage at issue in the book emanated from a conversation, in August 1997, between plaintiff's then girlfriend, Jacqueline Dilson, and Pam Paugh, sister of Mrs. Ramsey. Specifically, Dilson contacted Paugh and told her that she believed plaintiff Wolf to be involved in the murder of JonBenét Ramsey. (SMF ¶ 317; PSMF ¶ 317.) Based on that initial conversation, and subsequent information acquired by defendants, the following was said about plaintiff in the Book:

Later that evening, as we were trying to relax, we received a call from Pam, who said that she had just gotten off the phone with a lady in Boulder. Jacqueline Dilson had reported to the Boulder police that she believed her live-in lover, Chris Wolf, might be the person they were seeking. When she couldn't get them to respond, she finally called Patsy's mother, Nedra, and she in turn called Pam, who immediately called Jackie back.

Jacqueline Dilson worked at the Dakota ranch, a small retreat and conference center near Lyons, Colorado, which pushed New Age experiences. She had allowed Wolf to move into her trailer in 1995. Chris Wolf turned out to be a reporter for the *Colorado Daily* and the *Boulder County Business Report* with a master's degree in journalism. His strange behavior before Christmas and early in the morning after Christmas raised Dilson's concern about what Wolf had been doing all night.

Apparently, Dilson had spent Christmas Day with Wolf, but he would not stay to have supper with her and her family. Somewhere around 10:00 P.M. Jacqueline

went to bed, thinking Wolf had gone off on a spree of some kind or another. At around 5:30 A.M., sounds from the bathroom woke Jackie up, and she realized that Wolf was getting out of the shower. He had left dirty clothes all over the floor. Without explanation of where he'd been, Wolf crawled into bed and went to sleep.

Later the next day, Dilson and Wolf watched the television news reports of JonBenét's death. To her surprise, she observed him becoming quite agitated. Wolf cursed and said that he believed JonBenét had been sexually abused by her father. For the rest of the evening, Wolf brooded over the case.

According to Dilson, Wolf hated big business and had a fascination with world political disputes and political violence. Most importantly, she said that at one time Chris Wolf had been given a sweatshirt with the initials SBTC (the signature on the ransom note), which stood for Santa Barbara Tennis Club. We considered this a very significant lead and gave all the information we had to the police.

We also learned that on January 30 police officers had stopped Wolf at 11:00 A.M. as he drove into Boulder; they discovered he was driving with a suspended license. The woman officer took him to the police station for further questioning when Wolf abruptly told her that the police would make better use of their time by chasing the killer of JonBenét Ramsey. He definitely caught everyone's attention with that remark. Detectives Ron Gosage and Steve Thomas *1351 started interrogating Chris Wolf with hard questions about our child.

When they asked Wolf to write some words from the ransom note, he refused. The police put him in handcuffs, but he still refused. Finally, the two detectives put him in jail, pending the resolution of his suspended license. Later that day Wolf was released.

Wolf later reported that Steve Thomas and John Eller called him a few weeks afterward to come down to the police department. Once there, they told him, “We have no interest in you.” But they did confirm that someone had given his name to police as a possible suspect.

Whatever the police's intentions, Wolf went on our suspect list. He represented too many unanswered questions.

(SMF ¶ 318; PSMF ¶ 318; John and Patsy Ramsey, *The Death of Innocence: The Untold Story of JonBenét's Murder and How Its Exploitation Compromised the Pursuit of Truth* at 204-05 (2000) hereinafter "*The Death of Innocence*".)

The book further stated:

By March 1, 1999, we had reported more information on Chris Wolf to the authorities. One person had seen Wolf go into an angry tirade aimed at me after he read an article about our company printed in the *Boulder Daily Camera* in early 1996. Apparently Wolf accused the company I worked for, Lockheed Martin, of selling arms to South American countries.

(SMF ¶ 223; PSMF ¶ 223; *The Death of Innocence* at 329.)

[6] [7] The Court will assume that the statements made in the Book do defame plaintiff Wolf. The statements indicate that defendants and others considered plaintiff to be a potential suspect in the brutal murder of a child and also suggest that there was some basis for the suspicion. "Libel per se consists of a charge that one is guilty of a crime, dishonesty or immorality." *Barber v. Perdue*, 194 Ga.App. 287, 288, 390 S.E.2d 234, 235 (1989). If false, such statements could reasonably be held by a juror to constitute libel per se because the statements are "injurious on their face—without the aid of extrinsic proof." See also *Zarach v. Atlanta Claims Ass'n*, 231 Ga.App. 685, 688, 500 S.E.2d 1, 5 (1998) ("Defamatory words which are actionable per se are those which are recognized as injurious on their face—without the aid of extrinsic proof.")

A conclusion that the statements were libelous is not inconsistent with the recent holding by the Eleventh Circuit in another defamation action concerning the Ramsey case, also filed by plaintiff's counsel, Darnay Hoffman. In that action, *Hoffman-Pugh v. Ramsey*, 312 F.3d 1222 (11th Cir.2002), plaintiff Linda Hoffman-Pugh, also claimed that the defendants had libeled her in their book by creating a false impression that she was or had been a suspect in the murder of JonBenét. The

Eleventh Circuit, however, affirmed the district court's decision that the defendants' book, when considered as a whole, does not defame Ms. Hoffman-Pugh as a matter of law. *Id.* The court concluded that the book, when fairly read, did not convey that Ms. Hoffman-Pugh was a suspect in the murder.

Key to the Eleventh Circuit's analysis is the defendants' failure to ever state that Ms. Hoffman-Pugh, defendants' housekeeper, was considered to be a murder suspect by them or by the police. Instead, the Book states that, before they knew their daughter's fate, at a time when they believed her to have been kidnapped and were running through their minds people who knew JonBenét, the defendants never believed that Ms. Hoffman-Pugh would hurt their daughter even if she had kidnapped her because she was a "good, *1352 sweet person." *Id.* at 1226. In addition, the Eleventh Circuit notes that Ms. Hoffman-Pugh does not fit defendants' profile of the culprit detailed later in the Book, which describes a male, age 25 to 35, who is either a former convict or has been around hardened criminals, and who had access to a stun gun. *Id.* Finally, the court concluded that when, read in its entirety, the Book indicates that Ms. Hoffman-Pugh is not a suspect. *Id.* at 1227. Alternatively, the panel concluded that even if defamatory, the statements were "nonactionable statements of opinion." *Id.* at 1225.

In the instant case, however, plaintiff does fit the profile of the murderer set out in the book and was discussed in detail as a viable suspect in the murder investigation. Indeed, in recognition of these substantial differences between the *Hoffman-Pugh* case and the case pending before this Court, the Eleventh Circuit noted that the statements regarding plaintiff were "not the situation before us." *Id.* at 1227 n. 3. In short, the "sting" or "gist" of the passages in the Book suggest that plaintiff is a viable suspect in the murder. Such an accusation is defamatory.

Of course, that a given statement is defamatory does not mean that the defamation is actionable. As noted *supra* and *infra*, truth is a defense to a libel action, as is the expression of an honestly held opinion. Certainly, many of the statements about plaintiff Wolf, recounted above, are true. That is, Ms. Dilson did recount the described information about what she believed to be plaintiff's suspicious behavior. Likewise, plaintiff was questioned by the police concerning JonBenét's murder.²⁹ Yet, ultimately, the inference one draws from the passage is

the defendants' belief, not that plaintiff actually killed their daughter, but that there is reason to suspect that he might have. Defendants argue that this is a non-actionable opinion. Plaintiff has argued, however, that this is not an honestly held opinion because Mrs. Ramsey actually killed her daughter and her husband knows this. Accordingly, plaintiffs argues, the Ramseys could not believe that plaintiff, or anyone else is a *viable* suspect, because the Ramseys know that they are the perpetrators of the crime.

This Court likewise concludes that, as to this narrow theory of defamation articulated by plaintiff, the statements at issue are defamatory.

2. Were the statements made with malice?

[8] [9] In addition to proving that the published statements were indeed defamatory, plaintiff bears the additional burden of establishing that defendants acted with "actual malice." Plaintiff bears this additional burden because he has stipulated that, for all purposes of this litigation, he is a "limited purpose public figure." (Stipulation [8].) "A limited purpose public figure is 'an individual [who] voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues.' " *Little v. Breland*, 93 F.3d 755, 757 (11th Cir.1996) (quoting *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 351, 94 S.Ct. 2997, 41 L.Ed.2d 789 (1974)). Actual malice, in the *1353 *New York Times Co. v. Sullivan*, 376 U.S. 254, 280, 84 S.Ct. 710, 11 L.Ed.2d 686, (1964), sense, is knowledge that the defamatory matter was false or that it was published with reckless disregard for whether it was false or not. *Morton v. Gardner*, 155 Ga.App. 600, 604, 271 S.E.2d 733, 737 (1980).

Plaintiff must prove falsity by clear and convincing evidence. *Straw v. Chase Revel, Inc.*, 813 F.2d 356, 361 n. 6 (11th Cir.1987); *Firestone v. Time, Inc.*, 460 F.2d 712, 721–23 (5th Cir.1972) (Bell, J. specially concurring).³⁰ Clear and convincing evidence:

produce[s] in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct and weighty and convincing as to enable [the factfinder] to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue.

Cruzan v. Director, Missouri Department of Health, 497 U.S. 261, 285 n. 11, 110 S.Ct. 2841, 111 L.Ed.2d 224 (1990) (internal quote omitted). In other words, the clear and convincing evidence "place[s] in the ultimate factfinder an abiding conviction that the truth of [the] factual contentions are 'highly probable'." *Colorado v. New Mexico*, 467 U.S. 310, 316, 104 S.Ct. 2433, 81 L.Ed.2d 247 (1984) (citing C. McCorick, LAW OF EVIDENCE § 230, p. 679 (1954)).

[10] Plaintiff attempts to prove actual malice by what he asserts is clear and convincing evidence that defendants actually killed JonBenét and, therefore, made the above libelous statements that plaintiff was a *viable* suspect, knowing that such statements were untrue. As this is defendants' motion for summary judgment, all factual inferences must be drawn in favor of plaintiff. Further, as there is little factual dispute between the parties as to the evidence that exists, the Court will review each party's theory of the crime and the evidence proffered in support of the respective theory, indicating when an actual dispute of fact exists between the parties. The Court will compare the evidence in order to determine whether the record supplies clear and convincing support for the proposition that defendants are responsible for the murder of their child. If the record does not contain such evidence, defendants' motion for summary judgment must be granted. If the record does contain sufficient information from which a reasonable factfinder could impute criminal culpability to defendants, however, the Court must deny defendants' motion for summary judgment.

3. Evidence in Support of the Intruder Theory

Defendants assert that the evidence establishes that Mrs. Ramsey did not murder her daughter JonBenét. (Defs.' Br. In Supp. Of Summ. J. [67] at 18.) Specifically, defendants note that:

[a]fter a half-decade investigation into the murder of JonBenét Ramsey, and year-long grand jury investigation, no plausible evidence proves Patsy Ramsey had anything to do with the murder of her child. Every prosecutor to examine this case agreed that no charge or crime should have been brought against [defendants].

(Defs.' Br. In Supp. Of Summ. J. [67] at 19–20; *see also* SMF ¶¶ 85, 91–93; PSMF ¶¶ 85; 91–93.) Defendants contend that evidence gathered in the investigation of JonBenét's death instead shows that she was abducted, sexually assaulted, tortured and murdered by an intruder. (*Id.*)

*1354 As Andrew Louis Smit, a respected homicide detective hired by the Boulder Police Department to investigate this crime, has noted, there are only two possible solutions to this crime: that is, either someone in the Ramsey household committed the crime or an intruder did it. (Smit Dep. at 54.) Defendants contend that the weight of the *undisputed* evidence in the case is consistent with an inference that an intruder killed their child. (Defs.' Br. In Supp. Of Summ. J. [67] at 19–20.) The first questions then are whether an intruder could have entered the home and, if so, is there evidence that an intruder, in fact, entered the home on the date of the murder. Defendants respond that the undisputed evidence supplies an answer of “yes” to both questions. First, defendants have indicated that their house was not secure during the night of December 25, 1997, and that they had not turned their security alarm on. (SMF ¶ 127; PSMF ¶ 127.) In addition, at least seven windows and one door were found “open”³¹ on the morning of December 26, 1997. (SMF ¶ 126; PSMF ¶ 126.) A number of windows were accessible from the ground level, including a window-well, with removable grate, over three windows that opened into a playroom area of the basement. (SMF ¶ 128; PSMF ¶ 128.) This window-well is located on the back side of the house, hidden from the front of the house and from neighbors. (SMF ¶ 130; PSMF ¶ 130.)

There is likewise *undisputed* evidence of a disturbance in this window-well area: specifically the leaves and white styrofoam packing peanuts that had pooled in the window-well appeared to have been cleared from, or brushed to either side of, the center window's sill in the well. (SMF ¶ 132; PSMF ¶ 132.) In addition, this center window had a broken pane and was found open on the morning of December 26, with a suitcase and a glass shard from the window pane underneath it. (SMF ¶ 135; PSMF ¶ 135.)³² Green foliage was also found tucked under the movable grate over the window well, indicating that the grate had been opened and closed recently. (SMF ¶ 131; PSMF ¶ 131.) Further, the Boulder Police conducted experiments that showed a

person could enter the basement playroom through the center window. (SMF ¶ 133; PSMF ¶ 133.) Moreover, leaves and debris, consistent with the leaves and debris found in the window well, were found on the floor under the broken window suggesting that someone had actually entered the basement through this window. (SMF ¶ 136; PSMF ¶ 136.) Likewise, a leaf and white styro-foam packing peanuts, consistent with the leaves and packing peanuts found pooled in the window-well, were found in the wine-cellar room of the basement where JonBenét's body was discovered. (SMF ¶ 134; PSMF ¶ 134.) This evidence is consistent with an inference that whoever entered through this window ultimately walked to the wine-cellar room at some point.

Certain *undisputed* evidence of how defendants' house was found on the morning of December 26 is also consistent with the intruder theory of the crime. For example, the lights were on in the basement, when first searched at approximately 6:15 a.m. that day. (SMF ¶ 129; PSMF ¶ 129.) In addition, the butler's door to the kitchen *1355 was found ajar that morning. (SMF ¶ 137; PSMF ¶ 137.) Defendants note that the butler's door was only a short distance away from the spiral staircase where the Ransom Note was found and within plain view of where the pad of paper used for the Ransom Note was found. (SMF ¶ 138; PSMF ¶ 138.) Moreover, contrary to media reports that had discredited an intruder theory, based on the lack of a “footprint in the snow,” there was no snow covering the sidewalks and walkways to defendants' home on the morning of December 26, 1996. (SMF ¶ 139; PSMF ¶ 139.) Hence, a person walking along these paths would have left no footprints.

Defendants further aver that the *undisputed* physical evidence is not consistent with an “accidental killing followed by staging,” (Defs.' Br. In Supp. Of Summ. J. [67]), but instead is more consistent with a theory that the intruder subdued JonBenét in her bedroom and then took her to the basement, where she was sexually assaulted and subsequently murdered. First, JonBenét's body was found bound with complicated and sophisticated bondage devices, namely neatly-made rope slipknots and a garrotte, designed to give control to the user. (Defs.' Br. In Supp. Of Summ. J. [67] at 19; SMF ¶¶ 161, 163–164; PSMF ¶¶ 161, 163–164.) The parties agree that such devices necessarily were made by someone with expertise in bondage. (SMF ¶¶ 162, 169; PSMF ¶¶ 162, 169.) While it is certainly possible

that defendants³³ possessed such unusual and specialized skills, there is no evidence that establishes this fact. Obviously, if defendants lacked the skills to fashion this bondage device, then it necessarily had to be an intruder who crafted the implement.

Further, the end portion of the paintbrush and the cord used to construct the garrote were never found in the house, or elsewhere, nor was the latter sourced to defendants.³⁴ (SMF ¶ 159; PSMF ¶ 159.) (SMF ¶ 162; PSMF ¶ 162.) The black duct tape used on JonBenét's mouth has also never been sourced to defendants. (SMF ¶ 170; PSMF ¶ 170.) Animal hair, alleged to be from a beaver, was found on the duct tape. (SMF ¶ 183; PSMF ¶ 183.) Yet, nothing in defendants' home matches the hair (SMF ¶ 183; PSMF ¶ 183.), thereby suggesting either that the duct tape had been obtained from outside the home or that it had been carried outside the home at some point. Dark animal hairs were also found on JonBenét's hands that have not been matched to anything in defendants' home. (SMF ¶ 184; PSMF ¶ 184.)

The above evidence arguably suggests that whoever tied up JonBenét used some items brought from outside the home to do so. In addition, other fiber evidence supports an inference that some of these items from outside the home were, at one time, in the second floor area near JonBenét's bedroom. That is, fibers consistent with those of the cord used to make the slip knots and garrote were found on JonBenét's bed. (SMF ¶ 168; PSMF ¶ 168.) This evidence is inconsistent with plaintiff's proposed timeline of events. That is, plaintiff has hypothesized that Mrs. Ramsey, in a moment of anger, had *1356 hit JonBenét's head against something hard in the second floor bathroom, thereby rendering her child unconscious, and then spent the rest of the night staging an elaborate kidnapping and torture scenario in the basement. Discovery of cord fibers, used to tie JonBenét's hands, in the latter's bedroom arguably undermines plaintiff's sequence of events.

Likewise, other items not belonging on the second floor were found there on the day after the murder, thereby suggesting that some preparation or activity was ongoing in that area on the night of the murder. Specifically, a rope was found inside a brown paper sack in the guest bedroom on the second floor; defendants have indicated that neither of these items belonged to them. (SMF ¶ 181; PSMF ¶ 181.) Regardless of its ownership, there is no

explanation why a bag containing a rope would be in the guest bedroom. Further, small pieces of the material on this brown sack were found in the "vacuuming" of JonBenét's bed and in the body bag that was used to transport her body (SMF ¶ 181; PSMF ¶ 181), thereby suggesting that either the bag had been near JonBenét or that someone who had touched the bag had also touched JonBenét.³⁵

Plaintiff, of course, argues that any evidence suggesting an intruder was staged by defendants. Even assuming that all the above evidence could have been staged, however, defendants point to other evidence for which a theory of contrivance by them seems either impossible or highly implausible. First, defendants note the existence of several recently-made unidentified shoeprints containing a "HI-TEC" brand mark were found in the basement imprinted in mold growing on the basement floor. (SMF ¶¶ 151–152; PSMF ¶¶ 151–152.) Defendants do not own any "HI-TEC" brand shoes and none of their shoes match the shoeprint marks. (SMF ¶ 153; PSMF ¶ 153.) Likewise, another similar partial shoeprint was found near where JonBenét's body was found. (SMF ¶ 155; PSMF ¶ 155.) The owner of the "HI-TEC" shoe that made the footprints at the murder scene has never been identified. (SMF ¶ 154, 155; PSMF ¶ 154, 155.) In addition, on the wine-cellar door, there is a palmprint that does not match either of defendants' palmprints. (SMF ¶ 156; PSMF ¶ 156.) The individual to whom it belongs has never been identified. (SMF ¶ 156; PSMF ¶ 156.)

Of course, the existence of these shoeprints and palmprint is not dispositive, as they could have been made prior to the time of the murder, but they are clearly consistent with an argument that an intruder was in the basement area. The defendants also offer other undisputed evidence that they contend clearly establishes that another male was near JonBenét at the time she was murdered. Specifically, defendants note that unidentified *male* DNA—which does not match that of any Ramsey—was found under JonBenét's fingernails.³⁶ (SMF ¶¶ 173–174, 177; PSMF ¶ 173, 177.) In addition, *male* DNA, again not matching any Ramsey, was found in JonBenét's underwear. (SMF ¶ 175; PSMF ¶ 175.) Likewise, an unidentified Caucasian "pubic or auxiliary" hair, not *1357 matching any Ramsey, was found on the blanket covering JonBenét's body. (SMF ¶ 179–180; PSMF ¶ 179–180.) As noted, some wood fragments from the paintbrush used to create the garrote were found in JonBenét's vagina. Thus, given

the existence of undisputed evidence that JonBenét was sexually assaulted and the discovery of DNA evidence on her person from an unidentified male—as well as no DNA from any Ramsey—the defendants argue that the inference of an intruder becomes almost insurmountable. As to the above described evidence, plaintiff offers no explanation consistent with his theory of the crime.

Finally, defendants note the existence of evidence that they contend establishes, almost to a certainty, that JonBenét was taken from her bedroom and held against her will by an intruder. Specifically, defendants point to evidence from the autopsy report indicating that a stun gun was used on JonBenét. (SMF ¶ 140.) Because it is logical to assume that JonBenét would struggle against an attacker she did not already know, the use of a stun gun helps to explain why no evidence of a struggle was found in any of the bedrooms in defendants' home. (SMF ¶ 143; PSMF ¶ 143.) Further, defendants state that they have never owned nor operated a stun gun. (SMF ¶ 142.) In addition, no stun gun was ever located at defendants' home nor is there any evidence that defendants have ever owned such a gun. Further, the parties agree that a stun gun could be used and not heard in other rooms of a house. (SMF ¶ 141; PSMF ¶¶ 140–141.)

Plaintiff does not agree that a stun gun was used, however, arguing that the evidence establishing the same is inconclusive. Yet, although plaintiff disputes that a stun gun was used in the murder, he has failed to produce any evidence to suggest what caused the burn like marks on JonBenét. Specifically, defendants have presented photographs of JonBenét taken Christmas morning that clearly reveal the absence of any marks on her neck. (*See* Defs.' Ex. 33 attach. To Summ. J. Mot. [68].) Yet, the autopsy report clearly shows reddish, burn-type marks on JonBenét's neck and back. (*See* Autopsy Photos attach. as Defs.' Ex. 27–30 to Smit. Dep.) Moreover, defendants have presented the testimony of Dr. Michael Doberson, a forensic pathologist who examined the Boulder Coroner's autopsy report and autopsy photos, and who concluded that the injuries to “the right side of the face as well as on the lower left back are patterned injuries most consistent with the application of a stun gun.” (Report of Michael Doberson, M.D., Ph.D. at 5(A) attach. as Ex. 3 to Defs.' Ex. Vol. I, Part A.) Defendants' evidence that a stun gun was used, then, stands un rebutted. In other words, plaintiff has failed to produce evidence that creates a material dispute of fact on this point or that offers an

alternative explanation for the origin of these marks, other than a stun gun. Accordingly, the Court concludes that the undisputed facts indicate that a stun gun was used in the commission of the murder.

In addition, the Court notes that defendants have provided compelling testimony from homicide detective Andrew Louis Smit, who is widely regarded as an expert investigator, in support of the intruder theory. (SMF ¶ 168; PSMF ¶ 168.) Detective Smit has reviewed the evidence and prepared a comprehensive CD presentation that summarizes this evidence and offers the inferences that can be logically drawn from that evidence. From a review of this evidence, Detective Smit believes that JonBenét was subdued by a stun gun, taken from her bedroom by an unknown intruder, and then sexually assaulted, tortured and murdered by this intruder in the basement of the defendants' home in Boulder, Colorado. (SMF ¶ 3; PSMF ¶ 3.) Detective *1358 Smit's conclusion as to the cause and timing of JonBenét's pre-mortem injuries is shared by defendants' expert, the coroner of Arapahoe County, Colorado, Dr. Michael Doberson. (SMF ¶ 4; PSMF ¶ 4.)

Although most of Detective Smit's conclusions derive from his analysis of physical evidence, he has also testified that he has been unable to find any motive for defendants to murder their daughter. (Smit. Dep. at 146.) Absent from the defendants' family history is any evidence of criminal conduct, sexual abuse, drug or alcohol abuse or violent behavior. (SMF ¶¶ 117–119; PSMF ¶ 117–119.) In addition, there was no evidence that JonBenét's bed was wet on the night of her murder. (Smit Dep. at 145.)³⁷

In contrast, Detective Smit opined that there were several factors that could have motivated an intruder to commit this horrific crime. First, defendants were prominent in the community and had thrown several large events at their home, thereby providing a large number of people the opportunity to learn the house's floor plan. Second, Mr. Ramsey received considerable attention due to the financial success of his company. In fact, news articles were published that detailed the company's financial success and mentioned Mr. Ramsey in great detail. (SMF ¶ 121; PSMF ¶ 121.) In the weeks leading up to the murder, Detective Smit notes that defendants had a large party at their home in which they entertained hundreds of people from their church. Also, Mr. Ramsey had spoken at his company's Christmas party and praised the employees for

passing the one billion dollar mark in sales. (Smit Dep. at 148.) Third, Detective Smit states that JonBenét was a “pedophile’s dream come true.” (SMF ¶ 122; PSMF ¶ 122.) JonBenét received considerable public attention as “Little Miss Colorado” and through several beauty pageants in which she participated. (SMF ¶ 121; PSMF ¶ 121.) On December 6, 1996, three weeks before the murder, she was in the Lights of December Parade, an event thousands of people attended. (Smit. Dep. at 147.) In addition, on December 25, 1996, while playing at the home of a neighborhood friend, JonBenét told her friend’s mother that “Santa Claus” was going to pay her a “special” visit after Christmas and that it was a secret. (SMF ¶ 124; PSMF ¶ 124.) The person who may have said this to JonBenét has never been identified. (SMF ¶ 125; PSMF ¶ 125.)

Based on the above undisputed evidence, defendants contend they are entitled to *1359 summary judgment because there is virtually no evidence to support plaintiff’s theory that they murdered their child, but abundant evidence to support their belief that an intruder entered their home at some point during the night of December 25, 1996 and killed their daughter. As a legal matter, if plaintiff cannot prove, by clear and convincing evidence that defendants committed this crime, he cannot demonstrate that their statement concerning his status as a suspect were made with the requisite malice. (Defs.’ Br. In Supp. Of Summ. J. [67] at 17.) Defendants further contend that their legal position is buttressed by the fact that plaintiff has not yet been cleared as a suspect, by the Boulder Police Department. (*Id.* at 17–18.)

4. Evidence in Support of Plaintiff’s Theory

Plaintiff admits that he has no direct evidence that Mrs. Ramsey committed the murder. (Pl.’s Br. In Opp. To Summ. J. [88] at 9, 11 & 21–22.) Rather, to show malice, he relies solely on circumstantial evidence to prove that Mrs. Ramsey murdered her daughter and Mr. Ramsey assisted in the subsequent coverup. (*Id.*) A plaintiff in a public figure libel case may successfully prove actual malice by circumstantial evidence. *Harte-Hanks Communications v. Connaughton*, 491 U.S. 657, 668, 109 S.Ct. 2678, 105 L.Ed.2d 562 (1989); *Herbert v. Lando*, 441 U.S. 153, 160, 99 S.Ct. 1635, 60 L.Ed.2d 115 (1979). *See also Hunt v. Liberty Lobby*, 720 F.2d 631, 643 (11th Cir.1983) (“Absent admission by defendant that he knew his material was false or that he doubted its truth, a public figure in

prosecuting a libel action must rely upon circumstantial evidence to prove his case.”)

Yet, other than a contention that Mrs. Ramsey authorized the Ransom Note, the circumstantial evidence proffered in support of plaintiff’s claim is based almost exclusively on the theories espoused by former Detective Steve Thomas in his book.³⁸ (*See generally* Pl.’s Br. In Opp. To Defs.’ Summ. J. Mot. [88] at 6, 21; PSDMF ¶¶ 44–75.) Further, whereas Detective Smit’s summary testimony concerning the investigation is based on evidence, Detective Thomas’ theories appear to lack substantial evidentiary support. (*Id.*) Indeed, *1360 while Detective Smit is an experienced and respected homicide detective, Detective Thomas had no investigative experience concerning homicide cases prior to this case. (Smit. Dep. at 69.) In short, the plaintiff’s evidence that the defendants killed their daughter and covered up their crime is based on little more than the fact that defendants were present in the house during the murder.

As the arguments in his brief opposing defendants’ summary judgment motion are largely restatements of the arguments he makes in support of his efforts to have the testimony of his forensic document examiners admitted, plaintiff implicitly acknowledges the dearth of physical evidence supporting his argument. (*See id.* at 3, 5–6, 9–10, 13–19.) In short, the only hard evidence, as opposed to theories, that plaintiff proffers to support his accusation that Mrs. Ramsey murdered her child is evidence indicating that she wrote the Ransom Note. The Court agrees with plaintiff that, if plaintiff adduced clear and convincing evidence from which a reasonable jury could infer that Mrs. Ramsey wrote the Ransom Note, this evidence would then be sufficient to create a jury issue as to whether Mrs. Ramsey killed her child. In other words, if Mrs. Ramsey wrote the Ransom Note, this Court could conclude, as could a reasonable jury, that she was involved in the murder of her child.

The question then is whether plaintiff has proffered such clear and convincing evidence. This Court has earlier ruled that plaintiffs’ expert, Mr. Epstein, is qualified to compare Mrs. Ramsey’s handwriting with that contained in the Ransom Note for the purposes of pointing out similarities in the two. The Court, however, has concluded that Epstein cannot properly testify that he is certain that Mrs. Ramsey was the author of the Note. For purposes of assessing whether plaintiff has met its burden of proof,

however, the Court will analyze the evidence, assuming that Epstein could testify as to his proffered conclusion, as well as assuming that he could testify only as to similarities between both the Ransom Note and Mrs. Ramsey's known handwriting samples.

5. Analysis of the Two Theories

a. Consideration of Epstein's Testimony That There Were Similarities Between Mrs. Ramsey's Handwriting and the Ransom Note

As discussed *supra*, much of the physical evidence is consistent with an inference that an intruder came into the Ramsey's home and murdered their child. Specifically, there was a broken window in the basement and the window well for that window showed signs that someone may have entered the house through it. Indeed, some of the foliage and debris from that window well was found in the room where JonBenét's body was found. Further, the evidence of stun gun injuries to JonBenét suggests that she was taken by someone who wanted to keep her quiet as he removed her from her bedroom; a parent would not need a stun gun to remove a child from her bedroom. Conversely, the use of a stun gun by the killer is totally at odds with plaintiff's theory that the violence against JonBenét began by Mrs. Ramsey accidentally hit her daughter's head on the bathtub or bathroom floor. In addition, the presence of a bag containing a rope in a guest bedroom near JonBenét's arguably supports a notion that some premeditation and preparation attended the crime.

Other physical evidence is consistent with a theory that an intruder was in the home. There was a recently made shoeprint, in a moldy area in the basement, that matched no shoes owned by the Ramseys. There was also a palmprint on the *1361 door to the small room where JonBenét's body was found that did not match the Ramseys' prints. DNA evidence was further consistent with the possibility of an intruder, as JonBenét had the DNA of an unknown male under some of her fingernails and on her underpants. The evidence also indicated that JonBenét had been sexually assaulted and her vagina contained wood fibers from the paint brush used to fashion the garotte.

The method by which JonBenét was killed also suggests it more likely that she was killed by an intruder than by her mother. JonBenét was strangled through the use of a garotte and bondage device that was sophisticated

and employed the use of a series of tightly and neatly made knots that would appear to have taken some time to make. There is no evidence that the defendants had the skill to create such a device. Moreover, it is plaintiff's theory that, after thinking she had accidentally killed her daughter, Mrs. Ramsey worked quickly, before the household awoke, to set up a staged kidnapping scenario. The creation of this bondage device would appear to have required more time and calm than one would think Mrs. Ramsey could have mustered under the circumstances.

Plaintiff has the burden of proving by clear and convincing evidence that the Ramseys murdered their child; they have no burden to prove that they did not commit the crime. The above recited evidence falls well short of the requisite proof that the defendants killed their child. Plaintiff argues, however, that the Ransom Note provides this necessary proof.

At first blush, and even without an appraisal of the handwriting, the Ransom Note seems to support plaintiff's argument that the kidnapping was a hoax set up by someone in the house. It is an extremely long and detailed note of over three pages. Moreover, an examination of the notepad on which the note was written indicates that the writer had attempted some earlier drafts of the note. In addition, the writer had apparently not even brought his own materials, but instead had used a note pad and felt marker from the Ramsey's home. These facts suggest that the killer had not come prepared with a ransom note already written, as one would expect a diligent kidnapper to do. Further, one does not assume that an intruder, intent on beating a hasty retreat, would take the time to practice writing a note or to write a long, detailed note. These assumptions then might suggest that someone in the house contrived the note.

Defendants have argued, however, that it is just as plausible that the killer had been hiding away in the home for many hours, waiting for the household to go to sleep, before he sprung into action. That waiting time would have allowed him the leisure to write a note. Further, the length of time that it took to practice and write the note could also conceivably undermine a notion that Mrs. Ramsey wrote it. Under plaintiff's scenario, Mrs. Ramsey was working quickly to create a staged crime scene before her husband and son awoke. Given those time constraints, and presumably a desire to provide as little handwriting as possible for purposes of future analysis, she arguably

would not have written such a long note. Accordingly, the existence of this peculiar, long Ransom Note does not necessarily favor, as the killer, either an intruder or Mrs. Ramsey.

Thus, the only conceivable piece of evidence by which plaintiff can hope to carry his burden of proof is evidence that indicates that Mrs. Ramsey actually wrote the note. Factoring into the analysis the testimony of Mr. Epstein that there are similarities between Mrs. Ramsey's handwriting and the Ransom Note does not, *1362 however, enable plaintiff to meet that burden. The fact that there may be similarities between the two hardly constitutes persuasive evidence that Mrs. Ramsey actually wrote the Note. Without that proof, plaintiff cannot show that Mrs. Ramsey was the killer.

**b. Consideration of Epstein's Testimony
That He Was Absolutely Certain that
Mrs. Ramsey Wrote the Ransom Note**

The Court has earlier indicated its conclusion that there is insufficient reliability to Mr. Epstein's methodology to permit him to state his conclusion that Mrs. Ramsey wrote the Ransom Note. As noted *supra*, Epstein opined that he is "100 percent certain" that Patsy Ramsey wrote the Ransom Note and that "there is absolutely no doubt" that she is the author. *Supra* at 1347. The Court believes its conclusion on the admissibility of this evidence to be correct. Further, as the identify of the writer is virtually the only evidence that plaintiff can offer to shoulder its burden, then the question of the identity of the writer is synonymous with the underlying question in this litigation: did Mrs. Ramsey kill her child. Nevertheless, even if the Court were to permit Epstein to testify as to the above conclusion, the Court does not believe his testimony would provide the "clear and convincing evidence" necessary for a reasonable finder of fact to conclude that Mrs. Ramsey wrote the note.

As stated before, "clear and convincing" evidence requires "a clear conviction, without hesitancy of the truth." *Cruzan v. Director, Missouri Department of Health*, 497 U.S. 261, 285 n. 11, 110 S.Ct. 2841, 111 L.Ed.2d 224 (1990). The parties have agreed that handwriting analysis is, at best, an inexact and subjective tool used to provide probative, but not clear and convincing evidence, of a questioned document's author. (SMF ¶ 212; PSMF ¶ 212.) Nonetheless, the Court will assume that there could be cases where the handwriting in question is either so

obviously not the handwriting of a particular individual or so close a match to that person's penmanship, that a finder of fact could comfortably rely on the handwriting, alone, to reach a particular conclusion. Indeed, well before the days of forensic handwriting experts, courts have allowed lay witnesses to testify that they recognized the handwriting of particular documents as the handwriting of someone with whose penmanship they were familiar. Further, appropriate testimony of forensic experts can greatly assist the jury in its undertaking.

That said, while there may be cases in which handwriting examination, alone, can be dispositive, this case is not one of that group. Here, as noted, several factors necessarily reduce the weight a reasonable juror could give to Epstein's conclusion. First, Epstein did not consult the original Ransom Note nor obtain original exemplars from Mrs. Ramsey. Second, as noted by defendants, Epstein deviated from the very methodology that he has previously asserted was necessary to make a reasoned judgment. Most significant to the Court in its determination that Epstein's conclusion cannot carry the day for plaintiff, however, is the unanimity of opinion among six other experts that Mrs. Ramsey cannot be determined to have been the writer of the Note. As noted *supra*, the Boulder Police Department and District Attorney's Office had consulted six other handwriting experts, all of whom reviewed the original Ransom Note and exemplars. *Supra* at 1334-1335. Although two of these experts were hired by defendants, four were independent experts hired by the police. None of these six experts were able to identify Mrs. Ramsey as the author of the Ransom Note. Instead, their consensus was that she "probably *1363 did not" write the Ransom Note. *Supra* at n. 14.

Given the contrary opinion of six other experts, whose ability to examine the documents was necessarily superior to Epstein's, and given Epstein's failure to explain the methodology by which he can make absolute pronouncements concerning the authorship of a document, this Court does not believe that a reasonable jury could conclude that Mrs. Ramsey was the author of the Ransom Note, solely on the basis of Epstein's professed opinion to that effect. In reaching this conclusion, the Court is aware that it is not permitted to make credibility judgments in ruling on summary judgment motions. For example, were there six eyewitnesses on one side of a question and one eyewitness

on the other side, the Court would not take from a jury the factual question on which these witnesses were testifying. With regard to Epstein's testimony, however, the Court is not attempting to assess credibility. Mr. Epstein may sincerely believe that Mrs. Ramsey wrote the Note and the jury may well credit his sincerity. Nevertheless, no matter how earnest Epstein may be, the fact remains that he has not explained his basis for reaching absolute certainty in his conclusion and, accordingly, the weight and impact of his testimony would necessarily be less than the weight of the contrary testimony of six other experts.³⁹

In sum, plaintiff has failed to prove that Mrs. Ramsey wrote the Ransom Note and has thereby necessarily failed to prove that she murdered her daughter. Moreover, the weight of the evidence is more consistent with a theory that an intruder murdered JonBenét than it is with a theory that Mrs. Ramsey did so. For that reason, plaintiff has failed to establish that when defendants wrote the Book, they "in fact entertained serious doubts as to the truth of the publication." *St. Amant v. Thompson*, 390 U.S. 727, 731, 88 S.Ct. 1323, 20 L.Ed.2d 262 (1968); *Hemenway v. Blanchard*, 163 Ga.App. 668, 671–72, 294 S.E.2d 603, 606 (1982). Accordingly, the Court **GRANTS** defendants' motion for summary judgment as to plaintiff's libel claim.

III. Slander

[11] In addition to his claims for libel, plaintiff asserts that several statements made by defendants to the press fit within one of the categories of slander per se recognized by Georgia law: imputing to another a crime punishable by law. O.C.G.A. § 51–5–4(a). In particular, plaintiff refers to defendants' March 24, 2000 appearance on the *Today Show* with host Katie Couric. During the course of the broadcast, the following conversation occurred:

Katie Couric: You pepper the book with fleeting references to some other people that you seem to question. You talk about Bill McReynolds, who played Santa at your Christmas party. You also mention his wife who, in a strange twist, wrote a play years before about a girl murdered in a basement.

John Ramsey: The point in the book was to clarify from our viewpoint why these people have been mentioned a lot in the media, and also to point out that there are legitimate leads that need to be followed.

Katie Couric: You also mention Chris Wolfe, a total stranger whose girlfriend *1364 reported that he disappeared on Christmas night and was very agitated, rather—when he watched the news of the murder on TV.

John Ramsey: Uh-huh (affirmative).

Katie Couric: Why do you mention him.

John Ramsey: Because he'd been widely mentioned in the news. And we wanted to clarify the facts that we knew.

John Ramsey: I can tell you when—when we first started looking at—at one particular lead early on—my reaction was, "This is it. This is the killer." And our investigator said, "Whoa, whoa, whoa." He'd say, "Don't do a Boulder Police on me. Don't rush to conclusions."

(Transcript of *Today Show*, March 24, 2000.) (emphasis added) The parties agree that, as Mr. Ramsey made the last statement, NBC displayed a picture of Chris Wolf on the screen.

As with the libelous statements discussed above, while not textbook, these statements are arguably slanderous. With the slander claim, however, the factual predicate for plaintiff's malice argument is weaker than with the libel claim. Specifically, although the emphasized quote suggests Mr. Ramsey's belief that an unnamed suspect might be the killer—which was a malicious statement, if Mr. Ramsey knew that his wife was the killer—plaintiff has not demonstrated that defendant John Ramsey intended to refer to plaintiff when he made that statement. Moreover, even though the photograph of plaintiff appeared on the screen when defendant made the statement, it is undisputed that defendant had no control over NBC's editing decisions.

Nevertheless, even had defendant intended to refer to plaintiff, the statements are still not malicious, for the reasons discussed *supra*, with regard to the libel claim. Accordingly, the Court **GRANTS** defendants' motion for summary judgment as to plaintiff's slander claim.

CONCLUSION

.....

For the foregoing reasons, the Court **GRANTS** defendants' motion for summary judgment [67]; **GRANTS** as to Ms. Wong and **GRANTS in part and DENIES in part** as to Mr. Epstein defendants' motion in limine to exclude the testimony of Cina Wong and Gideon Epstein [68]; and **DENIES** defendants' motion for oral argument [79].

All Citations

253 F.Supp.2d 1323, 61 Fed. R. Evid. Serv. 1715

Footnotes

- 1 The Court has addressed, by separate Order, movant Steven Thomas's motion for a protective order [94]; movant City of Boulder's motion for oral argument [105]; and movant City of Boulder's motion for a protective order [106].
- 2 Steven Thomas is a former Boulder Police Detective who was assigned, from January 1997 through June 1998, to investigate JonBenét's murder. He has co-authored a book entitled *JonBenét: Inside the Ramsey Murder Investigation*, published in 2000. He professes to believe that Mrs. Ramsey wrote the ransom note found at the crime scene and murdered her daughter. (PSDMF ¶ 6.)
- 3 The actual title of plaintiff's pleading is "Plaintiffs Statement of Material Facts To Which There Are no General Issues To Be Tried" [88]. On September 30, 2002, defendants filed a "Notice of Objection" to this pleading, correctly noting that Local Rule 56.1(B)(2) directs a respondent to file a statement of material facts about "which the respondent contends there exists a genuine issue to be tried." (See Notice of Objection [92] at 2.) In a response filed on October 9, 2002, plaintiff acknowledges that he mislabeled the pleading and that it properly should read "Plaintiffs Statement of Material Facts to Which There Are General Issues To Be Tried." (See Pl.'s Resp. To Defs.' Not. Of Objection [95] at 2.)
- 4 Crime scene photos taken the following morning do not indicate that JonBenét's bed was wet or suggest that the sheets to the bed had been changed. (Defs.' Exs. 56–58 attach. To Defs.' Summ. J. Mot.) Urine stains, however, were reported to have been found on JonBenét's underwear and leggings that she was wearing when her body was discovered. (See Coroner's Report at 2.) Thus, at some point after going to bed, but before being murdered, JonBenét urinated in her clothing. The evidence does not indicate whether this occurred in her bedroom, the basement, or during the route between the two rooms.
- 5 Plaintiff offers evidence, primarily hand-writing analyses, that plaintiff alleges to be evidence that Mrs. Ramsey wrote the Ransom Note. The above theory is merely speculation by plaintiff as to what might have motivated Mrs. Ramsey to act so violently toward her daughter.
- 6 Relying solely on the testimony of Mr. Thomas, who has no apparent expertise as a medical examiner, plaintiff fixes the time of death at around one a.m. "suggested by the digestion rate of pineapple found in the child's stomach." (PSDMF ¶ 47.) The coroner's report does indicate that a vegetable or fruit matter consistent with pineapple was found in JonBenét's stomach during the autopsy. (Boulder Coroner Report at 6.) The report, however, does not establish a time of death based on the digestion rate of the unidentified matter.
Plaintiff also theorizes, based on the presence of the unidentified matter in JonBenét's stomach that, contrary to Mrs. Ramsey's testimony, she was up during the night and fed JonBenét the pineapple. (PSDMF ¶ 45.) There is no evidence in the record that indicates when JonBenét ate the pineapple. Defendants state they did not feed JonBenét pineapple upon returning home from the White's party that evening. (SMF ¶ 13.) Mr. White does not recall if pineapple was served at his dinner party on December 25, 1996. (F. White Dep. at 202.)
- 7 The word "sourced" is used by the parties as a verb. When a sentence indicates that a particular item was not "sourced" to the Ramsey home, it means that there is no evidence that those items were ever in the Ramsey home at any time before the murder.
- 8 Defendants did not heed the warning in the letter that stated:
The two gentlemen watching over your daughter do not particularly like you so I advise you not to provoke them. Speaking to anyone about your situation, such as Police, F.B.I., etc, will result in your daughter being beheaded. If we catch you talking to a stray dog, she dies. If you alert authorities, she dies.
(Ransom Letter, attach. as pl.'s Ex. 16 to J. Ramsey Dep.)
- 9 Plaintiff seeks to introduce the testimony of Linda Hoffman–Pugh, who worked for the family as a cleaning woman for nearly fourteen months prior to JonBenét's death, who asserts the Ramseys had a troubled marriage. (PSDMF ¶ 4.) Ms. Hoffman–Pugh states that Mr. Ramsey "berated" Mrs. Ramsey for being "a lousy homemaker and cook" shortly before the murder and that the couple "never once demonstrated any affection for each other, physical or otherwise, in front of

[her].” (PSDMF ¶¶ 95–98.) Defendants strongly deny any such marital problems. (See, e.g., J. Ramsey Dep. at 52; see also F. White Dep. at 170 (stating he perceived no marital problems between defendants).) Defendants have objected to such testimony as inadmissible, based on a lack of foundation and general irrelevance. (Defs.’ Not. Of Objection to Exhibits [91] at 5.) Plaintiff responds that Ms. Hoffman–Pugh’s testimony is relevant on a point placed in issue by defendants through their assertion that no marital problems existed between them. (See Pl.’s Resp. To Defs.’ Not. Of Objection to Exhibits [96] at 7.)

The Court will consider Ms. Hoffman–Pugh’s testimony. The Court notes, however, that although plaintiff presents such evidence in support of his theory that Mrs. Ramsey was depressed and that her depression contributed to her state of mind on the night of December 25, such evidence, if accepted as true, cuts against plaintiff’s theory that Mr. Ramsey assisted his wife in the “cover-up” of JonBenét’s murder. In other words, if the marriage was shaky, it arguably seems less likely that the innocent spouse would help the guilty spouse cover up her murder of their child.

10 Although referred to as the “wine cellar,” the room was actually used for storage and was “a dark, dirty area” with mold growing on the floor. (F. White Dep. at 228.)

11 Mr. Ramsey testified that the window had been broken the previous summer. (SMF ¶ 30; PSMF ¶ 30; J. Ramsey Aff. ¶ 30.)

12 The bleeding in JonBenét’s genital area indicates she was alive when she was assaulted. (SMF ¶ 48; PSMF ¶ 48.) Her hymen was torn and material consistent with wooden shards from the paintbrush used to make the garrote were found in her vagina. (SMF ¶ 48–49; PSMF ¶ 48–49.) No evidence, however, suggests that she was the victim of chronic sexual abuse. (SMF ¶ 50; PSMF ¶ 50.)

13 The Court has not been able to determine from the record how close to death the perimortem period would have been.

14 Chet Ubowski of the Colorado Bureau of Investigation concluded that the evidence fell short of that needed to support a conclusion that Mrs. Ramsey wrote the note. (SMF ¶ 197; PSMF ¶ 197.) Leonard Speckin, a private forensic document examiner, concluded that differences between the writing of Mrs. Ramsey’s handwriting and the author of the Ransom Note prevented him from identifying Mrs. Ramsey as the author of the Ransom Note, but he was unable to eliminate her. (SMF ¶ 198; PSMF ¶ 198.) Edwin Alford, a private forensic document examiner, states the evidence fell short of that needed to support a conclusion that Mrs. Ramsey wrote the note. (SMF ¶ 197; PSMF ¶ 197.) Richard Dusick of the U.S. Secret Service concluded that there was “no evidence to indicate that Patsy Ramsey executed any of the questioned material appearing on the [R]ansom [N]ote.” (SMF ¶ 200; PSMF ¶ 200.) Lloyd Cunningham, a private forensic document examiner hired by defendants, concluded that there were no significant similar individual characteristics shared by the handwriting of Mrs. Ramsey and the author of the Ransom Note, but there were many significant differences between the handwritings. (SMF ¶ 201; PSMF ¶ 201.) Finally, Howard Rile concluded that Mrs. Ramsey was between “probably not” and “elimination,” on a scale of whether she wrote the Ransom Note. (SMF ¶ 202; PSMF ¶ 202.)

15 The Court is unaware that plaintiff ever sought to compel Mrs. Ramsey to produce original exemplars. Presumably, the original Ransom Note is in the custody of the police.

16 Specifically, Mr. Epstein asserts that he consulted two former FBI forensic document examiners, Larry F. Zeigler and Richard Williams, as well as Donald L. Lacy, David Lieberman, and Thomas Miller. (PSDMF ¶¶ 3–4, 33–34, 35–36A.) Defendants have objected to plaintiff’s use of affidavits from Mr. Liebman, Mr. Lacy, Mr. Zeigler, and Mr. Williams, as well as an anonymous handwriting report, to support plaintiff’s opposition to defendants’ motion to exclude the testimony of Ms. Wong and Mr. Epstein. (See Notice of Objections to Pl.’s Exhibits [91] at 2.) Defendants assert that these expert reports were not disclosed pursuant to Federal Rule of Civil Procedure 26(a)(2). (See *id.*) Plaintiff has responded with excerpts from a letter drafted by defendants’ attorney which reveal that he was aware of the fact that plaintiff had secured opinions for Mr. Liebman, Mr. Lacy and Mr. Zeigler with regard to the handwriting at issue in the instant litigation. (See Pl.’s Resp. To Defs.’ Not. Of Objections to Pl.’s Exhibits [96] at 3–4.)

17 The “proof reader marks” to which plaintiff refers is actually a lone “carrot symbol” used in one sentence where the word “not” had been left out and was later added. (Ransom Note at 2.)

18 Mr. Helgoth was the suicide victim whose body was found near a stun gun and HI–TEC boots. See, *supra* at 1338.

19 In addition, sometime during or before 1998, plaintiff wrote a letter to FOX television reporter Carol McKinley recounting his “interrogation as a suspect in the Jon Benet [sic] Ramsey murder investigation.” (SMF ¶ 292; PSMF ¶ 292.) In the letter, he claimed that John Ramsey sexually abused JonBenét Ramsey, that the Ramseys’ then-eleven year old son may have killed JonBenét, and that Mr. Ramsey was a “Merchant of Death,” responsible for the murder of innocent women and children in third world countries. (SMF ¶ 292; PSMF ¶ 292.)

20 In the course of representing his clients, Lin Wood, the attorney for defendants, has also served as a source for articles on the investigation and has appeared on NBC’s “Today” Show on multiple occasions. Both attorneys have litigated their position in the court of public opinion at almost every opportunity presented.

- 21 As the Supreme Court explained in *Daubert* and *Kumho*, Rule 702 requires the district judge to ensure that the expert's testimony is both relevant and reliable before it may be admitted, regardless of whether the testimony is scientific or based on technical or other specialized knowledge. See *Kumho*, 526 U.S. at 147, 119 S.Ct. 1167; *Daubert*, 509 U.S. at 589, 113 S.Ct. 2786. When the expert's testimony's "factual basis, data, principles, methods, or their application are called sufficiently into question, ... the trial judge must determine whether the testimony has 'a reliable basis in the knowledge and experience of the relevant discipline.'" *Kumho*, 526 U.S. at 149, 119 S.Ct. 1167 (emphasis added (quoting *Daubert*, 509 U.S. at 592, 113 S.Ct. 2786)).
- 22 Defendants agree that this is the bedrock assumption of practitioners in this area; they disagree that this assumption has any validity, inasmuch as it has never "been seriously tested, much less proven." (Defs.' Mot. In Lim. [68] at 16 and n. 9)
- 23 Plaintiff contends, however, that modern handwriting analysis literature also views significant similarities as strong evidence that, in some instances, can outweigh an unexplainable difference between the writings. (PSMF ¶ 225.)
- 24 Rule 702's requirement that evidence "assist the trier of fact in reaching its conclusion" goes primarily to relevance; an assessment of reliability is an additional component of the judge's gatekeeper function. *Daubert*, 509 U.S. at 591–92, 113 S.Ct. 2786. "Simply put, expert testimony that does not relate to any issue in the case is not relevant, and thus, not helpful. Reliability, on the other hand, is an assessment of whether the expert's reasoning or methodology is valid and warrants the relaxation of the common law first-hand knowledge requirement for witnesses." *United States v. Lewis*, 220 F.Supp.2d 548, 552 (S.D.W.Va.2002).
- 25 At the same time, plaintiff never sought a motion to compel such production. (See Defs.' Br. In Supp. Of Mot. In Limine [90] at 11 n. 7.)
- 26 In his response to defendants' Motion In Limine, plaintiff has provided conclusory affidavits from other experts indicating that they agree with Epstein's methodology and conclusion. Yet, those opinions beg the question. One does not know by what methodology these other individuals reach their conclusion that Epstein can make a determination with "absolute certainty." When the predictive ability of a professed skill is questioned, the belief of multiple practitioners of that skill that its exercise produces a reliable result still provides no basis for determining the ultimate soundness of the determination. Further, these individuals were not disclosed as experts in the case and they did not provide expert reports, as required by Rule 26. Fed.R.Civ.P. 26(2)(B) (requiring that, unless otherwise agreed, the proponent of an expert must disclose the expert's name and a written report "prepared and signed by the witness" that, *inter alia*, includes a "complete statement of all opinions to be expressed and the basis and reasons thereof.")
- 27 In so holding, the Court does not rule out the possibility that, upon a proper showing, a handwriting expert might be able to demonstrate reliability sufficient to allow testimony concerning his conclusions regarding the identity of a questioned writer. The Court simply holds that Mr. Epstein has not made that showing in this case.
- 28 The nonmoving party may meet its burden through affidavit and deposition testimony, answers to interrogatories, and the like. *Celotex*, 477 U.S. at 324, 106 S.Ct. 2548.
- 29 Indeed, defendants arguably understated the police department's interest in plaintiff. Since 1997, plaintiff has been a long standing suspect of both the Boulder Police Department and the Boulder County District Attorney's Office in the murder investigation. (SMF ¶¶ 285–286, 291; PSMF ¶¶ 285–286, 291.) Contrary to what the Complaint indicates, Boulder authorities have yet to clear plaintiff of possible involvement in the murder (SMF ¶ 287; PSMF ¶ 287.) Further, he is the only suspect to date to have been arrested in connection with the murder investigation. (SMF ¶ 290; PSMF ¶ 290.)
- 30 The Eleventh Circuit has adopted as binding precedent decisions of the former Fifth Circuit rendered prior to October 1, 1981. See *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir.1981) (en banc).
- 31 The term "open" was not defined. It is, therefore, not clear if the entrances were ajar or unlocked.
- 32 The suitcase contained a pillow sham, duvet and Dr. Seuss book. These items belonged to defendants, but they have indicated that the items were not normally stored in the suitcase. (SMF ¶ 146; PSMF ¶ 146.) A lab report indicated that fibers from the sham and duvet were found on the shirt that JonBenét was wearing when she was found in the wine cellar. (SMF ¶ 147; PSMF ¶ 147.)
- 33 Of course, plaintiff's primary theory, taken from Detective Steve Thompson's book, is that Mrs. Ramsey murdered her daughter and staged the scene. According to this theory, Mr. Ramsey became complicit only the next day, after the Note was discovered, when he realized that the handwriting on the Note was his wife's. *Supra* at 1329. Under this proposed timeline, he would not have been involved in making the bondage device.
- 34 The paintbrush, whose middle piece was used to fashion the garrote, was found in the paint tray in the boiler room in the basement. *Supra* at 1331.
- 35 Finally, items were left behind that defendants assert they did not own. (Defs.' Br. In Supp. Of Summ. J. [67] at 18–19.) A baseball bat not owned by the Ramseys found on the north side of the house has fibers consistent with fibers found

in the carpet in the basement where JonBenét's body was found. (SMF ¶ 185; PSMF ¶ 185.) Brown cotton fibers on JonBenét's body, the paintbrush, the duct tape and on the ligature were not sourced and do not match anything in the Ramsey home. (SMF ¶ 181; PSMF ¶ 181.)

36 As noted *supra*, there is evidence that JonBenét was alive at the time she was strangled and that she may have struggled with her attacker. *Supra* at 1332–1333.

37 The Court has reviewed the autopsy photographs of JonBenét and they are gruesome. They reveal deep ligature marks around her neck as a result of being strangled by a garotte. As noted *supra* at 1332–1333, the evidence indicates that JonBenét was alive when strangled and may have tried to pull the garotte off her neck. Indeed, a neighbor heard the sound of screams. Likewise, part of the wood from the paint brush was found inside her vagina and the evidence indicates that she was sexually assaulted at a time when she was still alive. Sadly, JonBenét's last moments were painful and terrifying.

Admittedly, it is not unprecedented for parents to kill their children, sometimes even brutally. Yet, plaintiff's theory of the motivation for the crime—that Mrs. Ramsey accidentally hit JonBenét's head on a hard object, thought she was dead, and then tried to stage a hoax kidnapping—seems at odds with his belief that although Mrs. Ramsey later became aware that JonBenét was alive, she nonetheless proceeded to garotte, torture, and sexually assault her child. If Mrs. Ramsey had accidentally hit her child's head, one would think that, upon becoming aware that the child was still alive, the mother would have been just as likely to call an ambulance, as to commit a depraved torture/murder of the child. Nevertheless, as any theory behind the motivation for Mrs. Ramsey to murder her child is just that—a theory—the Court has not factored any of these suppositions into its legal analysis of the evidence in the case.

38 Plaintiff does offer two arguments, not involving the issue of the identity of the murderer, in support of a finding of malice. First, plaintiff argues that Mrs. Ramsey's admission that she destroyed her handwritten book notes is strong evidence of malice. (Pl.'s Br. In Opp. To Defs.' Summ. J. Mot. [88] at 21 (citing to *Brown & Williamson Tobacco Corp. v. Jacobson*, 827 F.2d 1119, 1134 (7th Cir.1987)) (stating that intentional destruction of evidence is "strong evidence of malice"). The record, however, establishes that Mrs. Ramsey threw away her handwritten book notes as she was writing the Book and did not destroy any documents once this suit was filed. (P. Ramsey Dep. at 21.) Pre-litigation destruction of documents does not indicate "actual malice." *Stange v. Cox. Enters., Inc.*, 211 Ga.App. 731, 734, 440 S.E.2d 503, 507 (1994).

Plaintiff further contends that Mr. Ramsey's admission that he avoided investigating any of the facts concerning forensic evidence is also evidence of malice. (Pl.'s Br. In Opp. To Defs.' Summ. J. Mot. [88] at 22.) Mr. Ramsey did state that he had seen evidence concerning plaintiff's possible association with the case and received summaries of the Boulder authorities' handwriting evidence, which concluded that Mrs. Ramsey probably did not write the Ransom Note. (J. Ramsey Dep. at 12, 62 & 73–74.) He also asserts that he had no reason to doubt any of this information. (*Id.* at 73–74.) As a matter of law, he is entitled to rely on this information. See *New York Times Co. v. Connor*, 365 F.2d 567, 576 (5th Cir.1966) (defendant entitled to rely on single source even if source one-sided). See also *McFarlane v. Sheridan Square Press, Inc.*, 91 F.3d 1501, 1510 (D.C.Cir.1996) (stating there is no independent duty to corroborate information, if no reason to doubt truthfulness.)

39 The Court's judgment on this matter is the same whether these other six experts were as vague concerning their methodology as was Epstein or whether they, in fact, gave solid explanations for their reasoning.

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**DISTRICT ATTORNEY'S OFFICE
TWENTIETH JUDICIAL DISTRICT**

MARY T. KEENAN, DISTRICT ATTORNEY

April 7, 2003

I have carefully reviewed the Order of United States District Court Judge Julie Carnes in the civil case of *Wolf v. John Ramsey and Patricia Ramsey*. I agree with the Court's conclusion that "the weight of the evidence is more consistent with a theory that an intruder murdered JonBenet than it is with a theory that Mrs. Ramsey did so."

Although issued in the context of a civil case, the Court's ruling is a thoughtful and well reasoned decision based on the evidence that was presented by the parties in that case. It should be read in its entirety.

John and Patricia Ramsey have been the focus of an exhaustive investigation with regard to the murder of their daughter, JonBenet, for more than six years. People charged with a crime are presumed to be innocent until proven guilty in court. Since Mr. and Mrs. Ramsey have not even been charged, much less convicted, they must be presumed innocent and must be treated accordingly.

For several months, my office has been investigating new and other unpursued leads, most of which involve the possibility that an intruder committed this crime. We are proceeding with the full cooperation of the Ramseys, Detective Lou Smit, and the Boulder Police Department. We are all focused on the apprehension and successful prosecution of the killer of JonBenet.

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By CBSNEWS / CBS/AP / July 9, 2008, 3:27 PM

DNA Clears Family In JonBenet Slaying



This image made from an undated family video shows JonBenet Ramsey performing during a beauty pageant / AP

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Prosecutors cleared JonBenet Ramsey's parents and brother Wednesday in the 1996 killing of the 6-year-old beauty queen and told the family they were "deeply sorry" for putting the Ramseys under a cloud of suspicion for more than a decade. The district attorney said new DNA tests point to a mysterious outsider.

"To the extent that we may have contributed in any way to the public perception that you might have been involved in this crime, I am deeply sorry," Boulder County District Attorney Mary Lacy wrote in a letter to the little girl's father, John Ramsey. "No innocent person should have to endure such an extensive trial in the court of public opinion."

Lacy said new "touch DNA" tests on skin cells that were left behind on JonBenet's long underwear point to an "unexplained third party" and not a member of the family.

[Read Boulder DA's letter to the Ramsey family.](#)

John Ramsey, a software entrepreneur who now lives in Michigan, said Wednesday he is hopeful the killer will be found based on the DNA evidence.






"I think the people that are in charge of the investigation are focused on that, and that gives me a lot of comfort," he told KUSA-TV in Denver. He added: "Certainly we are grateful that they acknowledged that we, based on that, certainly could not have been involved."

For years after the slaying, tabloids and crime shows went after the couple, and Lacy's predecessor as district attorney, Alex Hunter, said in 1997 that the parents were under an "umbrella of suspicion." News reports also cast suspicion on JonBenet's older brother, Burke, who was 9 when his sister was killed.

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"The only evidence that suggested that they might have had something to do with this crime was the mere fact that they happened to be in the home the night their daughter was brutally murdered four floors below their bedroom," said L. Lin Wood, an attorney for the Ramsey family, on the **CBS News Early Show**.

The suspicions outlived JonBenet's mother, Patsy, who died in June 2006 of ovarian cancer at age 49 in Atlanta, where the family moved after JonBenet's death.

"My first thought was obviously I wish Patsy Ramsey was here with us to be able to at least share vindication of her family," said Wood. "There are many people in this country, if not around the world, that also owe John and Patsy Ramsey and Burke Ramsey an apology."

"This is a long time coming," Patsy Ramsey's sister, Paulette Paugh, told **CBS affiliate WGCL-TV** in Atlanta. "We always knew no one in the family had anything to do with it. It's nice to hear the Boulder County District Attorney's office is finally coming forward with this information... I hope the person who did this is still alive so we can meet him face to face."

"Patsy was a very resilient person, very faithful to her god and she knew in her heart what the truth was," Paugh told **CBS News Early Show anchor Maggie Rodriguez**. "She went to her maker knowing she had a clear conscience and a full heart."

Early in the investigation, police found male DNA in a drop of blood on JonBenet's underwear and determined it was not from anyone in her family. But Lacy said investigators were unable to say who it came from and whether that person was the killer.

Then, late last year, prosecutors turned over long underwear JonBenet was wearing to the Bode Technology Group near Washington, which looked for "touch DNA," or cells left behind where someone has touched something.

The laboratory found previously undiscovered genetic material on the sides of the girl's long underwear, where an attacker would have grasped the clothing to pull it down, authorities said. The DNA matched the genetic material found earlier.

Lacy said the presence of the same male DNA in three places on the girl's clothing convinced investigators it belonged to JonBenet's killer and had not been left accidentally by an innocent party.

"It is therefore the position of the Boulder District Attorney's Office that this profile belongs to the perpetrator of the homicide," she said in a statement. In her letter to the Ramseys, she said the DNA evidence "has vindicated your family."

She said investigators hope someday to find a DNA match in the ever-expanding national DNA databank.

"This case is going to be solved one day by a random hit on the DNA in the database," family attorney L. Lin Wood told **CBS Evening News anchor Katie Couric**. "As you know, many cases that have been going on cold cases for years, in fact, are solved years later by a random DNA hit."

Through a spokeswoman, Lacy declined to comment any further.



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fueled speculation that one of them wrote the bizarre three-page note found at the scene. It was written on a pad that came from the house and demanded a ransom that was close to the bonus John Ramsey had received that year: \$118,000.

"We should have just stood right up there in the beginning and said, 'Okay, charge me. You think I'm guilty? Charge me, or clear me,'" Ramsey told **48 Hours** correspondent Erin Moriarty in 2006.

Lacy had previously expressed doubts that the parents were involved. In 2003, a federal judge handling a defamation lawsuit in Atlanta involving the Ramseys said evidence in the case was more consistent with the theory that an intruder killed JonBenet, and Lacy said she agreed.

Less than two months after Patsy Ramsey died, the case appeared to blow wide open with the arrest in Thailand of John Mark Karr, a sometime teacher obsessed with the little girl's slaying. Karr made bizarre, detailed confessions to the killing, but authorities said DNA evidence showed he did not commit the crime.

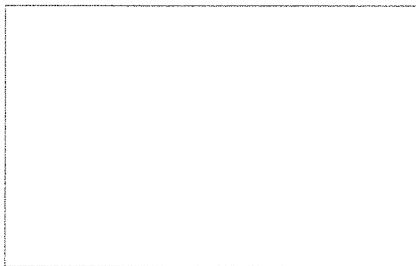
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North Carolina voters

By CBSNEWS / CBS/AP / July 10, 2008, 11:35 AM

"Touch DNA" Cleared JonBenet's Kin

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Crime scene DNA is typically recovered from blood or semen stains, but the DNA that exonerated members of JonBenet Ramsey's family in her murder came from invisible skin cells.

This so-called "touch DNA" is left behind when people touch things, because they naturally shed skin cells as touch things, and those cells contain the genetic material.

In this case, the new DNA was recovered by guessing where JonBenet's killer might have handled the long johns she was wearing.

"It's not a stain, you can't see it," said Angela Williamson, director of forensic casework at Bode Technology Group in Lorton, Virginia. That's the company that recovered the new DNA material. She led the work on JonBenet's touch DNA.

To find such DNA, "you have to have a good idea of where someone has been touched, or in this case, where you think the suspect would have touched" JonBenet's clothing, she said, or, she explained to co-anchor **Harry Smith** on *The Early Show* Thursday, "if the victim is surviving, to (have them) tell you where they were grabbed, where they were held down during the assault."

Investigators suggested that somebody pulling down her pants would have touched the waistband and the sides of the long johns, Williamson said. So Bode scientists scraped the surface of those areas with a sharp blade to see if they could find DNA.

While the amount of DNA they found was much less than would appear in a stain,



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there was enough to be processed in the routine way DNA is analyzed, Williamson said. (In other cases, so-called "low copy number DNA" has to be processed in a different way).

DNA from two sites on the long johns matched genetic material from an unknown male that had previously been recovered from blood in JonBenet's underpants. The matching DNA from three places on two articles of JonBenet's clothing convinced the district attorney that it belonged to the killer, and hadn't been left accidentally by a third party.

Williamson said Bode has done thousands of touch DNA recoveries over at least three years.

John Ramsey found his daughter's body in the basement of the family's home in Boulder, Colorado, on Dec. 26, 1996. A child beauty queen, she was 6 and had been strangled.

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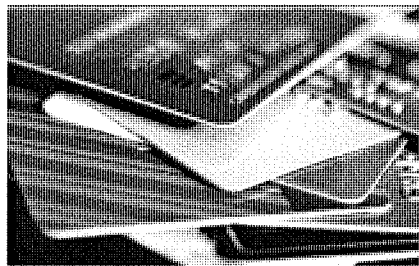
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AFFIDAVIT OF ALEXANDER M. HUNTER

STATE OF COLORADO,

COUNTY OF BOULDER

Personally appeared before the undersigned officer duly authorized by law to administer oaths, ALEXANDER M. HUNTER, who being first duly sworn, deposes and says as follows:

1.

My name is Alexander M. Hunter. I am over twenty-one (21) years of age and I am competent to make and give this Affidavit, and do so from personal knowledge.

2.

I am an attorney duly licensed in the State of Colorado. Since January 9, 1973, I have been the elected District Attorney for the Twentieth Judicial District, County of Boulder, State of Colorado.

3.

On or about December 26, 1996, JonBenet Ramsey, a six (6) year old minor child, was murdered in her home in Boulder, Colorado.

4.

Since the date of her death, I have been continuously involved in the investigation of JonBenet Ramsey's homicide.

5.

As part of the investigation into the murder of JonBenet Ramsey, questions about any possible involvement by her brother, Burke Ramsey, who was nine (9) years of age at the time of his sister's murder and who was one of the individuals present in the house at the time of her

murder, were raised and investigated as part of standard investigative practices and procedures.

6.

From December 26, 1996, to the date of this affidavit, no evidence has ever been developed in the investigation to justify elevating Burke Ramsey's status from that of witness to suspect.

7.

In May of 1999, I was made aware that tabloid newspapers had indicated that Burke Ramsey was a suspect in the murder of JonBenet Ramsey or was believed to be her killer. As a result of these articles, I was contacted by media representatives and I instructed my office to release a press statement which publicly and officially stated that Burke Ramsey was not a suspect in connection with the murder of his sister and that stated in part, "...almost a year ago (Boulder) Police Chief Mark Beckner stated during a news conference that Burke (Ramsey) was not a suspect and that we are not looking at him as a possible suspect. To this day Burke Ramsey is not a suspect." The information in the May 1999 press statement was true and correct.

8.

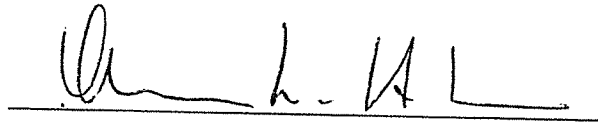
From December 26, 1996, to the present date, I have never engaged in plea bargain negotiations, talks or discussions with anyone in connection with the investigation into the murder of JonBenet Ramsey based in whole or in part on the premise that Burke Ramsey killed his sister. From December 26, 1996 to the present date, no member of my office has ever engaged in plea bargain negotiations, talks or discussions with anyone in connection with the investigation into the murder of JonBenet Ramsey based in whole or in part on the premise that Burke Ramsey killed his sister.

9.

I am aware that this Affidavit may be used by counsel for Burke Ramsey in connection with libel litigation brought on his behalf in various jurisdictions.

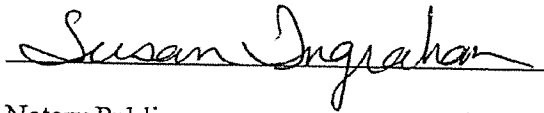
FURTHER AFFIANT SAYETH NOT.

This 12th Day of October, 2000.

A handwritten signature in dark ink, appearing to read "A. M. Hunter", written over a horizontal line.

ALEXANDER M. HUNTER

Sworn to and subscribed before me
this 12th day of October, 2000.

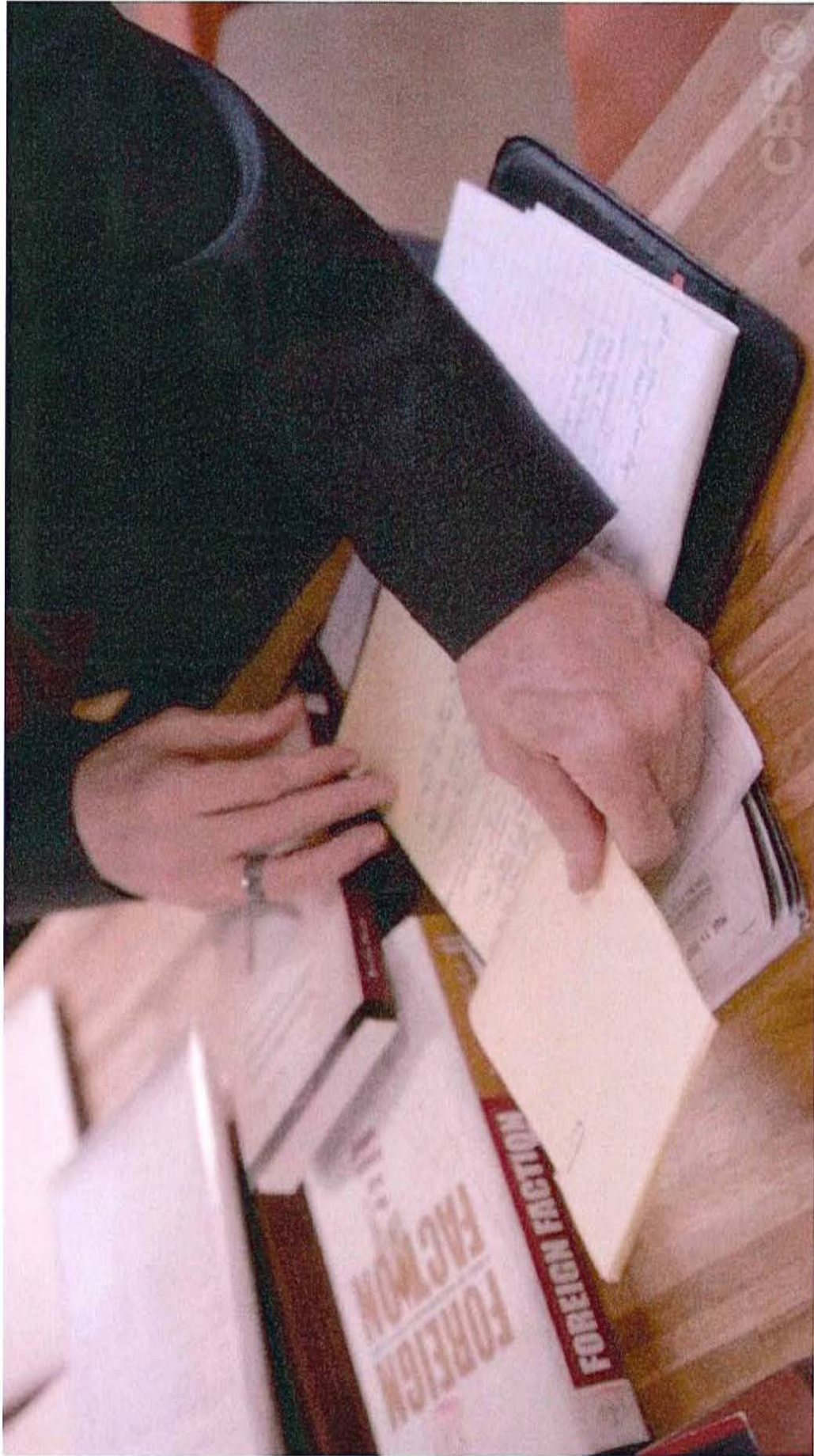
A handwritten signature in dark ink, appearing to read "Susan Ingraham", written over a horizontal line.

Notary Public

My commission expires 10/3/02

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— TRIAL LAWYERS —

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October 6, 2016

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Re: *Defamation of John Ramsey in The Case of: JonBenét Ramsey*

Dear Messrs. Geller, Tu, Anschell, Moonves, and Forman:

I represent John Ramsey in connection with defamation claims arising from CBS's two-part docuseries titled *The Case of: JonBenét Ramsey* and broadcast on September 18, 2016, and

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September 19, 2016 (the “Docuseries”). CBS used its Docuseries as an international platform to repeatedly, maliciously, and falsely accuse John Ramsey of knowingly covering up the killing of his daughter, JonBenét Ramsey, of potentially causing her death while staging a strangulation by use of a garrote, of brutalizing and assaulting his daughter, of lying to law enforcement authorities, and of engaging in obstructionist tactics with respect to the police investigation, the media, and his community. This letter, which is being served within twenty (20) days of the broadcast of the Docuseries, serves as John Ramsey’s demand for retraction and correction of the defamatory gist – that John Ramsey engaged in a scheme to cover up his 9-year-old son’s killing of his six-year-old daughter and contributed to her death – as well as the specific false and defamatory statements and images in the Docuseries that are referenced below. Retraction is demanded from all recipients and intended recipients of this letter. Further, this letter is being sent in conjunction with, and in addition to, the retraction demand sent to you by me on behalf of Burke Ramsey on October 5, 2016. Said letter and its contents are incorporated herein by reference.

CBS explicitly and implicitly accused John Ramsey of the following untrue conduct: discovering JonBenét with severe head trauma, determining that Burke Ramsey had committed the crime, and within a few short minutes, conspiring with his late wife on how to cover up the crime, creating a sophisticated garrote, using that garrote to brutally asphyxiate his 6-year-old daughter while she still gave the outward impression of life, tying her up, duct taping her mouth, committing a further physical assault as demonstrated by the marks on her back, staging her dead body in the wine cellar of his home, assisting in the preparation of a three-page ransom note to misdirect the police, participating in a fraudulent 9-1-1 call, contriving to discover JonBenét’s lifeless body in the company of friends, contaminating the crime scene, obstructing the police investigation, and lying to the media, the world, his family, and his friends for the past 20 years to protect his murderous son. Each of these horrendous accusations – portrayed as fact – are false.

On the foundation of its reputation, the use of phony “experts,” and the complete misrepresentation as to legitimacy of its experts’ “re-investigation” into the case, CBS convinced the public that its nonsensical explicit and implicit accusations and defamatory implications are true. The entire Docuseries was specifically designed to convey that Burke Ramsey killed JonBenét and that John and Patsy Ramsey covered it up. CBS accomplished its objective through an interconnected web of explicit accusations juxtaposed with “re-creations” and depictions of real events. Accordingly, the defamatory gist and implication of the Docuseries can be traced to specific statements as well as to the cumulative effect of virtually every statement, every image, and every purported “re-creation.” Thus, the mere withdrawal of specific statements and accusations will be insufficient to fully correct the defamation. Accordingly, this demand letter seeks retraction and correction of, among other things, the overall gist and implication of the entire

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Docuseries, namely that John Ramsey covered up the cause of JonBenét's death on behalf of Burke Ramsey and contributed to his daughter's death.

In an attempt to categorize the types of statements that make up the defamatory gist and implication of the Docuseries, John Ramsey hereby demands that CBS retract and correct every statement falling within the following categories of statements, each of which contribute to CBS's accusation and implication that John Ramsey engaged in a scheme to deceive the world by covering up the cause of JonBenét's death and in doing so, contributed to her death:

1. Statements, imagery, and/or implications that John and/or Patsy Ramsey engaged in a cover-up of JonBenét's murder, including but not limited to those related to the 9-1-1 call, the ransom note, staging of JonBenét's body, police interviews, media interviews, and purported intimidation of local law enforcement;
2. Statements, imagery and/or implications that Burke physically attacked and/or killed JonBenét;
3. Statements, imagery and/or implications that Burke had been violent against JonBenét in the past;
4. Statements, imagery and/or implications that Burke was less than candid with and/or lied to investigators or other interviewers;
5. Statements and/or imagery that convey knowledge of what the murder weapon was;
6. Statements and/or imagery that convey knowledge of what the motive for the murder was;
7. Statements and/or imagery conveying that CBS and its professed experts conducted a complete investigation into the facts and circumstances of JonBenét's murder;
8. Statements and/or imagery conveying that the CBS and its professed experts relied upon newly discovered evidence or information that was not considered during prior investigations in reaching their conclusions;
9. Statements and/or imagery conveying that there is a high likelihood that the opinions and conclusions of the so-called "experts" in the Docuseries are correct;

10. Statements and/or imagery conveying that the so-called “experts” in the Docuseries are infallible;
11. Statements and/or imagery conveying that the so-called “experts” in the Docuseries used all available means to analyze critical evidence (to the exclusion of other reliable indicators of Burke’s innocence);
12. Statements and/or imagery conveying that other common theories – such as the so-called intruder theory – are unlikely if not impossible;
13. Statements and/or imagery conveying that the so-called experts examined all of the evidence collected in connection with JonBenét’s death;
14. Statements and/or imagery conveying or implying that there is no evidence tending to exonerate the family that was not discussed during the Docuseries;
15. Statements and/or imagery conveying that the previous exonerations of Burke, John, and Patsy Ramsey by the Boulder Police Department and the Boulder District Attorney’s Office were erroneous or were based on incomplete evidence;
16. Statements and/or imagery conveying that the work of individuals involved in an official capacity – such as the D.A.’s office, the examining pathologist, and the medical examiner – was erroneous, inaccurate or based on an incomplete analysis;
17. Statements and/or imagery conveying that the conclusions reached by the so-called “experts” are based on the evidence collected in the law enforcement investigation;
18. Statements and/or imagery conveying that the so-called experts did not predetermine the results of their re-investigation of the circumstances surrounding JonBenét’s death; and
19. Statements and/or imagery conveying that the local community and friends of the Ramseys believe that the family committed the crime or that otherwise convey a negative image of the family.

Further, in an attempt to be very specific about the statements in the Docuseries that make up the false and defamatory gist and implication that John covered up that Burke caused JonBenét’s death and contributed to his daughter’s death, demand is hereby made that CBS retract

and correct the following false and defamatory statements, images, graphics, “re-creations,” and other statements, each of which contributes to CBS’S false and defamatory gist.

Each of the following false and defamatory statements, images, graphics, and “re-creations” appear to be some of the most critical assertions that explicitly and directly accuse John Ramsey of covering up and contributing to the cause of JonBenét’s death as more fully outlined above:

1. Jim Fitzgerald (“Jim F.”): “There’s six seconds of something that’s inaudible. Patsy thought the phone call was ended, the last thing she ever thought was somebody was still listening to her.”
2. Jim F.: “Right. And if they’re legitimately hoping for their child to be taken care of, rescued, saved, whatever. If you have something else going on then you have a different set of parameters involved.”
3. Jim Clemente (“Jim C.”): “Oh, wow. I think I hear a man say, ‘We’re not speaking to you.’ I think that’s John Ramsey’s voice . . . ‘We are not speaking to you.’”
4. Jim C.: “Stop there. Can you spread that out? Oh, my god, ‘What did you find?’”
5. Laura Richards (“Laura”): “I mean this changes things because their account is that Burke was asleep at the time.”
6. Jim C.: “Yeah, when we cleaned it up, we hear a man say ‘we’re not speaking to you,’ and he’s very stern, and then, I think we hear Patsy saying something like ‘what did you do? Help me, Jesus.’ Or ‘help me, Jesus. Help me, Jesus.’ And then I think Burke says ‘what did you find?’”
7. Laura: “We spoke to Kim Archuletta, who was the 9-1-1 dispatcher at the time and she said that, the thing that stayed with her was the, as Patsy thought she had disconnected and she was typing up the call, she could hear a gear shift, an instant gear shift which was in direct contrast to the emotion of the call and she basically said that what she heard Patsy say was ‘Okay, we called the police, now what?’”
8. Laura: “You had John saying ‘we’re not talking to you,’ very clipped. And then it could have been, ‘what did you do?’ and ‘help me, Jesus,’ from Patsy. And then the young boy’s voice saying ‘well, what did you find?’ And we must remember that they did say in

a statement that Burke was asleep. Why say he's asleep when he's clearly not. I believe we heard this voice on the 9-1-1."

9. Jim C.: "And that absolutely changes the entire focus of this investigation and we should keep that in mind as we evaluate the rest of this evidence."

10. In connection with the above statement, CBS utilizes imagery of movie posters in the Ramseys' home to support the false assertion that Patsy Ramsey physically authored the ransom note. Each such use of imagery contributes to the false and defamatory gist conveyed by the Docuseries.

11. Jim F.: "Yes. The first language they learned in life was English. I have no doubt about that. Age is not always easy to determine, but I would certainly say this person's an adult. No indication of sort of teenage slang, vernacular, so I would say we have someone, an adult, 30 or older. The last one and part of a linguistic profile is gender and this can be one of trickiest ones to determine. There are at least six examples of what I would call maternalistic language. The very first sentence is already circled. Can you picture a mother telling their young child "Listen carefully, when you get home," not when you get back to your house, not when you get to your residence, 'when you get home.' 'Do not particularly like you,' would a guy necessarily care if someone likes them or not in this context? I find in the thousands of cases I have worked over the years, when someone puts a statement in like that, it turns out to be a female."

12. Jim C.: "I think we can all agree, this letter is clearly staged. What we have to decide through our investigation is whether it was staged by somebody in the family or somebody who came into this home. Because this case is an open investigation on the books, we have to be the investigators and dig up what we can find."

13. In addition to the general use of purported "re-creations" of the Ramsey home during the Ron Walker segment, CBS utilizes a specific purported "re-creation" of John Ramsey purportedly failing to turn the light on prior to exclaiming that he found JonBenét, and a purported "re-creation" of law enforcement allegedly instructing John Ramsey to begin his search at the top of the home, to support the false assertion that John Ramsey engaged in a cover up. The use of such imagery contributed to the overall false and defamatory gist of the Docuseries.

14. Ron Walker ("Ron"): "But what I learned later on from Linda is that when she tells John, 'we're going to search the house top to bottom and we're gonna start at the top.'

Ramsey is there with Fleet White. He grabs Fleet by the arm and makes a beeline for the basement door. John Ramsey opens the door, says something about finding his daughter, and then turns the light on. Virtually every staged murder case that I have seen the perpetrator manipulates the arrival of friends or other family members who are then put in the situation where they actually discover the body. Or they are with the perpetrator as the body is discovered.”

15. Dr. Werner Spitz (“Dr. Spitz”): “I believe the family. The police had to get permission from them. They told the police ‘no dice. He’s not coming in this house.’ They did not want me in the house. Maybe, may just be, that I would figure something out that nobody else knows.”

16. Dr. Spitz: “Oh yeah. It made me wonder what is being put away, hidden? And why?”

17. Jim C.: “So what does that tell you? This was staging.”

18. In connection with the purported recreation of a young boy smashing the head of a pig skin in a blonde wig, CBS utilizes imagery of John and Patsy Ramsey stating that “the tremendous blow to JonBenét’s head would have required the strength of a man” to support the false assertion that the parents were involved in a cover-up of Burke’s alleged crime. The use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

19. Laura: “Within days of JonBenét’s body being found, the Ramseys speak to CNN before they’ve even given interviews to the Boulder Police Department.”

20. Jim C.: “Right, and they have not sat down with the police department to do separate interviews in order to rule them out as suspects in this crime, yet they’re sitting down with CNN.”

21. Stan Burke (“Stan”): “But he wants to make sure the listener or the viewer hears ‘we are a loving and gentle family.’ ‘Gentle,’ that’s the message that’s being sent here.”

22. Jim F.: “This is probably a very honest question John and Patsy Ramsey are asking themselves. It’s very likely they know who did it and they may still be trying to figure out ‘why did this happen?’”

23. Stan: "Stop right there. Why is that such an accomplishment to go and talk to the police about the possible resolution of your daughter's homicide? What?"
24. Jim C.: "Yeah. Why does it only have to be those two [theories]?"
25. Jim C.: "Parents can be involved in another way other than murder. It's not one or the other. There's a bunch of shades in-between and we have to look at every one of those. That's the responsibility of an investigator."
26. James Kolar ("Kolar"): "And that's something that seemed to escape a lot of the people who thought intruders were involved."
27. Dr. Spitz: "No. This finding is not indicative of a sexual assault."
28. Jim C.: "It seems like District Attorney Lacy should not have exonerated anybody based on just transferred DNA."
29. Jim F.: "To me this crime happened within the four walls of that home."
30. Dr. Spitz: "Yes, I believe this was an inside of the house killing."
31. Dr. Henry Lee ("Dr. Lee"): "So I think you can eliminate the outside intruder hypothesis. So more likely it's cover up something. What to cover up?"
32. Gretchen Smith ("Gretchen"): "Well the fear from inside the department was not felt because some people felt that they knew who the murderers were."
33. Gretchen: "Well, the parents of the child, they had money. The District Attorney's office and some of the administration did not want to hear that an affluent member of the community was guilty of a crime like this. They didn't want to hear that. I don't think that they wanted to solve this crime. And if they had to go down a different path that might not have been the truth, I think they were willing to do that."
34. Steve Thomas ("Steve"): "I think she was the author of that ransom note. We know that was her pad. Her fingerprints were on that pad. The Sharpie pen we located that and ink matched it to the ransom note which bore handwriting characteristics that some experts said were remarkably similar to Patsy's. If we found that body of evidence in the possession of any third party, uh that's pretty damning evidence, but in this case, for some reason, uh

the District Attorney wanted to create some parallel universe why it wasn't hers'. I find it preposterous."

35. Steve: "And I'll never forget Alex Hunter, the elected District Attorney's response, 'I need to get with my people. This is a political decision.'"

36. Laura: "So on or between December 25 and December 26, 1996, John Bennet Ramsey did unlawfully, knowingly, recklessly and feloniously commit a child to be unreasonably placed in a situation which posed a threat of injury to the child's life or health which resulted in the death of JonBenét Ramsey. The other count was John Bennet Ramsey did unlawfully, knowingly and feloniously render assistance to a person with intent to hinder, delay and prevent the discovery, detention, apprehension, prosecution, conviction and punishment of such a person knowing the person being assisted has committed and was suspected of the crime of Murder in the First Degree and Child Abuse Resulting in Death."

37. Jim C.: "Does that mean that they're charging John with assisting Patsy if she did it and they're charging Patsy with assisting John if he did it?"

38. Lisa Polansky ("Lisa"): "It's legally possible in the state of Colorado for John to be assisting Patsy, Patsy to be assisting John."

39. Jim C.: "Wouldn't they both then also be charged with the underlying crime, as opposed to just—"

40. Laura: "After JonBenét was killed Burke's interviewed two weeks later by someone from the Department of Social Services at the behest of the family. They put a condition on it that it cannot be a Boulder police officer or detective."

41. Dr. Spitz: "In my view, this would have been so easy to figure out if they had not used lawyers who shut the door to any additional investigation."

42. Jim C.: "Yeah, I believe the Ramseys distanced themselves from the investigation while at the same time claiming to the world through media appearances that they were fully cooperating."

43. Dr. Spitz: "No I don't believe that it was somebody from the outside."

44. Jim C.: "I don't think the evidence that stands up, to scientific or behavioral scrutiny, indicates that somebody came in from outside that home and killed JonBenét."

45. Laura: "And of course, you know, the media's speculating on a pedophile or a sex offender. Dr. Lee said that the DNA evidence in this case, is totally erroneous."

46. Dr. Lee: "That DNA has no forensic value. It's really no sexual assault here."

47. Kolar: "My hypothesis was that I think the Ramseys came home around 9:30, 10 o'clock. I think JonBenét was asleep. I think John did carry her upstairs. Patsy remained downstairs with Burke and served him the tea and the pineapple. I think that accounts for the physical evidence as well as the latent prints. Then I think she got JonBenét up to make sure she used the toiler so she didn't wet the bed that night. JonBenét was up, she may or may not have brushed her teeth. That stuff was on the counter. And then I think she was up and awake enough, but she maybe was still hungry and she went downstairs. In the meantime, Patsy continued packing for the Michigan trip. I think if Burke was upset about circumstances or Christmas presents, he probably would've been upset about her trying to snag a piece of pineapple. Out of anger he may have struck her with that flashlight."

48. Dr. Spitz: "I think we all agree on that."

49. Jim C.: "Yeah."

50. Jim F. "Yes."

51. Laura: "Absolutely."

52. Dr. Lee: "Sure, yeah, I agree with that."

53. Dr. Spitz: "Okay."

54. Stan: "I think early on we discussed the lack of the family actually getting involved with the investigation to begin with. And that is so atypical of what I see in a case where someone close to you has passed away. You'll do whatever you can to get the case resolved. We didn't see that here, but maybe we did. Maybe we saw it with her brother. 'Do everything we can to protect this child.' We see it in the letter. It's a sales job, trying to take the cops down a certain avenue and we see it in the press conferences . . . Every step along the way we see it."

55. Kolar: "I thought Patsy made a couple telling statements. One was during one of the other interviews she said that they loved their children. They would do anything for their children. In the DSS interview where she said she would have nothing left to live for if she lost Burke. That seemed to me motive for a cover up and I know there was some debate as to whether or not both parents are involved in the cover up right away, but I think the mixed motives is in the ransom note. You know whether it's a sexual assault pedophile or . . . terrorism."

56. Kolar: "Mixed motives make it pretty clear that both parents were involved."

57. Jim C: "Yeah, I mean I think from a profiling perspective, mixed motives tells us that it's a high probability that it's more than one person involved in staging, right?"

58. Jim F.: "Arguably, yes and that's been the experience that we've had looking at staged crime scenes, uh, over the years. And I think that's what we have here in the language utilized as well as the crime scene itself, the body and everything else. Within an hour of this crime being committed, there's probably a cover up starting with whatever they did to the body and certainly the writing of this letter, the 911 call, everything that happened later. But I don't think Burke was involved in the cover up. He was not directly involved in writing letters. He certainly didn't do the phone call to 911. He may have been there in the room as we found out later."

59. Jim F.: "But as far as the cover up itself, I would say primarily, it's John and Patsy who were involved in that."

60. Jim C.: "I think the most likely probability is that the adults in that family, John and Patsy Ramsey, and this is consistent with what the grand jury wanted to indict them for, staged this to look like a monster predator had come in their house and killed their daughter. It's my opinion that the Ramsey family did not want law enforcement to resolve this case and that's why it remains unsolved."

61. Jim F.: "100% agree."

62. Jim C.: "I think in the end this was about two parents, deeply cared for the daughter they lost and wanted to protect the child they had remaining."

Each of the following false and defamatory statements, images, graphics, "re-creations,"

and other statements contribute to the false and defamatory gist that John Ramsey covered up the truth in the death of JonBenét and contributed to her death:

1. Jim C.: "I'm a retired FBI profiler. I'm an expert in the area of child sex crimes, abductions, and child homicides."
2. Laura: "I'm a criminal behavioral analyst and I've been trained by New Scotland Yard and the FBI."
3. Laura: "As a victim advocate, I want to get to the truth on behalf of JonBenét. . . . I wonder . . . was this a domestic violence or child abuse situation?"
4. Jim C.: "Our goal is to finally get to the truth and tell the world what actually happened to JonBenét Ramsey."
5. Laura: "This is really our think room, we're able to go through the hypotheses, go through all the information and the facts, and I think that part is going to be invaluable."
6. Jim C.: "What we need to do is a complete re-investigation. Starting right from scratch with the 911 call, the crime scene. . . . We hope to get to the truth about how she died."
7. Jim C.: "And so for him she [Patsy] was quite the trophy wife."
8. Laura: "Access Graphic had a billion-dollar turnover that very year that JonBenét was killed, so don't forget the lifestyle. They had two planes at one point and a thirty-foot yacht. To everybody else they almost had the perfect family exterior."
9. Laura: "[A]fter JonBenét's death, tragedy strikes again when Patsy is diagnosed with Grade 4 Ovarian cancer[.]"
10. Jim C.: "The most important thing is to go where the evidence takes us. The great thing is, the people that we've been able to assemble. Many of us were involved in the initial investigation and in the investigation over the last twenty years. Dr. Henry Lee, world-renown criminalist. He is so good at drilling down into the little details and scientific facts and reconstructing crimes."
11. Laura: "Jim Fitzgerald, who is a profiler and he's a forensic linguist. He was a

former police officer too.”

12. Jim C.: “James Kolar was actually hired by the District Attorney’s office. He reinvestigated the entire case.”

13. Jim C.: “Stan Burke is somebody who actually teaches statement analysis at the FBI Academy.”

14. Jim C.: “[Dr. Werner Spitz] has an amazing background in forensic pathology.”

15. Laura: “Twenty years on putting together this elite and renowned team, actually bringing these minds into one room, this has never been done before. And when you join up everybody’s experience cumulatively, so like 250 years of experience working in law enforcement.”

16. Jim F.: “There’s six seconds of something that’s inaudible. Patsy thought the phone call was ended, the last thing she ever thought was somebody was still listening to her.”

17. Laura: “Because the 911 phone call plays such a significant role in this case, Jim Fitzgerald is exactly the right person to be able to provide analysis.”

18. Jim F.: “We have a kidnapping. What does that even mean? Where’s the ownership?”

19. Jim C.: “She doesn’t mention her daughter’s name, she says my daughter, my six-year-old blonde. . . . I’m the mother.”

20. Laura: “I’m the mother.”

21. Jim C.: “These are behavioral things that, I think, are extremely unusual.”

22. Stan Burke: The hanging up, if you will – when you make that phone call, someone close to you has disappeared, you’re sending out that phone call for help. I’ve looked at a lot of 911 calls over the years. They’ll hold on until the police get there, that’s your lifeline, it indicates hope. The moment you hang up that phone, you end that hope. And for that phone to be hung up, you’ve got to ask yourself why.”

23. Jim F.: “Right. And if they’re legitimately hoping for their child to be taken care

of, rescued, saved, whatever. If you have something else going on then you have a different set of parameters involved.”

24. Jim C.: “And it’s interesting that Patsy thought she had hung up the call and disconnected it while the dispatcher was actually calling out her name because she wanted to talk to her more, and keep her on the phone until the police arrived.”

25. Dr. Lee: “In the background, we heard some voices.”

26. Jim C.: “Some more voices. Who do you hear? In the 90’s they tried to do enhancements of that tape. . . . There’s been a lot of controversy about what they’ve actually uncovered on the tape. Most of the general public has never heard the enhanced version. We want to use today’s technology to actually nail down what exactly was said and by whom in those final moments of that tape.”

27. In combination with the below statements regarding the 9-1-1 call made by Patsy Ramsey, CBS’s use of imagery allegedly depicting the use of new technology to purportedly enhance the audio tape of the 9-1-1 call, the results of which CBS presents as “new evidence” that completely changes the entire “reinvestigation.” Yet, the entire “enhanced” tape is inaudible and unclear, but is bolstered by the imagery used by CBS. Each such instance of utilizing imagery contributes to the false and defamatory gist of the Docuseries.

28. Further, in addition to utilizing imagery of the purported use of new technology to discover purportedly new evidence, CBS also utilizes flashing images of inaudible words in combination with purported “re-creations” of John, Patsy, and Burke Ramsey in the kitchen during the 9-1-1 call to support the false assertion that Burke can be heard on the tape. Use of such imagery contributed to the overall false and defamatory gist of the Docuseries.

29. Jim C.: “What can you do to bring that up?”

30. Audio Engineer Ed Kaufman (“Kaufman”): “We can try a little noise reduction on that.”

31. Jim C.: “Some real – it’s really distant. Let’s try that again. . . . Can you slow it down?”

32. Kaufman: "So this is the noise reduced."

33. In connection with the below regarding the 9-1-1 call, CBS utilizes imagery of typing out the alleged statements made by John, Patsy, and Burke Ramsey purportedly heard on the enhanced audio tape to support the false assertion that these statements were actually made. Each such use of imagery contributes to the false and defamatory gist conveyed by the Docuseries.

34. Jim C.: "Oh, wow. I think I hear a man say, 'We're not speaking to you.' I think that's John Ramsey's voice. . . . 'We are not speaking to you.'"

35. Laura: "Well the tone is a parent talking to a child."

36. Jim C.: "I've never heard that before. Okay, so why don't you play it from there?"

37. Laura: "There's another voice . . . a female voice"

38. Jim C.: "Wow, yeah. . . . Can you blow that up and slow it down a little bit? Just a little bit. . . . I don't know."

39. Laura: "It sounds like Patsy's voice to me."

40. Jim C.: "Just, can you stretch it out a little bit more?"

41. Laura: "I'm getting 'Oh, something, Jesus,' and then it repeats it."

42. Jim C.: "I hear either 'Holy Jesus, or help me, Jesus.'"

43. Kaufman: "What I heard was 'what did you do? What did you do?' That's what it sounds like to through the speakers. I didn't listen on the headphones. . . . I do hear the 'Jesus' the second time. Let's put that through this noise reduction. . . . I'm showing it, just the noise in between the speech. . . . So hopefully it just takes that out and leaves the speech. Here it comes."

44. Jim C.: "You could be right. . . . It's the same number of syllables but when you pointed that out, I think I hear the difference between the two sentences. . . . The first part is a little blurry but certainly, 'What did you do?' is a very real probability here. Okay, so, let's go on to the next part."

45. Jim C.: "Stop there. Can you spread that out? Oh, my god, 'What did you find?'"
46. Laura: "'What did you find?'"
47. Jim C.: "Right. 'What did you find?' It sounds like a smaller voice though – it doesn't sound like a blooming adult."
48. Laura: "There were only four people in that house. . . . I believe we've heard John Ramsey's Voice."
49. Jim C.: "Right, one of them [the four] was dead."
50. Laura: "We've heard Patsy's voice."
51. Laura: "So the only other person in the address at the time is Burke."
52. Jim C.: "Right."
53. Laura: "This is hugely significant."
54. Jim C.: "Oh my god."
55. Laura: "I mean this changes things because their account is that Burke was asleep at the time."
56. Jim C.: "They made a point of saying he was asleep and he had nothing to do with it and that they never even asked him whether he heard anything."
57. Kim Archuleta ("Kim"): "Yeah, um, I've always been under a gag order so I've never really talked to anybody. Um, so my side of the story has never really been heard."
58. Kim: "This is the first time anyone's asked for my opinion."
59. Laura: "In 20 years."
60. Kim: "In 20 years."

61. Kim: "I just remember having that sunken feeling like something wasn't right. The problem was if you hear the frantic in her voice as she's speaking to me where she couldn't even answer my questions, it immediately stopped."

62. Laura: "Was there a shift in kind of tone from sort of being very hysterical to suddenly . . . something quite different?"

63. Kim: "Right. What bothered me immensely, it sounded like she said 'Okay, we've called the police, now what?' And that disturbed me. So I remained on the phone trying to hear what was being said – sounded to me like there were two voices in the room, maybe three different ones. I had a bad feeling about this. To me it seems rehearsed. Mm-hmm."

64. Jim C.: "And that's your distinct memory? And has that stayed with you the entire 20 years?"

65. Kim: "Always. . . . Yes. That's never changed. I know they did an enhancement, right?"

66. Jim C.: "Yeah. We did enhance the end of it."

67. Laura: "And it's interesting 'cause there are some bits that we can't quite make out, but there are some very clear bits that we can."

68. Jim C.: "Yeah, when we cleaned it up, we hear a man say 'we're not speaking to you,' and he's very stern, and then, I think we hear Patsy saying something like 'what did you do? Help me, Jesus.' Or 'help me, Jesus. Help me, Jesus.' And then I think Burke says 'what did you find?'"

69. Kim: "I wanted that case solved. I wanted someone to come talk to me. I wanted someone to get my testimony. When they did the grand jury nobody talked to me."

70. Jim C.: "Really? You weren't . . . you didn't testify in the grand jury?"

71. Kim: "No. I had an investigator come to my house, told me there's a gag order. Do not talk about this until we go to court. And I never was talked to again. And it never went to court."

72. Kim: "That's one of the reasons why I even stayed on until they disconnect because

there were things being said that somebody needed to know.”

73. Laura: “Right.”

74. Kim: “It was never addressed. I think it really would have turned the case around.”

75. Laura: “We spoke to Kim Archuleta, who was the 9-1-1 dispatcher at the time and she said that, the thing that stayed with her was the, as Patsy thought she had disconnected and she was typing up the call, she could hear a gear shift, an instant gear shift which was in direct contrast to the emotion of the call and she basically said that what she heard Patsy say was ‘Okay, we called the police, now what?’”

76. Jim C.: “And then she said it went on, there was a conversation she could hear other voices, but she couldn’t necessarily make that out. However, when we got the tape enhanced what we heard was a little different.”

77. Laura: “You had John saying ‘we’re not talking to you,’ very clipped. And then it could have been, ‘what did you do?’ and ‘help me, Jesus,’ from Patsy. And then the young boy’s voice saying ‘well, what did you find?’ And we must remember that they did say in a statement that Burke was asleep. Why say he’s asleep when he’s clearly not. I believe we heard this voice on the 9-1-1.”

78. Jim C.: “And that absolutely changes the entire focus of this investigation and we should keep that in mind as we evaluate the rest of this evidence.”

79. In connection with the below regarding the ransom note, CBS utilizes imagery of the ransom note as annotated by “experts” to support its false position that Patsy Ramsey authored the ransom note. Each such use of imagery contributes to the false and defamatory gist conveyed by the Docuseries.

80. Jim F.: “In the 380 some words in this ransom note, there’s a treasure trove of information. It’s unprecedented in the annals of criminal justice history, as far as I know, that both a ransom note requesting money and the body is left behind at the scene of the crime.”

81. Jim C.: “So, what do you make of the amount and these really specific instructions about what size the bills should be?”

82. Stan: "The amount 118 is very close to the bonus Mr. John Ramsey would have received or did receive that year."

83. Jim C.: "The fact that it's so specific makes it stand out."

84. Laura: "He's a millionaire. I mean if you're gonna do this, you go large. I mean why would go for your \$118,000 when you can go for a million?"

85. Jim C.: "One of the things that we know from the actual crime scene video, was that the house was filled with movie posters."

86. In connection with the above statement, CBS utilizes imagery of movie posters in the Ramseys' home to support the false assertion that Patsy Ramsey authored the ransom note. Each such use of imagery contributes to the false and defamatory gist conveyed by the Docuseries.

87. Stan: "It's not necessary. To me, they're trying to sell this now. It's a sales job."

88. Jim F.: "What you just said from historical perspective is essentially what we have in the three ransom notes going back to Lindbergh, Weinberger and Whiles, and one other mitigating factor in these other three kidnappings, the person was actually missing, wasn't dead in the house somewhere. We just have so much in the way of variation between these particular historical kidnappings and this letter."

89. Jim C.: "Why don't we start actually building a linguistic profile? What we're trying to do is figure out who wrote this whole entire letter."

90. Jim F.: "... Well, right below it we have the word 'business' and if you'll notice it's misspelled. There's an extra 's' in here. Perhaps someone who is not a native English speaker would in fact insert that extra 's.' So what I noticed early on is that this was a purposeful mistake. This was done to tie in somehow to the concept that this person is a foreigner and perhaps does not speak English as their native tongue ... What it tells me is there's an element of disguise involved. These misspellings, they were inserted for a reason to make it look like it's somebody other than who it really was. Language one, and I would clearly say it's English."

91. Jim C.: "So they're native English speakers."

92. Jim F.: "Yes. The first language they learned in life was English. I have no doubt about that. Age is not always easy to determine, but I would certainly say this person's an adult. No indication of sort of teenage slang, vernacular, so I would say we have someone, an adult, 30 or older. The last one and part of a linguistic profile is gender, and this can be one of trickiest ones to determine. There are at least six examples of what I would call maternalistic language. The very first sentence is already circled. Can you picture a mother telling their young child, "Listen carefully, when you get home," not when you get back to your house, not when you get to your residence, 'when you get home.' 'Do not particularly like you,' would a guy necessarily care if someone likes them or not in this context? I find in the thousands of cases I have worked over the years, when someone puts a statement in like that, it turns out to be a female."

93. In connection with the below statements regarding where the pen and pad used for the ransom note were found, CBS utilizes imagery of the Ramseys' home to support the false assertion that Patsy Ramsey authored the ransom note. Each such use of imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

94. Jim C.: "Yeah and that, the fact that it was written in the house, not before the fact in preparation for a kidnapping, which you would think they would do, right?"

95. Stan: "Right . . . exactly right, Jim."

96. Dr. Lee: "The paper, the investigator found a pad. Also found two practice notes."

97. Jim C.: "The pad was actually Patsy's pad, right, from her little writing desk in the hallway."

98. Jim F.: "That's my understanding, yes."

99. Jim C.: "And the pen was actually found underneath . . ."

100. Jim F.: "The phone."

101. Jim C.: "... the phone. Whoever wrote this, managed to commit a murder, find the pad, find the pen, practiced a couple times because they didn't want to show bad penmanship or something, write it and then put the pad and pen back to where they normally are kept."

102. Jim F.: "It makes no sense at all to do that, unless it's something other than what the note is making it appear to be."

103. Jim C.: "Just mechanically, it took 21 and a half minutes to write this thing. If it were original text, it would've taken so much longer 'cause somebody is thinking of what to write. But even if they did it fast, that's 21 and a half minutes that they could've been caught."

104. Stan: "Mm-hmm."

105. Jim C.: "21 and a half minutes that they stayed in the house longer than they needed to."

106. Jim F.: "Assuming this is done by an outside person who broke into the house for the purposes of a kidnapping."

107. Jim C.: "I think we can all agree, this letter is clearly staged. What we have to decide through our investigation is whether it was staged by somebody in the family or somebody who came into this home. Because this case is an open investigation on the books, we have to be the investigators and dig up what we can find."

108. Jim C.: "Thanks for coming out. Ron Walker was the only FBI agent to visit the crime scene on that day. It's incredibly important for us to talk to him and get his insight. I was just telling Laura that unlike any of the other people who, who were first responders to the scene, you went as a behavioral analyst."

109. Jim C.: "You had already had that training, years of experience, you knew what to look for."

110. Laura: "So they didn't have the knowledge and your expertise. . . . You're gonna have the answers to some of the gaps we've got."

111. Ron: "A couple of things jump out at your right away at least from my perspective. Number one is uh, the whole idea of a small foreign faction. If you're gonna kidnap somebody, what you're gonna want to do is convey uh, an image of authority and power. . . . Not a small foreign faction."

112. Jim C.: "In general, abductions of children for a ransom is an extremely rare event."

113. Ron: "Right and much more prominent are the parental kidnappings. . . ."

114. Jim C.: "Right."

115. Ron: ". . . by a non-custodial parent. So it was my belief at this juncture that as I said, the, the uh, the ransom note was a red herring and that uh, it was staging. So it's even more important at that point for the detectives to maintain visual contact with the family. I wasn't so much concerned about Patsy because Patsy was in the solarium and she was surrounded by the family friends and she was crying. She wasn't gonna go anywhere and at this point uh, Larry Mason and I start talking about, well, what are we gonna do to try to make sure the detectives there maintain visual contact with the family?"

116. Ron: "I want to control the movements of the people in that crime scene. About noon, Linda Arndt calls in to Mason and tells him that uh, Ramsey has been out of pocket for about an hour and a half."

117. Laura: "First, when he reappears, his demeanor has changed."

118. Jim C.: "He's agitated."

119. Laura: "He's agitated."

120. Laura: "The fact that this was reported as a kidnapping. . . . Officers that were available were actually focusing their energy and their time and their resources outside of the house."

121. Ron: "I thought that Linda Arndt should grab John Ramsey and tell John, 'we're going to search the house from top to bottom' and from my perspective that was nothing but kindergarten make-work. Uh, I wanted him to be busy . . . but I wanted him to be busy in Linda Arndt's presence."

122. Ron: "That way we're not gonna run into the situation where for an hour and a half he goes missing again."

123. In addition to the general use of a purported "re-creations" of the Ramsey home during the Ron Walker segment, CBS utilizes a specific purported "re-creation" of John Ramsey purportedly failing to turn the light on prior to exclaiming that he found Jonbenét

to support the false assertion that John Ramsey engaged in a cover up. The use of such imagery contributed to the overall false and defamatory gist of the Docuseries.

124. Ron: "But what I learned later on from Linda is that when she tells John, 'we're going to search the house top to bottom and we're gonna start at the top.' Ramsey is there with Fleet White. He grabs Fleet by the arm and makes a beeline for the basement door. John Ramsey opens the door, says something about finding his daughter, and then turns the light on. Virtually every staged murder case that I have seen the perpetrator manipulates the arrival of friends or other family members who are then put in the situation where they actually discover the body. Or they are with the perpetrator as the body is discovered."

125. Laura: "Right."

126. Jim C.: "They bring somebody along. They discover the body, but with a witness who can testify to their shock and awe and horror at what they find."

127. In connection with the below statements regarding the positions of JonBenét's body, CBS utilizes imagery of a model home to support its assertion that John Ramsey elected an odd, contaminated location to place her body. The use of this imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

128. Jim C.: "He puts her down on the ground, but right here is a living room couch, a coffee table, chairs. Why would he put her on the floor?"

129. Ron: "By the time I got there here body is in the living room . . . near the Christmas tree."

130. Laura: "So she's been moved again."

131. Jim C.: "Wow, massive. Part of doing a criminal investigative analysis is doing a crime scene reconstruction."

132. Laura: "We're rebuilding key rooms that relate to this case and those rooms are JonBenét's bedroom, you know that was the last place that she was seen alive, the spiral staircase where the ransom letter was found, the kitchen, and the basement including the wine cellar where JonBenét's body was eventually found."

133. In connection with Ron's alleged reinvestigation of the Ramsey home, CBS utilizes recreated rooms of the Ramseys' home to support Ron's assertion that John was involved in staging the murder. Each such use of imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

134. Eddie Schmidt: "We can't turn back time inside the real house, but what we can do here, as much as we can, clinically and scientifically try to put it together."

135. Ron: "Now a stranger would typically think the most logical place to find a note would be on a desk, on a table in the kitchen."

136. Laura: "The kitchen counter."

137. Ron: "The kitchen counter."

138. Laura: "Right, or what about concealing the body for a time too [in the suitcase]?"

139. Ron: "Or concealing the body, right."

140. Jim C.: "Right."

141. Ron: "I have to tell you that's the first thing that jumped in my mind."

142. Jim C.: "The statements that were made said that John called out that she was here before he turned the light on."

143. Ron: "From my perspective now I can look in here and see objects . . . But I don't know that I can necessarily identify objects . . . Now this just looks like a jumble of cloth."

144. Jim C.: "Right. And how would you know that that was actually your daughter wrapped up in there?"

145. Ron: "As I recall, he's never been asked those questions."

146. Laura: "Why was that?"

147. Ron: "It was my belief that the philosophy that was kinda laid out for the police department that day, was we have to treat them with kid gloves. Treat them with deference."

Treat them as victims and not as suspects.”

148. Laura: “What was the reason given?”

149. Ron: “They were influential. They were wealthy.”

150. Laura: “From what I can tell, the influence here really had a significant impact as to why people were allowed to come and go from the house.”

151. Ron: “Going through the list of things initially puzzled me, but then I started thinking, when you add them all together, I started thinking, well, there’s something really bizarre and odd about all this.”

152. Jim C.: “Right.”

153. Ron: “Right around the time that I was there, there was another detective there that I think had overheard John making a call for his airplane. This is after the body had been discovered.”

154. Laura: “Right.”

155. Ron: “Why does John Ramsey want to leave so quickly when he has to understand that there’s going to be a police investigation, and his daughter has just been killed.”

156. Laura: “You know, for me this isn’t just a red flag, this is an absolute anomaly.”

157. Ron: “First thing you do in a homicide case, if you have witnesses, is you separate them, you take them some place, and you get a statement.”

158. Laura: “Right.”

159. Ron: “And you have to get the Ramseys interviewed by the police, in that first 24 to 36 hours.”

160. Jim C.: “And the only problem is, they didn’t get interviewed by the police.”

161. Ron: “No, they didn’t.”

162. Jim C.: "I got a message from Fleet White. I think the important thing that we want to talk to Fleet about is the Ramseys' behavior that morning."

163. Laura: "I certainly find that a very curious decision. Why would you invite your friends to your home address when you're in crisis and chaos?"

164. Jim C.: "Especially if they think that somebody actually came into their home and abducted their child. Why are they bringing in other friends?"

165. Laura: "Right."

166. Laura: "Fleet was one of the first people to question John, and told him categorically to stop hiding behind his lawyer and cooperate with the police."

167. In connection with the above statement, CBS utilizes a clip of a newscaster stating Fleet White thinks that the Ramseys did not fully cooperate with the investigation to support the false assertion that they engaged in a cover-up, and that even the Ramseys' friends believed that to be so. The use of such imagery contributes to the overall false and defamatory gist of the Docuseries.

168. Eddie Schmidt: "Do you think they understood how committed you really are?"

169. Jim C.: "Yeah, they're willing to talk to us, but they just don't want to do it on camera. And when we were leaving, Fleet took me aside and he said, 'Jim, I really think we have some really important information that will help you.' And I said, 'of course you do, that's why we're here, and we'll keep coming back here as much as we have to to convince you that this is the right thing to do, because we really felt it is.'"

170. Laura: "Our hope is to try and get what we would call community intelligence, to knock on their doors and unlock some of these secrets to try and crack this case wide open."

171. Laura: "You just get a sense that people are fearful to speak out."

172. Jim C.: "It's critical for us to talk with people who can give us insight into the Ramseys' private world. People who knew them, worked with them, and spent time in their home."

173. Brian Scott ("Brian"): "One of the things I remember is, she [Patsy] wanted pristine

gardens. And I'm thinking to myself: 'okay'."

174. Jim C.: "How frequently did you see John?"

175. Brian: "Not very frequently at all. Once a season, maybe."

176. Jim C.: "Did you ever run into the kids?"

177. Brian: "Yeah. Not Burke so much, but JonBenét would come out and she would often, I don't know, be playing relatively close to where I would be working. One of the things that stands out is when I would be raking the leaves in the fall."

178. Jim C.: "Oh yeah?"

179. Brian: "I had all the leaves in a pile and she wanted to jump on them. I remember her saying it reminded her of the time she spent with her dad, you know."

180. Jim C.: "So she didn't mind getting dirty, or messing up her hair?"

181. Brian: "No, she didn't mind. She seemed like a normal kid who just likes to play, and misses her father. I remember that."

182. Brian: "I don't know too much about pageantry, but I would think it demanded a lot of discipline and you know, focus on certain talents that she had to hone in and get right. I do remember seeing her practicing the violin."

183. Brian: "And Patsy was talking to me, and I think she went back and checked in, said 'hey, you have to keep practicing, don't put that down.'"

184. Jim C.: "And with respect to Burke, did he ever come out and play outside? Did you ever see him?"

185. Brian: "What I remember is he stuck to himself. He was a little more introverted. She was more engaging and more outgoing than him."

186. Jim C.: "Did she [Patsy] ever come out?"

187. Brian: "She came out once in a while and we would talk about whatever. One of

the things I remember was when they announced the O.J. verdict . . . I was at their house . . . Patsy came out and told me that O.J. was declared innocent . . . I just remember, she came out and started talking to me about it . . . She thought O.J. got away with murder . . . She did say, you can get away with murder in this country.”

188. In connection with the above statement, CBS utilizes imagery from the trial and verdict in the O.J. Simpson trial to support the false assertion that the Ramseys got a similar “get out of jail free card” despite public sentiment due to a flawed legal system. The use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

189. Laura: “Speaking to people who know the family, getting an understanding of who they were, what was going on prior is so important.”

190. Jim C.: “We’re going to go now to see Patsy’s friend, she was a photographer.”

191. Laura: “She did the family portraits and she seemed to be pretty close with Patsy.”

192. Judith Phillips (“Judith”): “Well, I first met the Ramseys in Atlanta, and we were more social friends . . . In Boulder we became closer friends because we were on a softball team together, ‘Moms Gone Bad’, of all things – that’s the name of our team.”

193. Jim C.: “Did your daughter play with JonBenét?”

194. Judith: “Even though my daughter was Burke’s age, she ended up playing with JonBenét . . . There was one time when my daughter was playing with JonBenét and my daughter inquired about all the awards that were on display. She goes what’s that for, JonBenét? She says, oh, I’m in the pageant system. But she didn’t make a big deal out of it . . . She said, but they really belong more to my mom.”

195. Judith: “I remember one particular Christmas party, that’s the first time JonBenét came down with . . . bleached blonde hair. I was shocked and I took Patsy aside and said, ‘You’re not dying her hair are you?’ And she said, ‘oh, no, Judith, that’s from the summer sun in Charlevoix, Michigan.’”

196. Jim C.: “You think that was –”

197. Judith: “Oh, are you kidding . . . It was, ‘you’re lying to me.’ . . . It bothered me

that she had to lie to me. Why didn't she just tell me the truth?"

198. Jim C.: "Can you tell us about when you saw Patsy after JonBenét's death?"

199. Judith: "She was not the same person that I had ever known. She looked exhausted and she kept repeating over and over again, 'who could've killed my baby? Who could've done this?'"

200. Laura: "Was there any interaction with that you had with Patsy or with the family after that?"

201. Judith: "No. That was it. I was cut off. We were told in, in our circle of friends in Boulder, 'do not talk to reporters. Do not talk to the police.'"

202. Jim C.: "Told by who?"

203. Judith: "I was called by one of the friends in the circle of friends."

204. Jim C.: "What did that make you think?"

205. Judith: "I was surprised. My first through was 'if there was anything that I knew that could help with the investigation, I'm not gonna be silent.' I felt a duty to the memory of JonBenét. I loved her very much. You're gonna make me cry. Um, I opened my doors up to reporters and then talked to the police twice and uh, they just cut me off as a friend. They felt I wo—betrayed them. You know at the time, I, I didn't understand but in hindsight it's because I told the—you know, I, I didn't obey what all the other friends did."

206. Jim C.: "How did you feel though when you saw them actually doing the opposite? They went on CNN."

207. Judith: "I felt that they were hypocrites. And when Patsy said 'hold your babies close to you, there's a, a murderer in town,' it frightened my daughter so much that she couldn't sleep in her own bedroom for several months."

208. Jim C.: "What did you think about that?"

209. Judith: "I said it was bogus . . . In fact, Patsy asked a favor of me to go to the mayor . . . I knew the mayor because I had photographed her. Patsy said, 'please ask for protection

for my family.' So I went to the mayor's office and I said, 'Patsy wants protection' and she said 'there's no murderer out there.'"

210. Laura: "How does that make you feel now when you think '20 years have passed'?"

211. Judith: "I feel angry that little girl, still, after all these years, just not gotten justice. And I don't believe she ever will."

212. Jim C.: "Although the statistics say if a child of that age is killed within their own home, it is most likely a family member that did it. The fact is, the brutality of this particular attack, says the exact opposite. This is a very bizarre dichotomy."

213. Jim C.: "Oh wow. Look at this."

214. Laura: "Yeah, the autopsy."

215. Jim C.: "Cause of death of this six-year-old female is asphyxia by strangulation, associated with cranial cerebral trauma. During the original autopsy, the medical examiner thought that the cause of death was asphyxiation by strangulation due to the rope tied around her neck. This is the kind of thing we're gonna have to ask Werner Spitz about because that word 'associated with' [is] very general."

216. Jim C.: "And is it before, is it after, is this —"

217. Laura: "Were they both fatal? I mean—"

218. Jim C.: "Right."

219. Laura: "—you know I guess only Werner can tell us that."

220. Jim C.: "We brought Dr. Spitz in. He's an incredibly experienced forensic pathologist. His experience goes back all the way to the J.F.K. assassination and he was involved in the initial investigation brought in by the Boulder police department."

221. Dr. Werner Spitz ("Dr. Spitz"): "You know I've seen some 60 thousand cases, so if I don't—"

222. Laura: "60 thousand?"

223. In connection with the below statements from Dr. Spitz, CBS utilizes imagery from a recreated Ramsey home to support the false assertion that Burke Ramsey killed JonBenét. The use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

224. Dr. Spitz: “[W]e did not get permission to get in [the Ramseys’ house].”

225. Jim C.: “Who wouldn’t let you in?”

226. Dr. Spitz: “I believe the family. The police had to get permission from them. They told the police ‘no dice. He’s not coming in this house.’ They did not want me in the house. Maybe, may just be, that I would figure something out that nobody else knows.”

227. Jim C.: “But then you reviewed the autopsy findings and the injuries and the sequencing. Can you tell us a little bit about that?”

228. Dr. Spitz: “Well, she had a blow to the head on the right side. The bone underneath that area showed a perfectly rectangular defect. I didn’t know at the time what caused it . . . But then I looked at the photographs and saw a three mag flashlight sitting on the kitchen counter . . . And, uh, I said, “well I have to check whether that may have been the cause.”

229. Jim C.: “And did you experiments to—”

230. Dr. Spitz: “I did that, yeah. I’ll show you what I did . . . This is what I had an artist draw for me. This is how the flashlight fits to perfection approximately half an inch through the bone.”

231. Laura: “So, Dr. Spitz, this is the house that you didn’t get to go and see. We’re now in the kitchen.”

232. Jim C.: “The phone that she actually made the 9-1-1 call.”

233. Dr. Spitz: “It’s uncanny.”

234. Jim C.: “You’ve been thinking about this case for 20 years, right? What does that make you feel?”

235. Dr. Spitz: "I relived this, you know, because this, this answers questions that I had at one time."

236. Laura: "That must feel frustrating for you as well, not being allowed in and—"

237. Dr. Spitz: "Oh yeah. It made me wonder what is being put away, hidden? And why?"

238. Laura: "Do you believe that she was alive when she was struck on the head?"

239. Dr. Spitz: "Oh yes."

240. Laura: "And she was also alive when she was choked, strangled?"

241. Dr. Spitz: "Please understand this: when a very severe injury to the brain occurs, because the heart has its own ability to produce contractions, to cause a false impression of life existing."

242. Jim C.: "So she was virtually dead when the garrote was applied. So asphyxiation was not the way she actually passed away."

243. Dr. Spitz: "Yes. That is my advantage as a forensic pathologist. They did not know that so they applied a mechanism of death that at face value that, oh she was strangled. And then of course she has a blow to the head, so which is it? Well, it's very simple when I explain to you that yes, she was strangled to make believe that was the cause of death. She already was brain dead."

244. Jim C.: "There's a few more injuries that we need to talk about, the neck injuries and the ligatures because I think this is also kind of really important, the fact that her hands were tied in this way with a slip knot."

245. Jim C.: "So this is where the next knot should be? Let me put this around. So you see this? The rope is actually over her sweater. It's not on her wrists."

246. Dr. Spitz: "That's right, she doesn't have any marks."

247. Jim: "She doesn't have any marks."

248. Laura: "Well that's very unusual for it to be over clothing."
249. Jim C.: "So if she's not unconscious, why doesn't she just do this?"
250. Laura: "Or if she had duct tape on her mouth."
251. Dr. Spitz: "Yeah, but if she's dead..."
252. Jim C.: "So what does that tell you? This was staging."
253. Dr. Spitz: "Yeah, it doesn't look right."
254. Jim C.: "Let's look at the garrote?"
255. Dr. Spitz: "Why does anybody need this contraption? Why do you need the stake?"
256. Dr. Spitz: "You can just put that around your hand and then do the same thing on the other hand, totally unnecessary. When you break into a house, isn't time of the essence?"
257. Laura: "Right."
258. Dr. Spitz: "You want to come in, do your killing and, and leave. So why do you need this?"
259. Laura: "It just complicates things. You spend more time there . . . And the knot's interesting because it does look to me like it's quite complicated."
260. Jim C.: "Okay, so the ultimate conclusion is, the garrote isn't what actually caused the death."
261. Dr. Spitz: "Correct."
262. Jim C.: "The blow to the head did."
263. Dr. Spitz: "Correct."
264. Dr. Lee: "I just want to play devil's advocate . . . We should find tissue and blood

on the flashlight and also should have broken hairs. This area we should have trace evidence, blood, hair, tissue. That's why I suggest them to do some DNA and try to find tissue and blood. Apparently they did not find anything."

265. Dr. Spitz: "The skin is extremely elastic—"

266. Dr. Lee: "Yeah."

267. Dr. Spitz: "—so it would go with the impact and not hold on to the impact."

268. Jim C.: "So the blow to her head was strong enough to break her skull, but not strong enough to break the skin?"

269. Dr. Spitz: "The skull may break but the skin may not."

270. Jim C.: "Right."

271. Dr. Spitz: "I have seen that so many times."

272. Jim C.: "Right, so then that can explain why this was not a bloody crime scene."

273. Dr. Spitz: "There would not have been any blood . . . not from that anyway."

274. Jim C.: "Right."

275. Laura: "Right."

276. Dr. Lee: "It could be the flashlight. I'm not saying it's not the flashlight, but anything similar to that shape, that width, with force can cause that, so I agree with you totally. The cause of the death is brain injury by blunt object."

277. Jim C.: "We need to determine whether or not that flashlight could've made the fracture in the skull of JonBenét Ramsey and whether or not it took a tremendous amount of force to create that kind of fracture."

278. In connection with the below statements and purported re-creation of Burke Ramsey allegedly using the flashlight to kill JonBenét, CBS utilizes imagery from the Ramseys' home and previous news broadcasts to support the false assertion that Burke

killed JonBenét. The use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

279. Jim F.: "I'd like to think if I was one of the first investigators on the scene, all of a sudden there's a big 15 inch or so Maglite in the middle, I'd at least wanna say, 'hey who does that belong to?'"

280. Laura: "This flashlight was never claimed, I believe, by anyone living at the address or by the police."

281. Kolar: "None of the officers claimed it was theirs. It was my understanding that it was a gift given to them. It was kept in the kitchen drawer."

282. Jim C.: "And that is presumptively how it got in the house. The reason why we want to do impact test is to determine whether or not that flashlight could've made that fracture in the skull of JonBenét Ramsey and whether or not it took a tremendous amount of force to create that kind of fracture."

283. Dr. Spitz: "On the right side of the head there was an impact. The flashlight hit in the back of the head somewhere around on the right side, but towards the back where I'm showing here with my finger . . . The brain was bruised along the entire right side. Where the brain was bruised, energy waves went through the entire brain from the right side all over the—this is called a concussive impact that caused a concussion to the brain, in this case, a fatal concussion. The fracture to the skull preserved the appearance, the dimensions of the flashlight that was on the counter in the kitchen. Forensic pathologists always look for patterns because a pattern opens the door to what type of instruments were used."

284. Dr. Spitz: "But one thing is important, there was not a drop of blood on the outside. Why was there not a drop of blood? Because there is an elasticity to the skin, so this is all blunt. Nothing here will cut the skin. When the flashlight came down the flashlight went in for about half an inch, the skin was pushed in, broke the bone and did not cause any damage to the skin."

285. Laura: "Is there any way we can replicate that?"

286. In connection with the below statements regarding the alleged use of the flashlight by Burke to kill JonBenét, CBS utilizes (1) a purported re-creation of hitting a flashlight against a board and (2) a purported re-creation of a young boy smashing the head of a "pig

skin” with a blonde wig over it to support the false assertion that Burke killed JonBenét. The use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

287. Jim C.: “So that’s just like, like this diagram that you have?”

288. Dr. Spitz: “That’s exactly right, like that. See the main thing about this one is, the fact that it’s totally rectangular. The head of the flashlight easily falls into that defect leaving no space. I’ve seen a lot of different kinds of injuries and this instrument here can be an amazing weapon.”

289. Laura: “So would it take tremendous strength to do this?”

290. Dr. Spitz: “No, because this is a heavy object with three batteries in it. The skull of a six-year-old, we call them ‘eggshell skulls.’”

291. Laura: “So you don’t need much force[.]”

292. Dr. Spitz: “You don’t need a huge amount of force . . . It could be an adult. It could be a child that did it.”

293. In connection with the purported re-creation of a young boy smashing the head of a pig skin in a blonde wig, CBS utilizes imagery of John and Patsy Ramsey stating that “the tremendous blow to JonBenét’s head would have required the strength of a man” to support the false assertion that the parents were involved in a cover-up of Burke’s alleged crime. The use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

294. Jim C.: “Okay, so this would be exactly how tall JonBenét was.”

295. Laura: “So, Dr. Spitz, we have a skull, but with pig skin over the top of it to act sort of like the scalp to see what it looks like if somebody hits it with a flashlight. We’re trying to sort of simulate this . . . as closely as we can as a sort of a scientific experiment, but this is quite hard to do, but we do need to do this just to see it, what it looks like.”

296. Jim C.: “Because there’s so much controversy about whether or not a child is capable of creating the defect in the skull, we thought it would be good if we actually brought in a child who is about ten years old to actually do the demonstration with him.”

297. Laura: "We're going to ask you [the ten-year-old boy] to strike the skull. Where, where do you think, Dr. Spitz, around about here?"

298. Dr. Spitz: "Okay, do it here."

299. Here, CBS shows the boy smashing a pig skin with a blonde wig with a flashlight, contributing to the false and defamatory gist of the Docuseries.

300. Jim C.: "We'll just take it off here. We're just gonna peel this back."

301. Laura: "Oh wow."

302. Jim C.: "And you can see how it's broken. It's very similar to the type of break that we saw on JonBenét."

303. Dr. Spitz: "The impact of the demonstration was a convincing confirmation of the association of the flashlight with that injury in the head."

304. Dr. Spitz: "There was, in my view, no doubt that this flashlight or one exactly like it caused that injury."

305. Laura: "And it didn't take tremendous strength to do that."

306. Dr. Spitz: "It did not."

307. Laura: "Within days of JonBenét's body being found, the Ramseys speak to CNN before they've even given interviews to the Boulder Police Department."

308. Laura: "It's probably one of the most important because it was right at the start within days after their daughter being found murdered and they invite the media in and I think it's really interesting what they actually said at the press conference as well. It's not just about them being proactive. It's the content of what they said."

309. Jim C.: "Right, and they have not sat down with the police department to do separate interviews in order to rule them out as suspects in this crime, yet they're sitting down with CNN. [Jim F.,] we'd like to get your insights into what their behavior tells you and the words that are coming out of their mouths. With the help of Jim Fitzgerald doing

forensic linguistic analysis and Stan Burke doing statement analysis, we're gonna take a look at media appearances that the Ramseys have made over the years in the same way we deconstructed the ransom letter."

310. In connection with the below statements regarding media interviews completed by the Ramseys, CBS utilizes imagery from those interviews while juxtaposing its "experts'" own false description of the interviews to support the false assertion that John and Patsy Ramsey engaged in a cover-up. The use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

311. Laura: "Someone's broken into your home, someone has killed and abused your child."

312. Stan: "You're gonna be angry and you're gonna want to find out who did it and you want to see punishment. That's the natural response."

313. Laura: "Fitz and Stan are incredibly unique in their expertise. Jim Fitzgerald analyzes and dissects language choice. Stan Burke looks at things like the content of a statement and how much of it is potentially misleading."

314. Jim C.: "Shaking her head 'no,' and then when John says 'yes,' she changes her head to a nod up and down."

315. Stan: "What I find interesting here, Jim, is he said 'yes.' That's an answer to that question."

316. Stan: "Why throw that in there? It's not necessary; you have your answer 'yes.'"

317. Jim C.: "Right."

318. Stan: "But he wants to make sure the listener or the viewer hears 'we are a loving and gentle family.' 'Gentle,' that's the message that's being sent here."

319. Jim C.: "I mean why is it the 'why' is important?"

320. Jim F.: "This is probably a very honest question John and Patsy Ramsey are asking themselves. It's very likely they know who did it and they may still be trying to figure out 'why did this happen?'"

321. Laura: "It's like an unconscious utterance in a way."
322. Jim F.: "Absolutely."
323. Stan: "It's almost like he jumped past that conclusion as to who did it, and now he wants to know why."
324. Jim C.: "Well, [Elliot,] let me ask you this: John Ramsey and Patsy Ramsey got on national TV—was there anything that they said that struck you as odd?"
325. Elliot Zaret ("Elliot"): "I don't think people believed here."
326. Laura: "It sounds like it was a media circus very early on."
327. Elliot: "Within days."
328. Laura: "[T]hinking about with post O.J. I mean that context at the time is probably quite important in this particular case."
329. Elliot: "Absolutely. I thought at the time that that had an influence potentially on what the police and district attorney were doing; especially, I think, more the D.A. But they didn't want to fall into some of the same pitfalls that the prosecutors in Los Angeles had. Being burned in court because the police didn't dot all the I's and cross the T's."
330. In connection with the below statements regarding media interviews completed by the Ramseys, CBS utilizes imagery from those interviews while juxtaposing its "experts" own false description of the interviews to support the false assertion that John and Patsy Ramsey engaged in a cover-up. The use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.
331. Stan: "Stop right there. Why is that such an accomplishment to go and talk to the police about the possible resolution of your daughter's homicide? What?"
332. Jim F.: "A hundred and twenty days after it happened."
333. Stan: "Right. Why is that a successful accomplishment."

334. Laura: "And they do come across, I have to say, very well, you know, in terms of the, the posturing in a way they present themselves."

335. Stan: "Compare this statement he's making right now hemming and hawing to what he said about four minutes ago. 'I did not kill my daughter.' Patsy, 'I didn't murder my daughter.' Now all of a sudden he's not even answering the question and, and the non sequiturs he's throwing out there he can't even put in cogent sentences. And what I find in situations such as this it's not just important what is said, it can also be just as important, if not more so, what is not being said."

336. Jim C.: "I'm a retired FBI profiler. I'm an expert in the areas of child sex crimes, child abductions and child homicides."

337. Laura: "I'm a criminal behavioral analyst and I've been trained by New Scotland Yard and the FBI. I'm putting together this elite and renowned team. This has never been done before."

338. Kim: "To me it was suspicious. It sounded like there were two voices in the room, maybe three."

339. Jim C.: "We got the tape enhanced."

340. Jim C.: "I think that's John Ramsey's voice."

341. Jim C.: "You didn't testify in the grand jury?"

342. Kim: "Nobody asked me."

343. Jim F.: "From historical perspective, this is uncharacteristic of any kind of kidnapping letter I've ever seen."

344. Jim C.: "This whole thing could've been done in four lines. They're trying to sell this now. It's a sales job."

345. Jim F.: "So I would say we have someone, an adult, 30 or older. When someone puts a statement in like that, it turns out to be a female."

346. Ron: "So it was my belief that the ransom note was a red herring. The philosophy

that was kind of laid out for the police department, that day, was we have to treat them with kid gloves.”

347. Dr. Spitz: “The flashlight fits to perfection.”

348. Jim F.: “Shaking her head, ‘no.’”

349. Jim F.: “It’s not just important what is said. It can also be just as important if not more so what is not said.”

350. Laura: “Se we’re all here almost 20 years later and we’re on a fact-finding mission. This is a reinvestigation and of course we’ve got some of the best brains, not just in the U.S., in the world, around the table trying to understand, you know, what went on in the house that night.”

351. Jim C.: “Do you believe that pieces of evidence point us outside the house . . . or inside the house towards the family?”

352. Laura: “On the one hand, John and Patsy were suspects, but then on the other, we have all the speculation around possible suspects.”

353. Jim C.: “We need to keep an open mind as to whether this is an intentional murder or whether there’s something else that was made to look like an intentional murder.”

354. Laura: “So let’s discuss the potential for the intruder theory.”

355. Jim: “So the intruder theory basically is that somebody was able to surveil the family and find a time when they weren’t in the house and get into the house and then when everybody else went to sleep, they write a ransom letter and then they took JonBenét, possibly used a stun gun to subdue her, and then took her down to the basement, tied her up, killed her, but still left a ransom note.”

356. Jim C.: “In 2011, Lou Smit went on national television and this, for a lot of people, cemented the validity of the intruder theory.”

357. Kolar: “[Lou Smit was hired by the D.A. and] spent about a week looking at, at the crime scene photos and such and came up with the theory of the, of the intruder.”

358. Laura: "And because there was no history of abuse, no domestic violence, child abuse, in the house, ergo, he thought it must be an intruder."

359. Jim C.: "Yeah. Why does it only have to be those two [theories]?"

360. Jim C.: "Parents can be involved in another way other than murder. It's not one or the other. There's a bunch of shades in-between and we have to look at every one of those. That's the responsibility of an investigator."

361. Kolar: "And that's something that seemed to escape a lot of the people who thought intruders were involved."

362. Laura: "And that's the window that he's saying that somebody came through and intended to go back out, right? So you can see that—I mean it doesn't open fully."

363. Kolar: "The um, cobwebs in that corner, there you go."

364. Jim C.: "Ow, wow, okay, stop. Here you can see that all this dust and debris is already caught in it. It's weather. It's got materials in it. It's very clear that this is not a brand new web."

365. Kolar: "That would not have survived someone going through that window."

366. In connection with the above and below statements regarding the intruder theory, CBS utilizes imagery from a prior video of Lou Smit and of a re-creation of Laura Richards entering the basement window to support the false assertion that the intruder theory is impossible. The use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

367. Kolar: "So look, his entire hips fill that window."

368. Jim C.: "Right. Go back where he's in the window sill and freeze it, please. When he's coming through, if there was a cobweb going across here, he would've knocked it out . . . And look where his hand is. His hand is holding the corner there, exactly where that spider web was."

369. Kolar: "I can imagine just the type of maneuvering you would have to make to get through climbing out and what type of destruction would've taken place with that."

370. Jim C.: "Well, we'll try to do that and we'll see what happens."

371. Laura: "We certainly tried to get access to the house, but a lot of the layout had changed. So it made much more sense to actually recreate the house. Given that so much of the theories are speculative, we think it's so important to test out each hypothesis to establish whether it is even possible."

372. Jim C.: "How's your view from up there? How well can you see into this area?"

373. Laura: "So not particularly well, and if we also think that this is a wrought iron grate on top with some foliage as well, you're not really gonna get much of a vantage point to know what you're going into."

374. Jim C.: "And you know what? This happened at night, so we're gonna have to cut the lights to simulate that."

375. Laura: "Right. So he'd have to lift up the wrought iron gate."

376. Jim C.: "And lean it against the house."

377. Laura: "Yep. So all the foliage would've been disturbed."

378. Laura: "[Some of the debris] would be on my—the soles of my shoes as I'm walking through. In the crime scene video, this was completely intact and of course here's a photo showing that it was. And I was trying to be careful, but I'm not sure if the intruder or intruders, if they were coming through would really be thinking, 'hang on, there's a cobweb there. I must leave that intact.'"

379. Jim C.: "The whole theory Lou Smit espouses is that this suitcase was left here in order for the intruder or intruders to get out through this window. You gotta figure out a way to get out of there and not further disturb what's left of these spider webs."

380. Laura: "Right. So I'm gonna give this a go."

381. Jim C.: "You've completely wiped out that whole corner of spider webs . . . I mean it's just completely gone now. And look at the disturbance that you've made. This would've been very obvious to the crime scene investigators, but they did find the web

here and they didn't find that disturbance."

382. Laura: "Right. So it makes no sense."

383. Laura: "Certainly over the last few months we've heard about all the theories that this was someone outside the family, an intruder, coming through the basement, who assaulted her sexually."

384. Jim C.: "It says in the autopsy that there was some signs of this. Dr. Spitz, you reviewed the autopsy findings and the injuries and the sequencing. Can you tell us a little bit about that?"

385. Dr. Spitz: "An autopsy technician brought for me a microscopic slide that was from the genital tract of this young lady—JonBenét. And I looked at it in the microscope. The amount of damage is almost nonexistent. There is a few fibers of wood in this microscopic slide."

386. Dr. Lee: "Really, look at that size, it's microscopic."

387. Dr. Spitz: "You probably wouldn't even have seen with the naked eye."

388. Jim C.: "I think there's two possibilities. One is that that piece of wood was actually inserted there and the other is that it's secondary transfer."

389. Dr. Lee: "A secondary transfer could be anything even during transfer the body, because don't forget the body had been moved up then moved quite a few times—in different locations, then the blanket was put on, so many manipulations at the scene."

390. Kolar: "But what would account for the blood in her underwear?"

391. Dr. Lee: "Underwear was only spot, could be from any other transfer. It's really no sexual assault here."

392. Dr. Spitz: "No. This finding is not indicative of a sexual assault."

393. Laura: "They're looking for the wrong type of person if this was not—a sexually motivated crime, which we believe that it was not."

394. Dr. Lee: "Exactly."
395. Jim C.: "What about the other injuries, the two marks on JonBenét's lower back?"
396. Dr. Spitz: "The stun gun played a very key part in Loui Smit's theory."
397. Jim C.: "Lou Smit suggested that a stun gun, possibly an air taser, was used to subdue JonBenét. We're gonna actually do a demonstration with a stun gun to try to determine if it leaves marks that are consistent with this or not consistent at all."
398. In connection with the statements above and below regarding the use of a stun gun, CBS utilized a re-creation or demonstration of a stun gun on a grown man to support the assertion that purportedly eliminating the use of a stun gun debunks the "intruder theory." The use of such imagery contributes to the overall false and defamatory gist of the Docuseries.
399. Jim C.: "If the same amount of voltage goes through an adult male, or a forty-five pound six-year-old child, would the effect be magnified on a small person versus a large?"
400. Dr. Spitz: "Sure, sure. It's magnified."
401. Police Sergeant: "Ah! I'm okay."
402. Jim C.: "How did that make you feel?"
403. Police Sergeant: "Adrenaline rush. Hard to stand still right now."
404. Jim C.: "Are you subdued at all?"
405. Police Sergeant: "No, I just wanted to get away from it."
406. Jim C.: "Would you mind if we looked at your back?"
407. Dr. Spitz: "This looks to me like an irritation."
408. Laura: "It's a lot wider than what I thought it would be."
409. Jim C.: Okay, 215 pounds. That's almost five times what JonBenét Ramsey

weighed. What do you think the experience would have been like for a 6-year-old girl who weighed 45 pounds?"

410. Police Sergeant: "I think especially if you were asleep when that happened, it would be fear and you know, screaming and trying to get away from it."

411. Jim C.: "The whole theory was that it would subdue her, or make her unconscious."

412. Laura: "It does the actual opposite. It just doesn't make any sense. I mean, do we want to try a second round?"

413. Police Sergeant: "Oww! Oh, God!"

414. Laura: "That was even more violent."

415. Jim C.: "So how does it feel?"

416. Police Sergeant: "This soon afterwards, I just feel everything. I mean, my heart's still slowing down."

417. Laura: "Does it make you feel energized?"

418. Police Sergeant: "Yeah."

419. Jim C.: "They [the marks] don't look anything like that [the marks on JonBenét]."

420. Dr. Spitz: "If this were done to these kids, you would have a scream from this kid that would have goes through the entire building. Everybody in that house would have heard it."

421. Jim C.: "DNA technology has evolved significantly since 1996. Today trace DNA, or what some people call touch DNA, can actually be found in multiple situations and you have to actually understand what is the significance in any particular case. Since twenty years ago, DNA has gone from the science where we needed a lot of material in order to find something—"

422. Dr. Lee: "The first generation DNA."

423. Jim C.: "Right. But now we only need one or two cells."

424. Laura: "Significantly, there is a foreign DNA profile found in JonBenét's underwear. Due to this many people believe this DNA profile one day will match to the killer's."

425. Dr. Lee: "The panty, here's some foreign DNA was found but not to any family members. That DNA maybe has no forensic value, maybe it just has some innocent explanation got there. It's not a true piece of physical evidence to link somebody or to exonerate somebody. Come to my Institute of Forensic Science Center laboratory. Should test again for DNA. That can shed some light on the whole case."

426. In connection with the above and below statements regarding DNA evidence, CBS utilizes imagery from prior news broadcasts conveying that the prosecuting D.A. has exonerated the family based upon DNA evidence so that CBS may purport to debunk the 2008 exoneration. The use of such imagery contributed to the overall false and defamatory gist of the Docuseries.

427. Jim C.: "The DNA that was found on her panties and her underwear tested against hundreds of people, and it hasn't matched any of them. What does that tell you about the circumstances of this?"

428. Dr. Lee: "Many times DNA not prove somebody guilty or innocent. It's not. Where the DNA was from, how that was transferred. You have to put all the pieces together . . . Like a puzzle. Any reconstruction or scientific examination of the case will have to go through that rigorous testing."

429. Jim C.: "The flashlight was found in the kitchen. The garrote knots. The clothing. All of those things could be re-tested today, and I believe that more evidence could be found. These are not the actual items of evidence. We are doing representative tests on these and what you can find, how you find, how you collect the evidence, and what it tells you."

430. Dr. Spitz: "A blow to the head on the right side—the flashlight fits to perfection."

431. In connection with the above and below statements regarding DNA evidence, CBS does a demonstration using replicas of items that are actually in evidence to support the assertion that testing via older technology on the real items was insufficient to justify

exoneration of the family. The use of such a demonstration contributed to the overall false and defamatory gist of the Docuseries.

432. Dr. Lee: "Flashlight and batteries."

433. Jim C.: "So should I take off my gloves and see what I leave on there?"

434. Dr. Lee: "Exactly."

435. Jim C.: "When it was recovered, this flashlight didn't have any prints on it at all. Seems like any time somebody would push this button you'd leave a pretty good thumbprint there, but let's just try it. So what I'm going to do is I'm going to open this up, and I'm going to pick up these batteries, and I'm gonna put them in and just handle them like I normally would."

436. Dr. Lee: "Let's collect that. . . . Battery surface is actually excellent for fingerprints."

437. Jim C.: "And they didn't find any fingerprints on the battery surfaces. That's unusual, because once they're put in to the cylinder here, they're fairly protected, and you would think any fingerprints would stay on them. It's possible somebody used gloves, wiped down the outside of this, and then wiped down the batteries and put them back in."

438. Laura: "[Unintelligible] the flashlight. Did the family claim it?"

439. Jim C.: "There was a gift of a flashlight given by John Andrews, John's son from the first marriage, that was at least described in the same way."

440. Dr. Lee: "So it's so crucial to establish this is from the home, or somebody else brought that. We should check DNA."

441. Jim C.: "Right."

442. Dr. Lee: "Not only outside. Also the battery."

443. Jim C.: "On the original garrote we know there may be on the part of the knot that is tied up, there may be DNA in there that we can't get access to if the knot is never untied. It seems to be pretty strong, we've got to pull it tight."

444. Dr. Lee: "If we get the real evidence, we can get the DNA from this area."
445. Jim C.: "So these are packages that you bought, you purchased from different stores?"
446. Laura: "Yeah."
447. Dr. Lee: "The principle of this is to find out the new panty, whether or not we can find foreign DNA."
448. Jim C.: "Right."
449. Dr. Lee: "What we do, we make a microscopic examination, look at any indication and body fluid. So this has just come out of the package, nobody touched this package."
450. Dr. Lee: "Try to see any material, can you do that?"
451. Laura: "Mmhmm."
452. Jim C.: "Yeah."
453. Dr. Lee: "Can you see that? That even could be a blood stamp, too. DNA found on the panty, not necessarily the suspect deposited."
454. Laura: "Right."
455. Dr. Lee: "Because this is a new panty, we know nobody wear it. So we just have to collect a sample. If we have DNA, then that DNA has to be during the manufacture process."
456. Jim C.: "Right. Certainly if somebody packaged that in Thailand and sent it over here and left their DNA on it, they had nothing to do with this crime, they weren't even in this country."
457. Dr. Lee: "That's a possibility. We collect all this evidence, then we're going to analyze. Once we get the results, I'm going to see you in Colorado, maybe answer some of the questions, whether or not this transferred DNA can be explained."

458. Dr. Lee: "We got some results."

459. Jim C.: "Oh, really? That's good to hear. These are not the actual items of evidence, but we wanted to see what evidence you could get off the flashlight, the garrote, and panties."

460. Dr. Lee: "The part of the garrote that is tied up, there may be DNA in there. That shows XY, that's a male. That's you, Jim."

461. Dr. Lee: "In addition, all these markers."

462. Jim C.: "Wow."

463. Laura: "That's fascinating."

464. Dr. Lee: "Now we look at the results [of the flashlight]."

465. Laura: "And now would you have seen this back in 1996, or is this all now about new technology?"

466. Dr. Lee: "At the time, for some reason, they only did four markers. But here we did sixteen markers."

467. Jim C.: "That's a very strong sample then."

468. Dr. Lee: "Very strong sample."

469. Jim C.: "The DNA in the new technology is sensitive enough to easily detect. One of the samples clearly detects one of us, or a mixture. And some, for example panties, did not match any of us because we did not touch. New, never worn before but had DNA on them."

470. Dr. Lee: "The new panties—remember we opened it up. . . . We all wear the gloves, so nobody touched the panty, and the panty had DNA. . . . Which indicative that DNA was left on during the manufacture process, when a worker handled the panty. And more likely a female because we found an X chromosome."

471. Jim C.: "So a female worker either sewed them together or packaged them, and left transferred DNA on there. What the District Attorney at the time, Mary Lacy, said was we do not consider your immediate family, including you, your wife Patsy, and your son Burke to be under any suspicion of the commission of this crime."

472. Laura: "She says, unexplained DNA on the victim of a crime is powerful evidence. The match of male DNA on two items of clothing worn by the victim at the time of the murder makes it clear to us that an unknown male handled these items."

473. Jim C.: "Dr. Lee, is it true that DNA can transfer from one garment that's worn on top of another garment? That just the friction pulling it on, wearing it, moving back and forth, can transfer."

474. Dr. Lee: "There are some studies even say, send a shirt to laundry sometimes they can have a transfer come back."

475. Jim C.: "It seems like District Attorney Lacy should not have exonerated anybody based on just transferred DNA."

476. Dr. Lee: "I'm not a lawyer, so I don't know. I only look at the scientific evidence. . . . DNA recovered from the case sample should probably be ignored. The DNA on the garrote is more important, the note, the pen. If they still have the flashlight, it's not too late."

477. Laura: "We really want to get the Boulder Police Department to work with you to re-examine everything."

478. Jim C.: "I think they have to take your recommendations and re-test with newer technology, more reliable DNA tests, all the evidence that they have. DNA is reliable evidence if you interpret it correctly."

479. Dr. Lee: "We can all look at it, and once we get the result we should let the evidence speak for itself."

480. Stan: "You know from looking at everything that we've discussed, going back to the very basics, someone has died inside this house, okay. How did it happen and who's responsible for it?"

481. Jim C.: "When we put it all together, is there anybody here that has any opinion about whether or not this was a staged crime scene?"
482. Jim F.: "It is not a foreign faction who committed this crime."
483. Jim C.: "All right, but what are the circumstances under which people stage crime scenes?"
484. Laura: "Attention to be focused elsewhere."
485. Jim C.: "Yeah, to push the attention somewhere, to re-designate what happened as something other than it was. Or cover up to try to protect. Protect themselves. Protect somebody else."
486. Jim F.: "To me this crime happened within the four walls of that home."
487. Dr. Spitz: "Yes, I believe this was an inside of the house killing."
488. Dr. Lee: "So I think you can eliminate the outside intruder hypothesis. So more likely it's cover up something. What to cover up?"
489. Gretchen Smith ("Gretchen"): "I was hired onto the Boulder Police Department in 1990; just regular patrol and I worked the streets for several years."
490. Jim C.: "What did you think about the fear in the community that there's a killer on the loose?"
491. Gretchen: "Well the fear from inside the department was not felt because some people felt that they knew who the murderers were."
492. Kolar: "Mmhmm."
493. Gretchen: "However, we wanted to make the community feel comfortable, so we would do extra patrol diligently."
494. Jim C.: "I noticed going through the press releases that the Boulder Police made, they were pretty bold in saying they did not believe that there was a killer on the loose and the community was safe."

495. Gretchen: "I think there was not a killer on the loose or not some random killer roaming the neighborhoods looking for little girls."

496. Kolar: "There had been no other similar cases in the metro area either, either leading up to or after this event."

497. Gretchen: "No, nothing. This was a one of a kind."

498. Kolar: "So that must have been pretty frustrating to see what was reported in the media about a killer being on the loose."

499. Gretchen: "I think the media was lead to believe that there were other voices speaking to the media."

500. Jim C.: "Who was that?"

501. Gretchen: "Uh, there was the D.A.'s office. . . . Even though that may not have been the attitude of what was actually going on in the case."

502. Gretchen: "There was no morale. You know, when you're a police officer, you want to work with the District Attorney's office . . . You should be partners in your job . . . and we weren't at all. The goal is to find the bad guy and put him behind bars."

503. Jim C.: "What do you think was the basis behind that?"

504. Gretchen: "Well, the parents of the child, they had money. The District Attorney's office and some of the administration did not want to hear that an affluent member of the community was guilty of a crime like this. They didn't want to hear that. I don't think that they wanted to solve this crime. And if they had to go down a different path that might not have been the truth, I think they were willing to do that."

505. In connection with the below discussion regarding Steve Thomas, CBS utilized imagery from prior news reports to support the false accusation that John and Patsy Ramsey engaged in a cover up. The use of such imagery contributed to the overall false and defamatory gist conveyed by the Docuseries.

506. Laura: "Steve Thomas was certainly determined and committed to find out who

killed JonBenét.”

507. Laura: “Good to meet you. Thank you.”

508. Steve Thomas (“Steve”): “Please to meet you, Steve Thomas. This is likely the last time I’m going to talk about the case publicly, but I’ve been told that law enforcement uh and very credible and professional people were trying to make a difference and I knew that after this 20-year milestone, this might be the last opportunity, uh to be on the record. So I appreciate you having me.”

509. Jim C.: “So why don’t we just get right down to it?”

510. Laura: “So what did your investigation reveal about Patsy’s involvement?”

511. Steve: “I think she was the author of that ransom note. We know that was her pad. Her fingerprints were on that pad. The Sharpie pen we located that and ink matched it to the ransom note which bore handwriting characteristics that some experts said were remarkably similar to Patsy’s. If we found that body of evidence in the possession of any third party, uh that’s pretty damning evidence, but in this case, for some reason, uh the District Attorney wanted to create some parallel universe why it wasn’t hers’. I find it preposterous.”

512. Jim C.: “Did you feel you were hamstrung from the beginning?”

513. Steve: “Ah, it’s the understatement of the, of the day Jim.”

514. Jim C.: “And—okay, so who was responsible for that?”

515. Steve: “The District Attorney.”

516. Jim C.: “The District Attorney.”

517. Steve: “Of course. We never got search warrants for uh phone records, for credit card records. We were forced to search tens of thousands of Home Depot receipts by hand.”

518. Jim C.: “The D.A. never gave you any kind of warrants to get credit card records?”

519. Steve: “No.”

520. Laura: "And that would just be standard practice in a case like this."

521. Steve: "Standard phone, phone records."

522. Steve: "The police department engaged me to conduct the first official interviews with the Ramseys, uh and I was, as was the FBI, furious when we learned, uh that they had been provided uh, copies of police reports to prepare for a police interview uh, just contradictory to everything."

523. Jim C.: "The whole point of the interview is to get their information from them . . . to find out exactly what happened before they're tainted with other information."

524. Steve: "That's right. I, I, I don't disagree with you. In June of '98 the core team of detectives along with the FBI agents and the personnel from the D.A.'s office congregated in a small classroom, uh because we had been suggesting we need a grand jury. People are slamming doors in our face. Uh we need subpoena power. We need to collect evidence and I remember leaning against this cinderblock wall as your former colleague Bill Hagmaier . . . said and I think I'm quoting verbatim, 'Mr. District Attorney, no disrespect intended, but a little girl is moldering in the ground and something needs to be done. Are you going to call a grand jury?' And I'll never forget Alex Hunter, the elected District Attorney's response, 'I need to get with my people. This is a political decision.' I leaned back after working this case for two years, against this cinderblock wall and thought to myself, I can't do this anymore. I won't do this anymore. The next day the FBI agents who were so vital and integral to this investigation said, 'we can no longer be a part of this.'"

525. Jim C.: "So, but he did eventually convene a grand jury?"

526. Laura: "They hear from key and significant witnesses and then what happened?"

527. Steve: "Uh, well I—in October of 1999 the District Attorney, upon the grand jury concluding, had a press conference and I—as much of an insider as anybody on this case . . . was lead to believe that the grand jury had disbanded uh with, without any further comment or vote. Knowing that all of the persons involved were sworn to a lifetime of grand jury secrecy, he folded those true bills up in effect, put them in his pocket, gave that carefully worded press conference that fooled me and everybody else. And for 14 years, nobody had any idea until a grand juror stepped forward and disclosed, 'hey we voted. We voted to indict.'"

528. Laura: "Everyone forgot about JonBenét . . . It became about politics and agendas and creating a smoke screen. Why?"

529. Laura: "If the grand jury, those who heard all the evidence and heard from all the witnesses felt that there were grounds to indict the Ramseys, then Alex Hunter, you would, you know, it's surprising that he decided not to prosecute him."

530. Jim C.: "I'm actually trying to help bring closure to the JonBenét Ramsey case. No, we're going into it with an open mind 'cause obviously we don't want to predetermine results[.]"

531. Jim C.: "Laws in each state vary dramatically, so it's really important for us to talk to an attorney who has not only worked in law, but in Boulder, Colorado, to tell us the nuances of how that law is applied."

532. Laura: "So on or between December 25 and December 26, 1996, John Bennet Ramsey did unlawfully, knowingly, recklessly and feloniously commit a child to be unreasonably placed in a situation which posed a threat of injury to the child's life or health which resulted in the death of JonBenét Ramsey. The other count was John Bennet Ramsey did unlawfully, knowingly and feloniously render assistance to a person with intent to hinder, delay and prevent the discovery, detention, apprehension, prosecution, conviction and punishment of such a person knowing the person being assisted has committed and was suspected of the crime of Murder in the First Degree and Child Abuse Resulting in Death."

533. Jim C.: "Does that mean that they're charging John with assisting Patsy if she did it and they're charging Patsy with assisting John if he did it?"

534. Lisa Polansky ("Lisa"): "It's legally possible in the state of Colorado for John to be assisting Patsy, Patsy to be assisting John."

535. Jim C.: "Wouldn't they both then also be charged with the underlying crime, as opposed to just—"

536. Lisa: "Yes. Normally, if they do an accessory charge which here is generally after the fact, it's usually somebody else. My opinion would be that there's a third person."

537. Jim C.: "The only third person that's left is Burke Ramsey."

538. Lisa: "And it's a complicated area. Colorado's minimum age for prosecution is ten years old. The science behind it, of course, would be that the child under ten is not psychologically able to commit a crime and they use the, the old common law term which is infancy which is to say that they cannot form the intent. If you look at the brain science, um, as we know the frontal lobe is not fully developed and that's where the executive functioning occurs. And so, it's difficult to say well, a kid clearly made a decision to do x, y, z with regard to Burke. He was nine . . . at the time of the crime."

539. Jim C.: "Nine and eleven months."

540. Laura: "After JonBenét was killed Burke's interviewed two weeks later by someone from the Department of Social Services at the behest of the family. They put a condition on it that it cannot be a Boulder police officer or detective."

541. Jim C.: "I'm gonna be really interested in, in looking at his behavior. I'm a retired FBI Profiler, I'm an expert in the areas of child sex crimes, child abductions and child homicides."

542. Laura: "So this is the interview with Dr. Suzanne Bernhardt. As a criminal behavioral analyst, I've reviewed and advised on thousands of cases and I have a Master's in Forensic and Legal Pathology."

543. In connection with the above and below discussion regarding the interview of Burke Ramsey, CBS utilizes only snippets of an interview of Burke Ramsey to support the false assertion that he killed JonBenét. Use of such imagery contributes to the overall false and defamatory gist conveyed by the Docuseries.

544. Jim C.: "Well, I haven't seen any indication yet that this child has been through a recent trauma."

545. Laura: "He seems to have gone into some sort of playful mode and the tone of it is completely off."

546. Jim C.: "His sister disappears in the middle of the night. She ends up dead in the basement and he doesn't—"

547. Laura: "Worry about himself or worry that they may come back for him. I mean that's another thing that normally plays in a child's mind."

548. Jim C.: "Sure, especially somebody who's that young. I mean they're still very vulnerable."

549. Laura: "He was in the house at the time and doesn't seem to be—"

550. Jim C.: "Concerned at all."

551. Jim C.: "Alright well, what's interesting here, a couple of things. Any trained child interview specialist should know that the most important things are the things that people tell children are secrets. Those are generally the crimes that are committed against them and the crimes that they witnessed. Over the course of my career I've actually attended training and given training to child interview specialists. I don't know why she just totally gave up on that."

552. Laura: "Do you think she might circle back to it?"

553. Jim C.: "I don't know, we'll see."

554. Laura: "That's an odd kind of phrase to just go on with your life when your sister's been murdered and found in your house. I'm not sure you can just go on with your life. I mean children are very resilient and they do get on with things but this is right in the eye of the storm; everything has just happened. This is life-changing, this event, even for a nine-year-old boy."

555. Jim C.: "Alright, hold up. So, 'I know what happened,' right, 'when she was killed,' right? And he said, 'I asked my dad where did they find the body.'"

556. Laura: "You know it's what he's not saying, what he would logically expect at that point is asking what happened to her."

557. Jim C.: "You see that? That's, that's a physical demonstration. Let me back that up just a couple of seconds. Let's see that again."

558. Laura: "You know it's just odd that he's acting it out at all anyway. I mean most children would not kind of future project this or reenact it in a room."

559. Jim C.: "And then on top of it all, there is no emotion, no appropriate emotion at all about this happening to his sister."

560. Judith: "When Burke was born he was the apple of his parents' eyes. He could do no wrong, he got the full treatment of gifts and clothes and trips and you name it. But then when JonBenét came along and especially as she got older and her destiny was to be in the pageant system. . . . That attention that Burke had switched from him to JonBenét."

561. Jim C.: "And how did he react to that? Do you know?"

562. Judith: "I think he had a bad uh, Burke had a bad temper. It's like he had a chip on his shoulder. He had hit JonBenét."

563. Jim C.: "When was that?"

564. Judith: "Before the murder, I would have to say it was probably a year and a half. They were playing in the yard and apparently he hit her with a golf club right here."

565. Jim C.: "And how did you find out about this?"

566. Judith: "Oh, I think I asked Patsy at the time when I was photographing them, what the scar was. She said that the kids were playing and Burke lost his temper and hit her with a golf club. After the murder, I took my daughter, Lindsay and myself—'cause Lindsay wanted to see Burke and they open the door and escorted me into the living room and Patsy came in. You know after talking to Patsy for about ten minutes I went to get my daughter in there with Burke and I walked up to him and he said in this terse voice: 'get away from me! Don't touch me. Leave me alone.'" And I put up my arms and said, 'okay. I won't, I won't touch you.' Maybe something wrong."

567. Kolar: "Burke not receiving a lot of attention, the distancing that he seemed to indicate. He might have developed some resentment and some anger and maybe perhaps toward his sister. He never asked Detective Patterson, who interviewed maybe an hour after JonBenét was found, if his sister had been found, what happened to her, you know, when they're going to get her back, Nothing about his sister."

568. Laura: "Given that JonBenét was in in the pageant circuit, and obviously that was Patsy's passion. So Patsy's attention was very focused and taken up with JonBenét, and of

course I wonder how that would have felt for Burke.”

569. Jim C.: “One other connection, internal, in this family—there were reports that Burke had a history of scatological problems.”

570. Kolar: “One of the former housekeepers, as we mentioned, talked about him smearing feces on a bathroom wall. And there was a softball-sized ball of feces found in JonBenét’s bed at some point. After they sealed off JonBenét’s room, the crime scene technicians went through it. They apparently found feces spread on a box of candy that she had gotten the day before for Christmas.”

571. Laura: “The media perception or community perception can be that they’re the perfect family, but once you start to scratch the surface, you see that that’s not the case.”

572. In connection with the below discussion regarding interviews of Burke Ramsey, CBS utilized only snippets of those interviews to support the false assertion that Burke killed JonBenét. Use of such imagery contributed to the false and defamatory gist conveyed by the Docuseries.

573. Jim C.: “It’s pretty clear that Burke is sort of acting like a smart aleck here, like I’m smart and I’m proud of myself. Like, he lays back. So let’s see if that changes.”

574. Jim C.: “When he says ‘really deeply,’ ‘never hear anything’—that’s overselling. He’s trying to convince Shuler rather than just convey that information, and typically when we see that kind of overselling it’s because somebody is deceiving.”

575. Laura: “He knows something is unfolding. Most children jump out of bed, probably—unless they’re being told to stay where you are, you would expect them to be asking and not just be accepting of when something unusual is unfolding.”

576. Laura: “So one of the key issues of this case comes back to something that might look quite innocuous and inconsequential but it also tells us a lot about what probably went on.”

577. Jim C.: “In JonBenét’s small intestine, there was a piece of organic material that looked like pineapple.”

578. Dr. Lee: “I want to know the condition of the pineapple.”

579. Dr. Spitz: "You mean, degree of digestion? Did the pathology report indicate what the pineapple looked like, or the gastric contents?"

580. Jim C.: "What it says is, 'the proximal portion of the small intestine contains fragmented pieces of yellow to light green tan vegetable or fruit material which may represent fragments of pineapple.'"

581. Laura: "'The remainder of the small intestine is unremarkable.'"

582. Dr. Lee: "Which means, it was way after the meal."

583. Dr. Spitz: "They had just been for dinner at the Whites'. That suggests that the meal had been ingested some time to allow digestion, and evacuation from the stomach."

584. Jim C.: "So she completely digested her dinner, and after that she then ate this pineapple."

585. Dr. Spitz: "Correct, that's correct. Chances are she ate a modest amount of food that day, but she digested it, so you're talking about hours."

586. Dr. Lee: "So you start linking all the dots. It gives us a possible timeline."

587. Dr. Spitz: "Yes, you approximately know the time that they came back home."

588. Kolar: "JonBenét was asleep when they got back."

589. Laura: "We know that John Ramsey put her to bed."

590. Dr. Spitz: "The pineapple was ingested subsequently."

591. Jim C.: "We do now that JonBenét's, reportedly, her favorite dessert was pineapple and milk. There's a bowl that looks like pineapple with milk sitting on the table."

592. Dr. Lee: "The bowl of pineapple really had quite a few pieces, so something interrupted them . . . they did not finish eating."

593. Jim C.: "Dr. Spitz, do you want to look at the dining room?"

594. Dr. Spitz: "Yes, I would like to see the bowl with the pineapple."
595. Jim C.: "There we go."
596. Laura: "So, Dr. Spitz. This is the original picture of the pineapple."
597. Jim C.: "What we know from forensics is that both Burke's and Patsy's fingertips are on the bowl, and Burke's are on the teacup. Patsy had said, I think, that she actually could not have prepared this because this size spoon is actually too big for a bowl like that, so she would never have done that. Did Burke prepare himself some tea and pineapple and milk?"
598. Laura: "There are fingertips on the bowl, on the tea."
599. Dr. Spitz: "Were JonBenét's fingertips on any of this?"
600. Laura: "They were not."
601. Jim C.: "But it's certainly reasonable to believe that JonBenét may have snatched one piece."
602. Dr. Spitz: "Right, directly with her fingers. For estimating time of death, this is important."
603. Jim C.: "Isn't it possible that JonBenét came down and saw that Burke was eating this, and took one piece? She didn't touch the bowl, she didn't touch the spoon—"
604. Dr. Spitz: "You know, I have three grandchildren myself. Kids will do that. They'll go by and pick out a piece with their fingers."
605. Laura: "Right. And being a bit cheeky, and then maybe running off."
606. Jim C.: "You think this could have been the tipping point that started the cascade of the rest of events that happened on the day she died?"
607. Dr. Spitz: "Could be."

608. Laura: "Such a simple question to ask, so why isn't he just saying what it is? He's evading any answer and is uncomfortable about answering. This should be an insignificant conversation."

609. Jim C.: "He looks like he's about to jump out of his seat, and like leaning all the way over the picture. It's really weird how he did that. It's very dramatic change in behavior. I think he's aware that that piece of pineapple in JonBenét's stomach actually creates a major problem in terms of the timeline of when and how she was killed."

610. Kolar: "When the Boulder Police Department asked me to investigate the JonBenét case, I was looking at the stun gun and the abrasion. The autopsy described them as abrasions versus burn marks. Even the taser company said, 'these are not the type of marks that would have been left by one of their stun guns.' When I asked for the one to one photos to be done of these, with the air taser – and as you see the stun gun marks did not align with the weapon that was being proposed. . . . I thought that was pretty significant."

611. Kolar: "So a Sergeant at my office said, 'hey—I might have found something could possibly be responsible for these injuries. He talked about the O-gauge track, and I asked Boulder PD to do some one to one photos with this as well as with the train tracks. These pins that connect the dots together, you can see that the scaled pictures of the two outside pins of the train tracks match exactly to the injuries on JonBenét. You've got this train room and pieces of track here in this room, and then there were pieces of train track in the crime scene video that were on the floor in Burke's room as well. I thought it was an incredible discovery, to find a toy in the house that could have been responsible for these injuries."

612. Dr. Spitz: "If you look carefully at those two marks in her back, there is a central defect within each of the marks. That defect is from something penetrated through the skin. She was obviously without a blood circulation at the time, and the reason there was no circulation is there was no evidence of blood in the pictures that were taken of those two marks."

613. Laura: "So if we think that JonBenét took the blow to the head, she doesn't seem to be breathing or she's not conscious—then somebody using a piece of train track—"

614. Kolar: "Trying to see if they can get a response from her, waking JonBenét. Is this something an adult would try to use to get a response from an unconscious girl? An adult would have been calling 911 for an ambulance."

615. Kolar: "Like the note pad, and the pen that was used for the ransom note, this was another piece of evidence that could have been used on the assault on JonBenét, and it was in the home, in the train room downstairs, as well as in Burke's bedroom."

616. Dr. Spitz: "You know, I would have to conclude that it's either this or something like it."

617. Laura: "Jim and I have certainly tried to speak with John and Burke and really just give them an opportunity to speak."

618. Jim C.: "We've called John and a number of times, left a number of messages on his voicemail and they just did not want to talk to us. So from the statements that the Ramseys have made, we need to look at what happened according to the family."

619. Laura: "And we know Burke is playing with a toy and he was with John."

620. Dr. Lee: "Supposedly, when Mrs. Ramsey comes downstairs, she found a note on the stair steps."

621. Jim C.: "Right. Either before she saw the note or after she saw the note, depending on which statement she gave, she looked in JonBenét's room, saw she was gone."

622. Jim C.: "They claim that he was asleep the entire time, that they never woke him up, never asked him if he heard anything, never asked him if he knew where JonBenét was."

623. Kolar: "And then it's my understanding that John went downstairs in the basement."

624. Jim C.: "Then John came upstairs, and apparently Detective Arndt asked him to search the house from top to bottom. So again, John went down to the basement with Fleet White. He went into the wine cellar."

625. Jim C.: "When they find the body, he disturbs the crime scene, takes the tape off of her mouth, uh, undoes one of the ligatures and then brings the body upstairs. He puts her on the floor and then Linda Arndt moves the body to the living room on the floor there. Eventually the body ends up in the morgue and an autopsy is performed."

626. Dr. Spitz: "In my view, this would have been so easy to figure out if they had not used lawyers who shut the door to any additional—"

627. Jim C.: "Investigation."

628. Dr. Spitz: "—Investigation."

629. Jim C.: "Yeah, I believe the Ramseys distanced themselves from the investigation, while at the same time claiming to the world through media appearances that they were fully cooperating."

630. In connection with the above statement, CBS utilizes imagery from a prior interview with John Ramsey to support the false assertion that he obstructed the police investigation. Use of such imagery contributed to the overall false and defamatory gist conveyed by the Docuseries.

631. Jim C.: "Now that we've been investigating for months, we've been working together as a team, I think we need to actually try to piece together everything that happened. Anybody who does a legitimate investigation will look at all the evidence and see where that evidence takes you. So we have to test every theory and the ones that remain, are the ones that are supported by the evidence."

632. Laura: "I think some people have the theory that actually what had happened that night was that after a stressful day of Christmas, that there was potentially an accident. JonBenét, you know, wet herself or the bed and that Patsy just sort of snapped."

633. Jim F.: "As we know in profiling, uh, past behavior is the best indicator of future behavior, and from my understanding of the Ramsey family, I don't believe there's been any indicators of a violent domestic abuse."

634. Stan: "That child is a huge investment for her. You know, a lot of time, a lot of effort has gone into that child."

635. Jim F.: "Money."

636. Stan: "They had plans for that child, a lot of money, a lot of resources."

637. Jim F.: "She seemed to uh, be living vicariously in, in some ways through her, her daughter with the whole beauty pageant thing going on."

638. Stan: "And just to, to snap and, and just all of a sudden take that away—"

639. Jim F.: "Basically from zero to a 120 . . . with a hammer over the head, for mom."

640. Dr. Lee: "I agree with you."

641. Laura: "We've discussed the intruder theory that his was somebody from outside the house."

642. Dr. Spitz: "No I don't believe that it was somebody from the outside."

643. Jim C.: "I don't think the evidence that stands up, to scientific or behavioral scrutiny, indicates that somebody came in from outside that home and killed JonBenét."

644. Laura: "And of course, you know, the media's speculating on a pedophile or a sex offender. Dr. Lee said that the DNA evidence in this case, is totally erroneous."

645. Dr. Lee: "That DNA has no forensic value. It's really no sexual assault here."

646. Laura: "James [Kolar] I'm interested to know what you think happened in the house that night."

647. Kolar: "My hypothesis was that I think the Ramseys came home around 9:30, 10 o'clock. I think JonBenét was asleep. I think John did carry her upstairs. Patsy remained downstairs with Burke and served him the tea and the pineapple. I think that accounts for the physical evidence as well as the latent prints. Then I think she got JonBenét up to make sure she used the toilet so she didn't wet the bed that night. JonBenét was up. She may or may not have brushed her teeth. That stuff was on the counter. And then I think she was up and awake enough, but she maybe was still hungry and she went downstairs. In the meantime, Patsy continued packing for the Michigan trip. I think if Burke was upset about circumstances or Christmas presents, he probably would've been upset about her trying to snag a piece of pineapple. Out of anger he may have struck her with that flashlight."

648. In connection with the above statement, CBS utilizes a purported re-creation of JonBenét stealing a piece of pineapple from a bowl that Burke was eating from. CBS's use

of such imagery contributed to the overall false defamatory gist of the Docuseries.

649. Dr. Spitz: "I think we all agree on that."

650. Jim C.: "Yeah."

651. Jim F. "Yes."

652. Laura: "Absolutely."

653. Dr. Lee: "Sure, yeah, I agree with that."

654. Dr. Spitz: "Okay."

655. Dr. Lee: "However I think it's not the intentional murder."

656. Jim C.: "I agree. There's no evidence to support it."

657. Stan: "So you don't think there was malice aforethought? Something happened and caused her death."

658. Dr. Lee: "Spur of the moment or something like that."

659. Jim C.: "Or accidental death. It doesn't necessarily have to be murder."

660. Dr. Spitz: "I cannot see anybody, even a child, taking a heavy object like a flashlight and hitting it on somebody's head, as an accident."

661. Jim C.: "Maybe in anger he swung it faster than he thought it would. We're talking about a ten-year-old, who by the way, had hit the same person in the head with a golf club and what happened?"

662. Dr. Spitz: "Nothing happened."

663. Dr. Spitz: "Yeah because he didn't hit that with that same force that he used the flashlight."

664. Jim C.: "Well, yeah, and that is—that's, that's assuming that he understood."

665. Dr. Lee: "Let's say 'don't steal my pineapple!'"
666. Laura: "In the blink of an eye."
667. Dr. Lee: "Yeah, that's not the—I don't think that's an intent kill."
668. Jim C.: "Maybe it comes down to what accident means to you. For me, legally, what an accident means is if somebody who did not form the intent to kill—"
669. Dr. Spitz: "But still—"
670. Jim: "—did something—"
671. Dr. Spitz: "—still hits you with a lot of impact."
672. Jim C.: "That could be a fact, but what you don't know . . . is what's going on in his head."
673. Dr. Lee: "Well, nobody knows! I don't think there have any elements of an intent to kill."
674. Jim C.: "I don't think so either. But I think what we do find though is an intent to mislead—an intent to cover up."
675. Stan: "I think early on we discussed the lack of the family actually getting involved with the investigation to begin with. And that is so atypical of what I see in a case where someone close to you has passed away. You'll do whatever you can to get the case resolved. We didn't see that here, but maybe we did. Maybe we saw it with her brother. 'Do everything we can to protect this child.' We see it in the letter. It's a sales job, trying to take the cops down a certain avenue and we see it in the press conferences. . . . Every step along the way we see it."
676. Kolar: "I thought Patsy made a couple telling statements. One was during one of the other interviews she said that they loved their children. They would do anything for their children. In the DSS interview where she said she would have nothing left to live for if she lost Burke. That seemed to me motive for a cover up, and I know there was some debate as to whether or not both parents are involved in the cover up right away, but I think

the mixed motives is in the ransom note. You know whether it's a sexual assault pedophile or . . . terrorism."

677. Jim C.: "Terrorism or—"

678. Kolar: "Mixed motives make it pretty clear that both parents were involved."

679. Jim C: "Yeah, I mean I think from a profiling perspective, mixed motives tells us that it's a high probability that it's more than one person involved in staging, right?"

680. Jim F.: "Arguably, yes and that's been the experience that we've had looking at staged crime scenes, uh, over the years. And I think that's what we have here in the language utilized as well as the crime scene itself, the body and everything else. Within an hour of this crime being committed, there's probably a cover up starting with whatever they did to the body and certainly the writing of this letter, the 9-1-1 call, everything that happened later. But I don't think Burke was involved in the cover up. He was not directly involved in writing letters. He certainly didn't do the phone call to 9-1-1. He may have been there in the room as we found out later."

681. In connection with the above statement, CBS uses imagery of Burke allegedly stating "what did you find?" to support the false assertion that Burke was in the kitchen at the time the 9-1-1 call was made. Use of such imagery contributed to the overall false and defamatory gist conveyed by the Docuseries.

682. Laura: "The only other person in the address at the time is Burke."

683. Jim C.: "Right."

684. Jim F.: "Now was he interviewed later on by uh, investigators and child psychological experts and did he perhaps say some things that were not exactly true that happened that night, that's very possible."

685. In connection with the above statement, CBS utilizes snippets of Burke's interviews to support the false and defamatory assertion that Burke lied to or otherwise misled investigators. Use of such imagery contributed to the overall false and defamatory gist of the Docuseries.

686. Jim F.: "But as far as the cover up itself, I would say primarily, it's John and Patsy

who were involved in that.”

687. Jim C.: “I think the most likely probability is that the adults in that family, John and Patsy Ramsey, and this is consistent with what the grand jury wanted to indict them for, staged this to look like a monster predator had come in their house and killed their daughter. It’s my opinion that the Ramsey family did not want law enforcement to resolve this case and that’s why it remains unsolved.”

688. Jim F.: “100% agree.”

689. Jim F.: “In the 20 years since this horrendous death, I have no doubt someone involved in this homicide talked to someone about what happened and uh, I would only hope at some point, the persons who may have heard something from John Ramsey, from Burke Ramsey, perhaps the late Patsy Ramsey, would still come forth.”

690. Jim C.: “This is it. I can’t imagine what it was like for the first responders here to find a six-year-old girl dead.”

691. Laura: “This is a young girl who’s become a footnote in her own murder.”

692. Jim C.: “This case has both haunted me since the beginning and pissed me off.”

693. Laura: “It’s just so sobering in the reality that a six-year-old child lost her life.”

694. Jim C.: “I think in the end this was about two parents, deeply cared for the daughter they lost and wanted to protect the child they had remaining.”

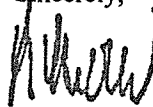
To afford you the opportunity to mitigate your damages, I hereby demand on behalf of John Ramsey that, on or before Thursday, October 27, 2016, you broadcast the retractions and corrections demanded herein. The retraction and correction should be broadcast in substantially as conspicuous a manner as the original defamatory broadcast. Further, it would be advisable to include in the retraction the plethora of exculpatory evidence and information relied upon by those who determined that the family had no involvement in JonBenét’s death.

I hereby request that CBS immediately deliver a copy of this retraction demand to Critical Content and each of the following individuals: Jim Clemente, Laura Richards, Dr. Henry Lee, Jim Fitzgerald, James Kolar, Dr. Werner Spitz, Stan Burke, Kim Archuletta, Ron Walker, Steve Thomas, and Judith Phillips.

CBS Corporation
Mr. Glenn Geller
Mr. Lawrence Tu
Mr. Jonathan H. Ansell
Mr. Leslie Moonves
Critical Content
Mr. Tom Forman
October 6, 2016
Page 71

Govern yourselves accordingly.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lin Wood", written in a cursive style.

L. Lin Wood

cc: Mr. John Ramsey
X-G Productions LA, Inc.
Mr. Jim Clemente
Ms. Laura Richards
Dr. Henry C. Lee
Mr. James R. Fitzgerald
Mr. James Kolar
Dr. Werner Spitz (c/o James E. Stewart, Esq.)
Mr. Stanley B. Burke

EXHIBIT IT I

October 7, 2016

VIA U.S. MAIL RETURN RECEIPT REQUESTED AND ELECTRONIC MAIL

X-G Productions LA, Inc.
c/o EMINUTES, Registered Agent
121 Wilshire Blvd., Suite 1201
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Los Angeles, CA 90043

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Spotsylvania, VA 22553
precisionintelligence@earthlink.com

X-G Productions LA, Inc.
Mr. Jim Clemente
Ms. Laura Richards
Mr. James Kolar
Mr. James R. Fitzgerald
Dr. Henry C. Lee
James E. Stewart, Esq.
Mr. Stanley B. Burke
October 7, 2016
Page 2

Re: *Defamation of John and Burke Ramsey in The Case of: JonBenét Ramsey*

Dear X-G Productions, Mr. Clemente, Ms. Richards, Mr. Kolar, Mr. Fitzgerald, Dr. Lee, Dr. Spitz, and Mr. Burke:

I represent John Ramsey and Burke Ramsey regarding the outrageously irresponsible accusations and conclusions uttered by each of you in CBS's two-part docuseries titled *The Case of: JonBenét Ramsey* and broadcast on September 18, 2016, and September 19, 2016 (the "Docuseries"). On October 5, 2016, I copied each of you on a letter sent on behalf of Burke Ramsey demanding retraction of the statements you each made during the Docuseries. On October 6, 2016, I copied each of you on a letter sent on behalf of John Ramsey demanding retraction of the statements you each made during the Docuseries. The content of those letters are expressly incorporated herein by reference. A copy of each of those letters is enclosed herein for your convenience, and your attention is directed to those letters to determine the false and defamatory gist and statements for which retraction and correction is hereby demanded from each of you.

Despite copying each of you on the prior retraction demands and specifically demanding retraction from each of you therein, out of an abundance of caution, to ensure that you are explicitly aware of the allegations against you, and to provide you one last opportunity to mitigate the harm you have recklessly and knowingly inflicted upon my clients for your own personal gain, demand is hereby made on behalf of John and Burke Ramsey that each of you retract and correct the defamatory gist referenced in the enclosed retraction demand letters. John and Burke Ramsey further demand that you each retract all statements made by you, individually, during the Docuseries and which are referenced in the enclosed demand letters.


As more fully described in the enclosed letters, your conduct has been nothing short of heinous. The Docuseries demeaned legitimate law enforcement officers, investigators and journalists. The First Amendment does not permit you to hold yourselves out as experts conducting a complete investigation that ultimately accuses innocent individuals of heinous crimes while misrepresenting and omitting critical facts. The "documentary" was nothing more than a fictional TV show designed to capitalize on the brutal murder of a six-year-old girl, line your pockets and increase your fame at the expense of the victims who have suffered through this tragedy for the past 20 years, and who will now continue to suffer as a result of your accusations against them on a worldwide platform.

X-G Productions LA, Inc.
Mr. Jim Clemente
Ms. Laura Richards
Mr. James Kolar
Mr. James R. Fitzgerald
Dr. Henry C. Lee
James E. Stewart, Esq.
Mr. Stanley B. Burke
October 7, 2016
Page 3

Please issue the retraction demands during the time frames stated in the enclosed letters, and in no event later than October 28, 2016. Should you fail to do so, John and Burke Ramsey will exhaust all resources and remedies available to them to obtain redress from you for your false and defamatory accusations.

Govern yourselves accordingly.

Sincerely,



L. Lin Wood

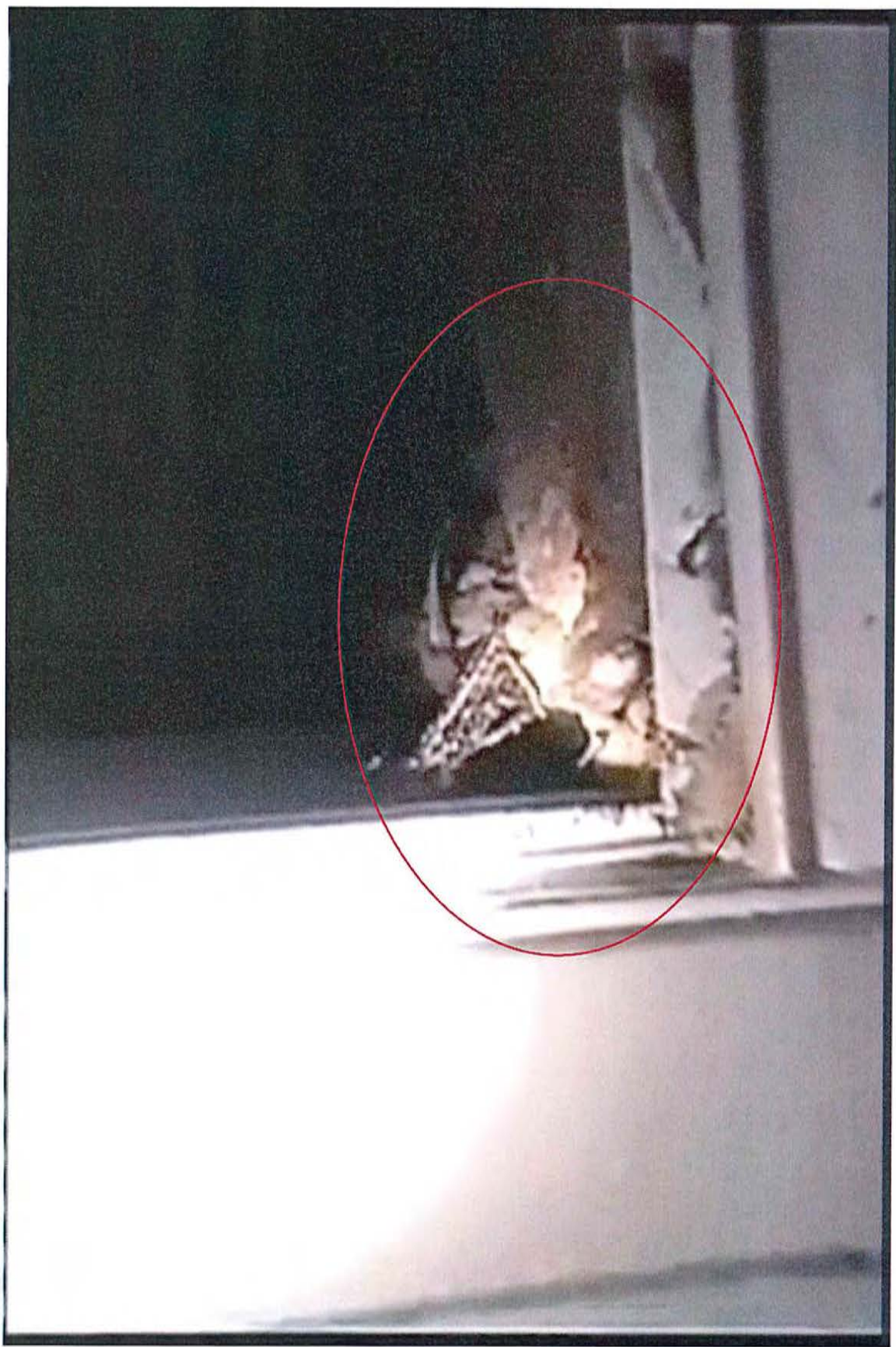
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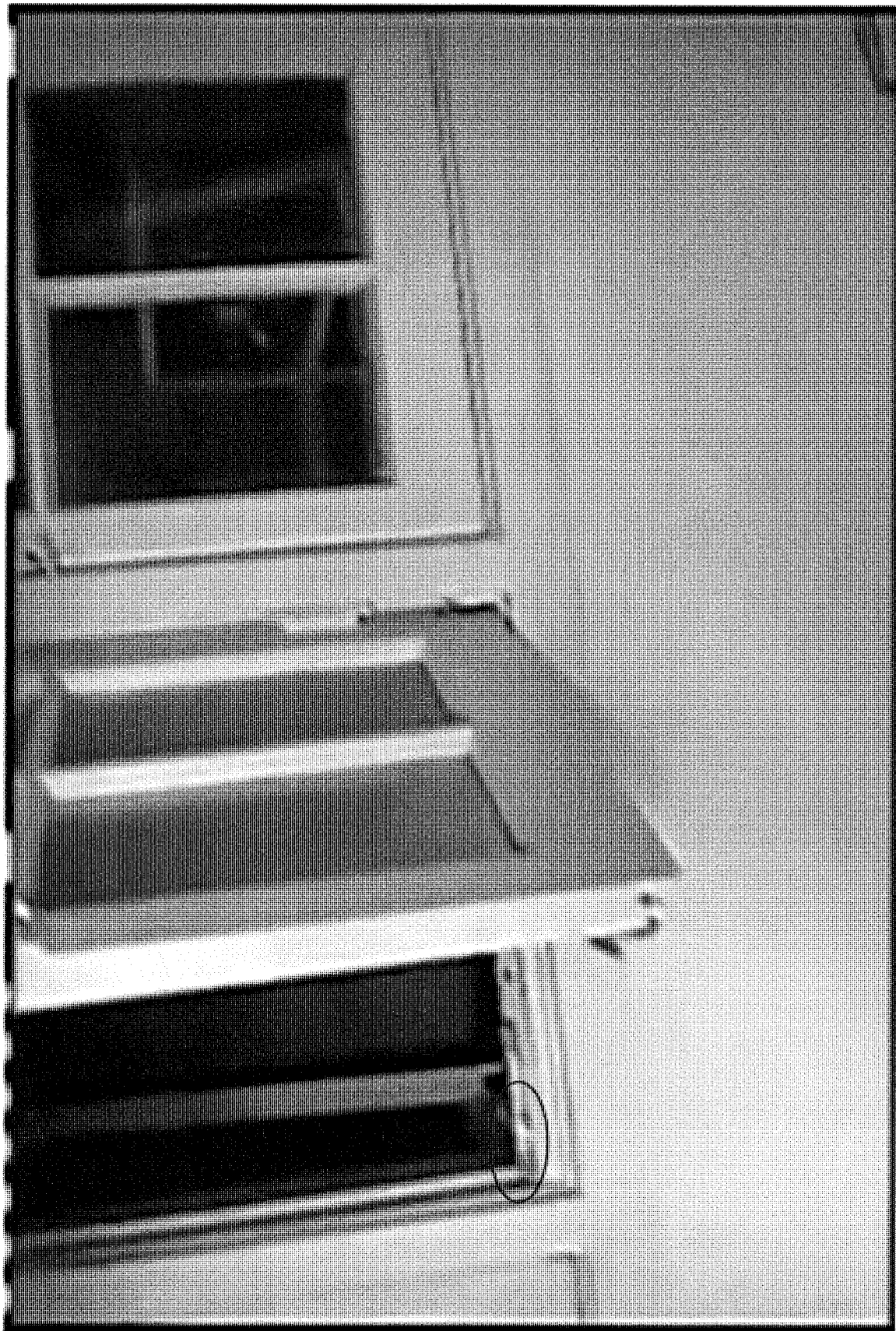
cc: Mr. Burke Ramsey
Mr. John Ramsey

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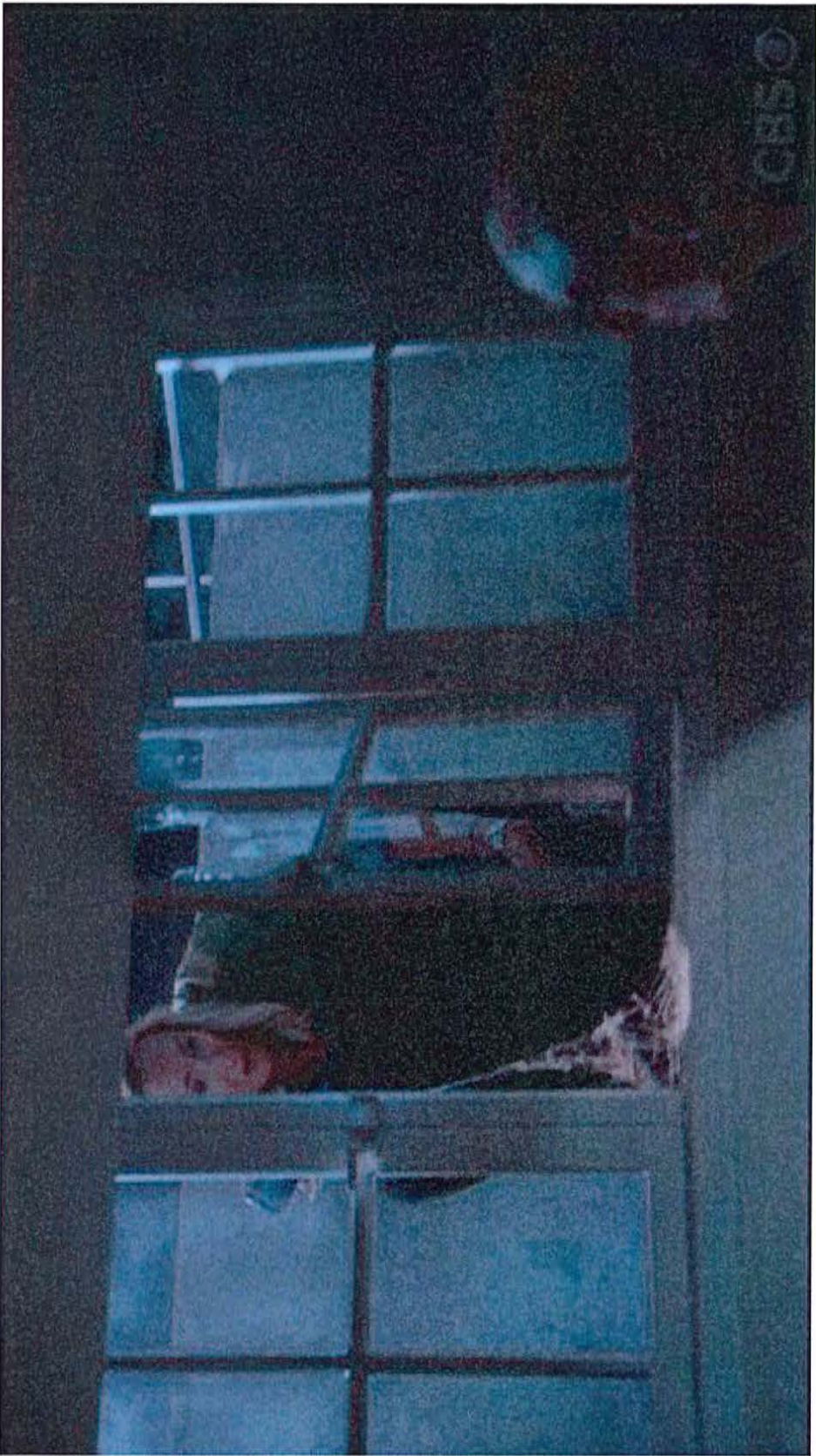
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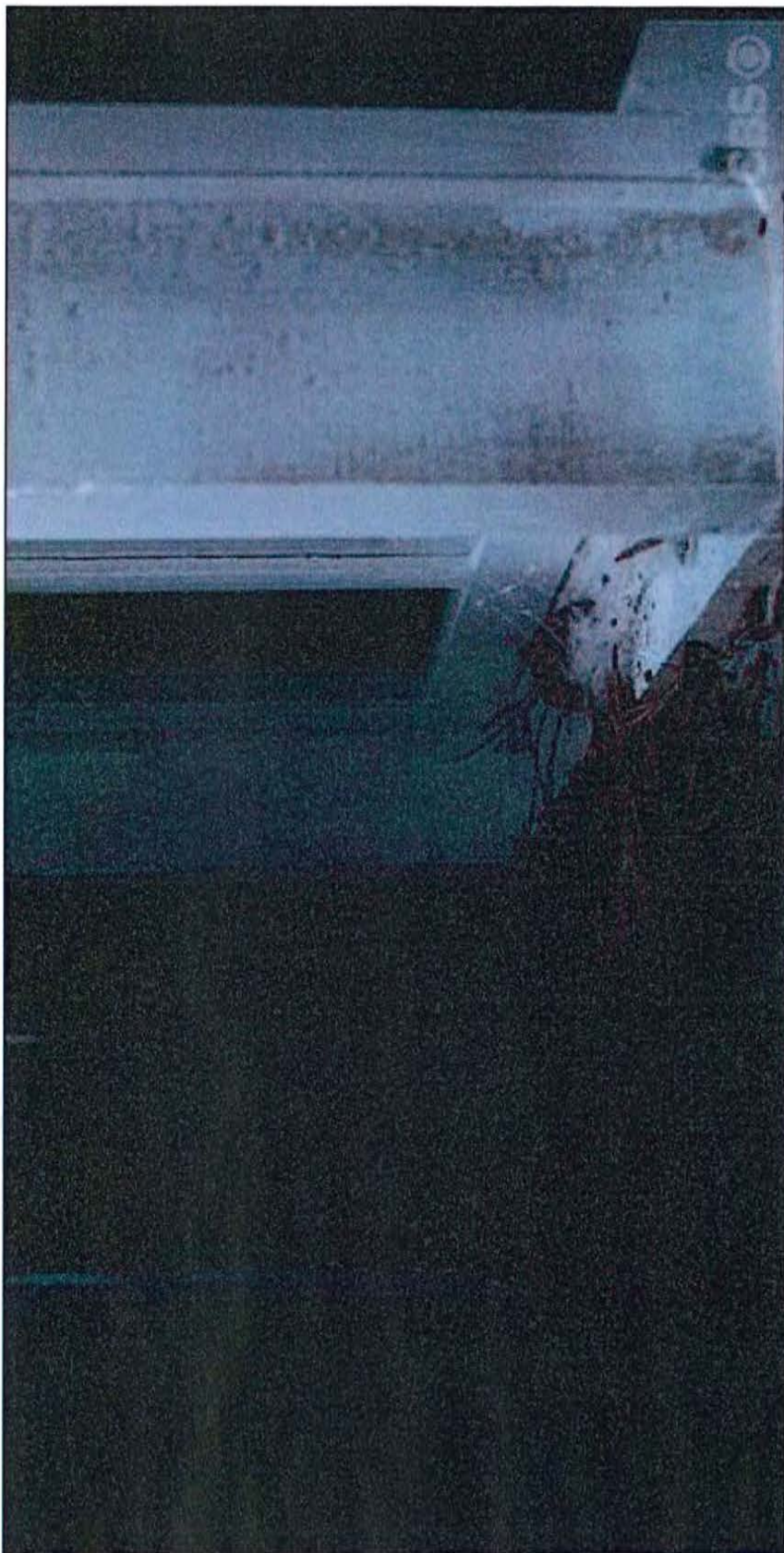


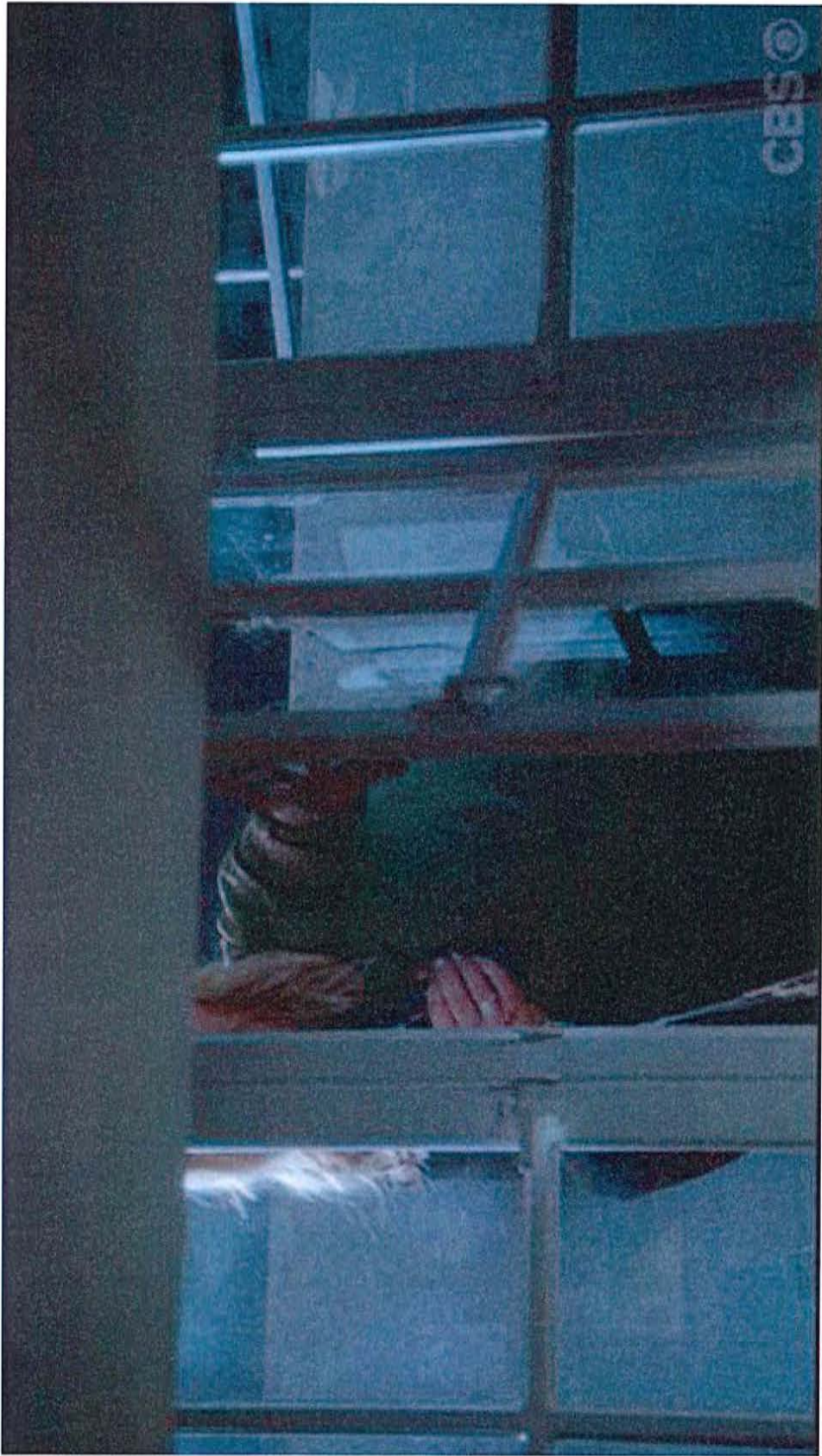
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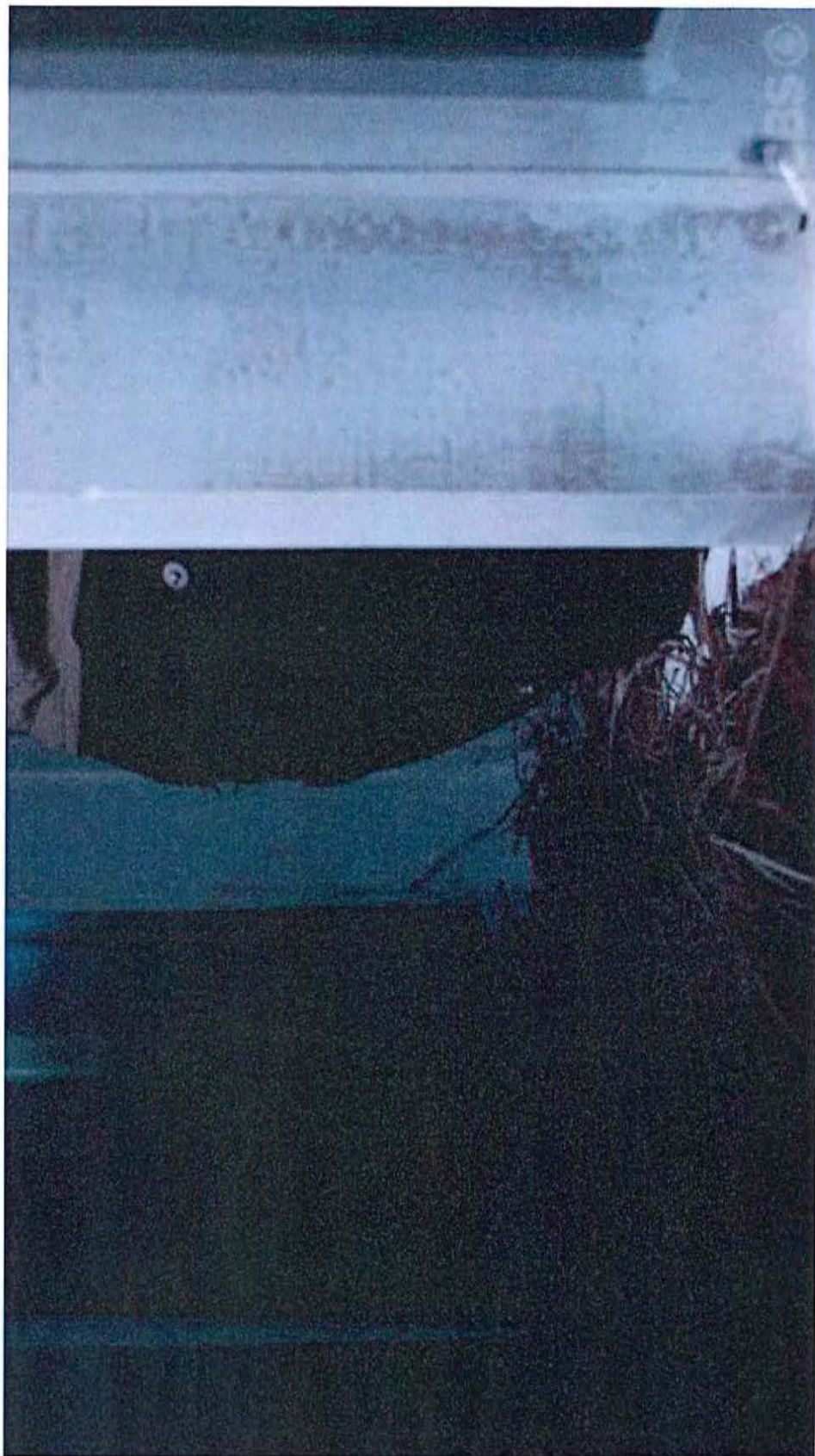
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E X H I B I T L

'Burke did it': Crime show claims JonBenet Ramsey WAS killed by her 'violent' older brother and her parents covered it up after the siblings 'clashed over a midnight snack of fresh pineapple'

☒ Site ☐ Web

- CBS documentary *The Case Of: JonBenet Ramsey* concluded on Monday
- Team of investigators re-examined evidence in 20-year-old murder case
- The six-year-old was found dead in her Colorado home in December 1996
- The show concluded with investigators saying evidence points to brother
- Burke Ramsey was nine years old at the time; he and his parents have always denied involvement in JonBenet's death

By KHALEDA RAHMAN FOR DAILYMAL.COM

PUBLISHED: 23:57 EDT, 19 September 2016 | **UPDATED:** 05:35 EDT, 21 September 2016

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JonBenet Ramsey was killed by her older brother Burke and it was covered up by her parents after a fight over a midnight snack of pineapples, investigators have claimed.

The six-year-old's mother Patsy Ramsey called 911 on December 26, 1996 to report that her six-year-old daughter had been kidnapped from her family's home in

Boulder, Colorado.

JonBenet, a child beauty queen, was found beaten and strangled on the floor of the family's cellar several hours after the 911 call.

No charges have ever been filed in her murder - and Burke Ramsey and his parents have always denied any involvement in JonBenet's death.

But a team of experts re-examined evidence in the 20-year-old case in a two-part CBS documentary The Case Of: JonBenet Ramsey, which concluded last night.

The team presented their conclusions in the final minutes of the program, saying the evidence points to Burke Ramsey, who was nine at the time.

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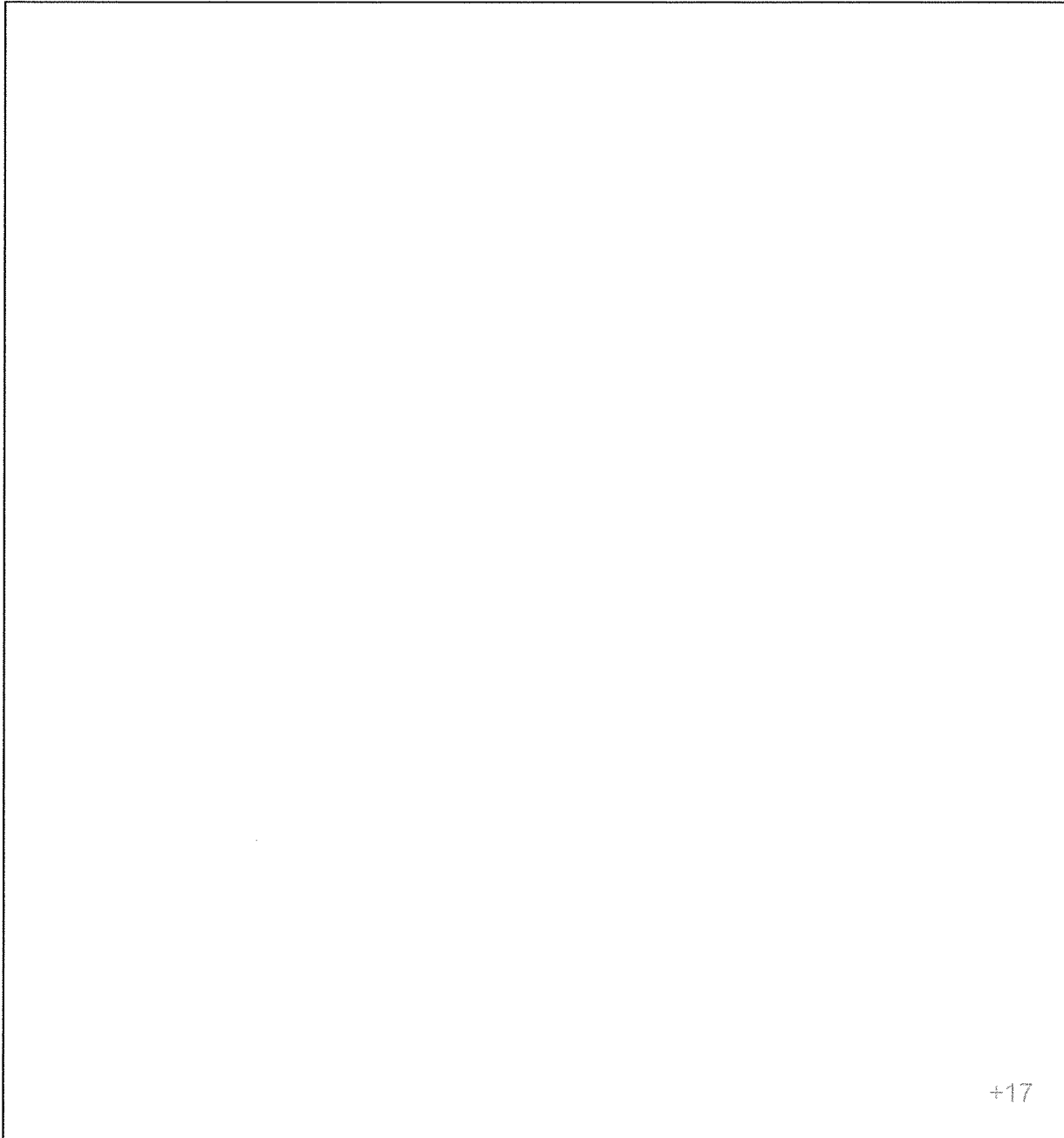
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Investigators on The Case Of: JonBenet Ramsey concluded that Burke Ramsey (right) killed his sister JonBenet and their parents covered it up



Investigators presented their theory that JonBenet Ramsey was killed by her brother after a fight over a midnight snack of pineapples (above, at the Ramsey home on the night of the killing)

However, they do not believe that it was a case of murder and said it could have been accidental.

They also revealed that Burke had struck his little sister with a golf club after 'losing his temper' and left her with a scar on her face a year before her death.

James Kolar, the former chief investigation for the District Attorney in Boulder, presented the theory that all the other experts agreed with.

He posited that Patsy had left Burke with a bowl of pineapple and some tea and that when JonBenet had attempted to sneak some of the fruit later, it prompted Burke to lash out and strike her with a flashlight, killing her.

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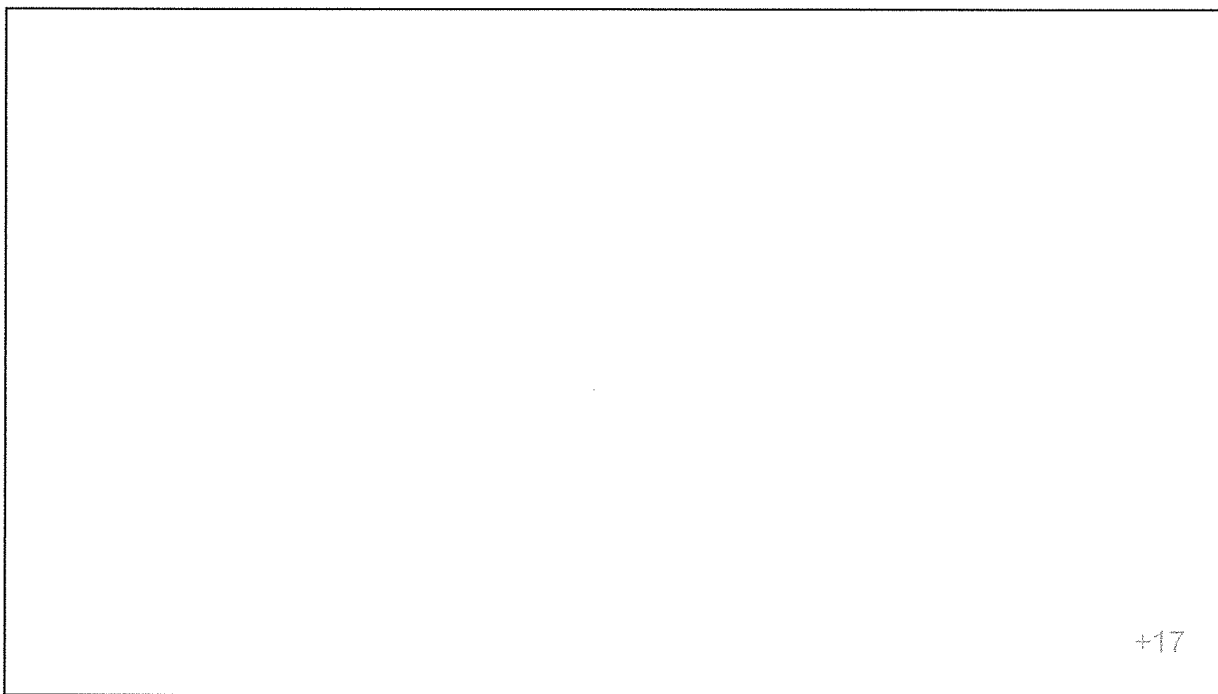
Burke Ramsey

'My hypothesis was that I think the Ramseys came home at around 9.30, 10 o'clock,' Kolar said.

'I think JonBenet was asleep. I think John did carry her upstairs, Patsy remained downstairs with Burke and served him the tea and the pineapple.

'I think that accounts for the physical evidence as well as the latent print. Then she got JonBenet up to make sure she used the toilet, so she didn't wet the bed that night.'

He added: 'JonBenet was up, she may or may not have brushed her teeth, that stuff was out on the counter, then I think she was up and awake enough that she was maybe still hungry and she went downstairs.



The investigators presented their hypothesis that JonBenet (pictured in a reconstruction) came downstairs late at night because she was hungry

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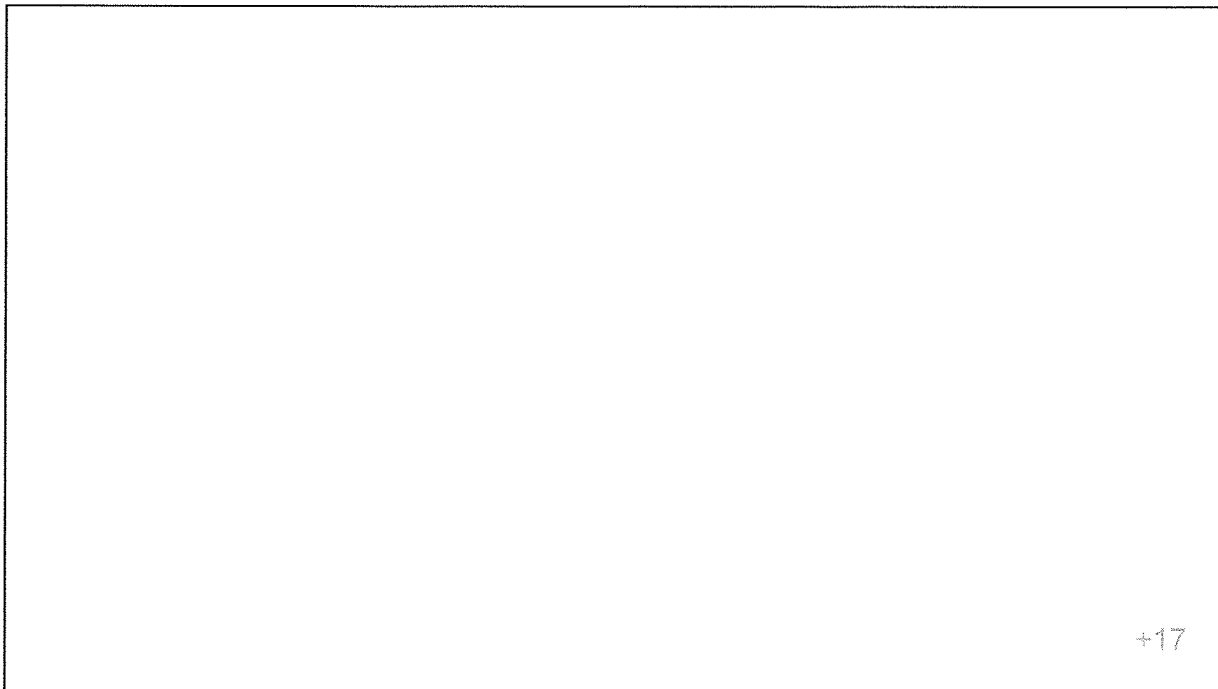
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They believe Burke could have been angered that she tried to grab some of his pineapple



'He probably would have been upset about her trying to snag a piece of pineapple - out of anger he may have struck her with that flashlight,' said James Kolar, the former chief investigation for the District Attorney in Boulder

'In the meantime, Patsy continued packing for the Michigan trip. I think if Burke was upset about circumstances or Christmas presents, he probably would have been upset about her trying to snag a piece of pineapple - out of anger he may have struck her with that flashlight.

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While the investigators agreed there was no intent to kill, they agree there was clearly an intent to mislead the police investigation.

'The Ramsey family did not want law enforcement to resolve this case and that's why it remains unresolved,' said former FBI profiler Jim Clemente.

He and the other investigators say the lack of the Ramseys getting involved with the case was 'atypical' as most families in such situations are desperate to resolve the case.

'We didn't see that here,' said retired supervisory FBI agent James Fitzgerald. 'But maybe we did. Maybe we saw it with her brother - do everything we can to protect this child.'

'We see it with the letter. We see it in the press conference. Every step along the way we see it.'

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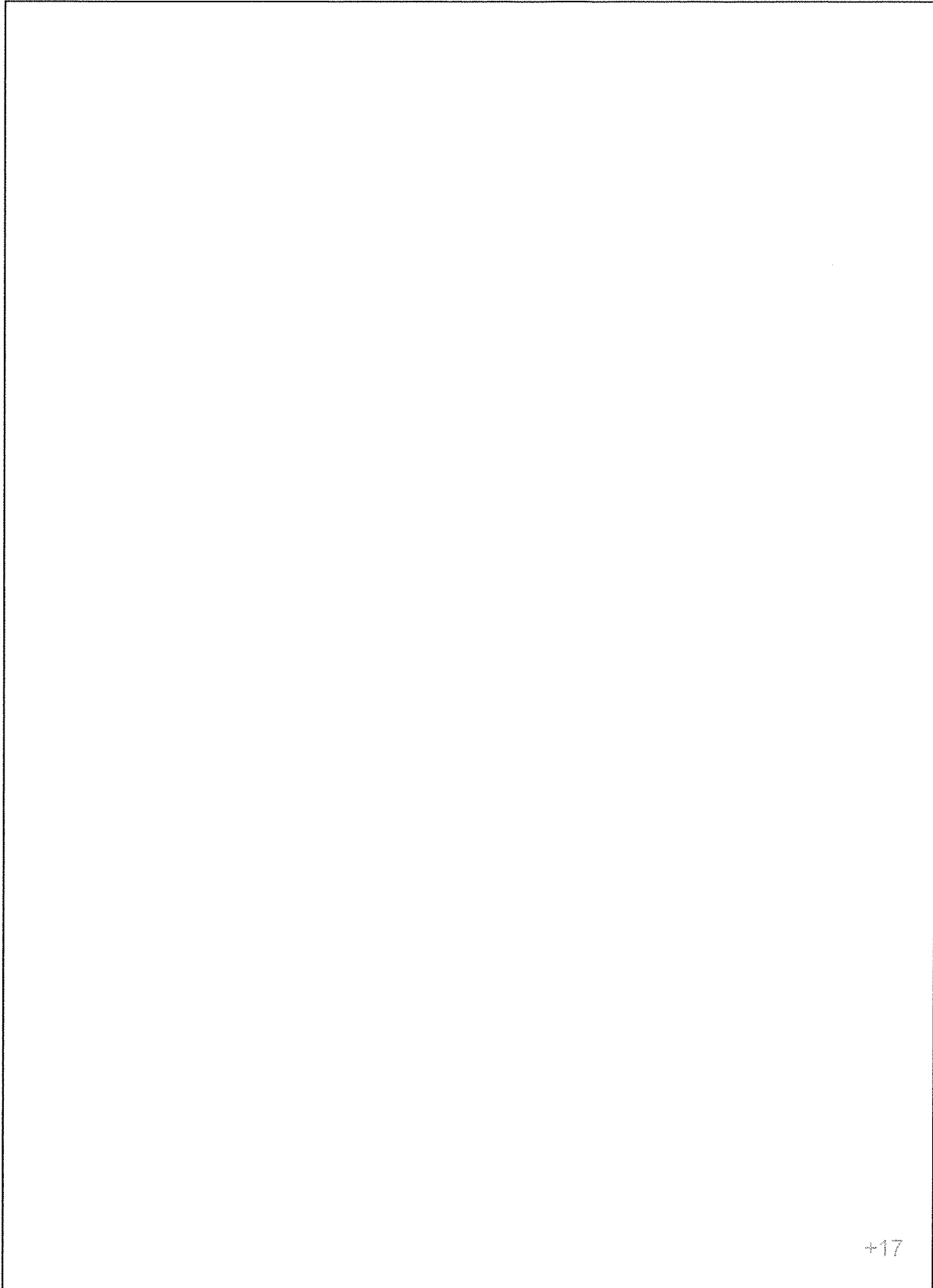
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JonBenet, a child beauty queen, was found beaten and strangled in the basement of her family's home in Boulder, Colorado, on December 26, 1996

However, the investigators said they don't believe Burke was involved in the cover-up, but say the mixed motives in the ransom letter indicate that both parents were.

They also concluded that DNA evidence found on JonBenet's panties which did not match anyone in her family had no forensic value and that no sexual assault ever took place.

The DNA evidence had been used to rule out the Ramseys as involved in the case, but experts showed how DNA could have been transferred during the manufacturing and packaging process.

In the first part of the documentary, the investigators revealed six extra seconds of audio from a 911 call that appeared to suggest her family were involved.

Using modern technology, they said they uncovered the voices of three people having a conversation after Mrs Ramsey thought she had hung up after calling police 20 years ago.

Three phrases can allegedly be heard during the extra six seconds of 911 audio, which are believed to have come from JonBenet's parents John and Patsy and her older brother Burke.

Investigators believe they can hear Mr Ramsey's voice saying 'we're not speaking to you', before Mrs Ramsey allegedly asks: 'What did you do? Help me, Jesus'.

They claim JonBenet's brother Burke can then be heard asking 'what did you find?' - even though his parents have always claimed he was asleep at the time.

► **Busty Bella** 19, flashes her midriff as she with ex-flame Disick, 34, in the first time 'psychiatric h

► **'If you feel b** get help': Acti Mollen opens having pre-na depression as prepares to w her second ch husband Jasc

► **Olivia Culpo** her bra in an monochrome she joins bus Upton at fash in Toronto Posing up

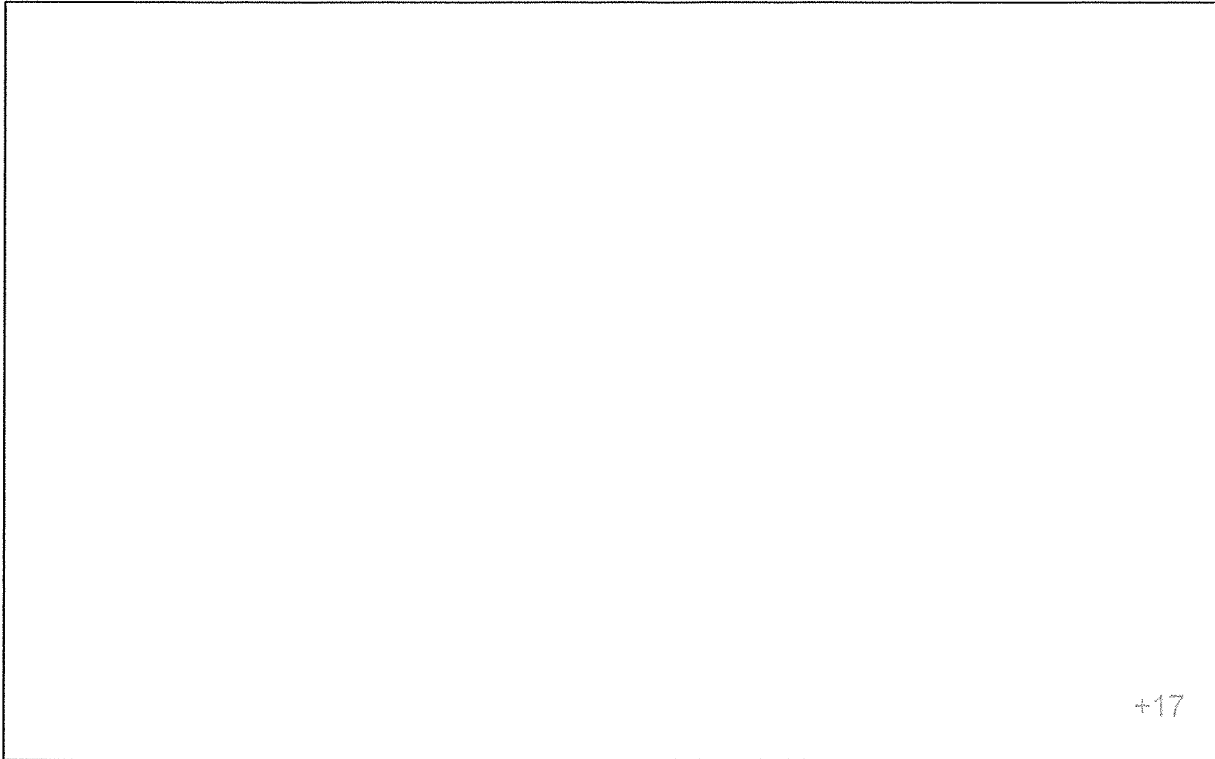
► **Mel B debut** hairstyle as si daughter Mad playful birthd WITHC Belafo seen v Ryan l

► **Broo** takes from ti suppo Victoria s ntr show alongsi David in New

► **'The Kardas** why can't I?' Metz address latex dress as speaks at Cur The This Is Us plays Kate

► **Now that's v** call dad danci Rodriguez shi best moves w young daugh Lo's Vegas cc Shaking it

► **George Clo** reveals reaso naming twins Alexander... n he didn't wan 'ridiculous Hc moniker



► Classic with Kim Kardashia her legs in black for Alexander NYFW show She's taken New Fashion Week

► Fashion designer Ford says 'sle men doesn't r gay' and wear peony-based is fun and fab

Advertisement

They claim JonBenet's brother Burke can then be heard asking 'what did you find?' - even though his parents have always claimed he was asleep at the time

The 911 operator who took the call, Kim Archuletta, has also spoken for the first time and revealed she felt the call sounded rehearsed.

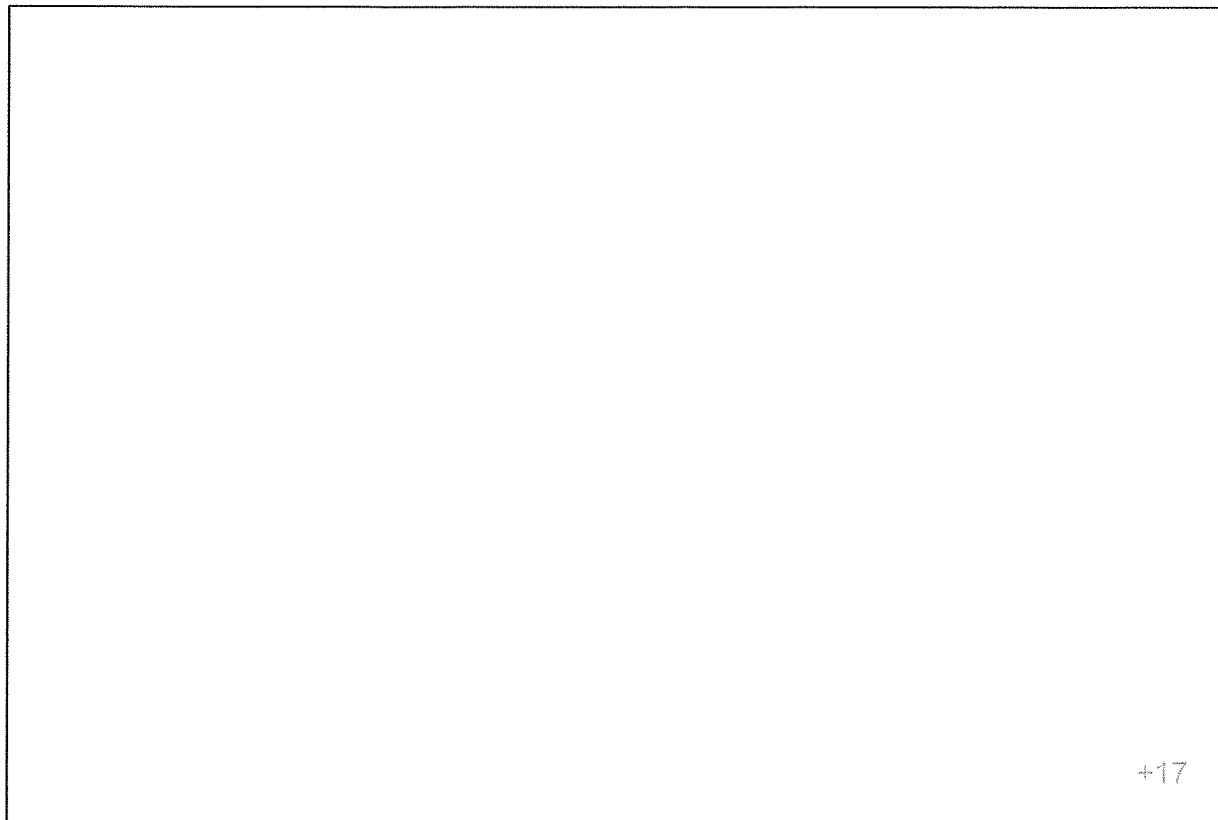
'It sounded like she said, 'Okay, we've called the police, now what?' and that disturbed me,' Ms Archuletta said.

'So I remained on the phone trying to listen to what was being said. It sounded like there were two voices in the room, maybe three. Different ones. I had a bad feeling about this, to me it sounded rehearsed.'

Ms Archuletta said an investigator later visited her home to inform her there was a gag order regarding the case until it went to court, which never happened.

She alleges she was never asked to testify on the grand jury in 1999.

► 'Happy birth best friend of Elizabeth Hur fresh-faced th snap on Insta tribute to her Hugh Grant



JonBenet's mother Patsy Ramsey (right) called 911 on December 26, 1996 to report that her six-year-old daughter had been kidnapped from her family's home in Boulder, Colorado

'One of the reasons why I even stayed on until they disconnected (was) because there were things being said that people needed to know,' she said.

'It was never addressed. I think it really would have turned the case around.'

The lengthy ransom note that was found inside the family's home was also re-examined by forensic linguist James Fitzgerald who claimed it was clearly staged and had deliberate spelling mistakes.

The three-page ransom note claimed to have been written by a 'group of individuals that represent a small foreign faction'.

It asked for \$118,000 for the safe return of JonBenet, which is almost the exact value of a bonus that her father John Ramsey had received earlier that year.

However, not many people knew that the father had received the bonus.

The note read in part: 'Mr Ramsey, Listen carefully! We are a group of individuals that represent a small foreign faction. We respect your bussiness (sic) but not the country that it serves. At this time we have your daughter in our posession (sic).

'She is safe and unharmed and if you want her to see 1997, you must follow our instructions to the letter.'

► Flower power
Gomez is she
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for celeb-filler
Of Fashion 50

► Bella Hadid
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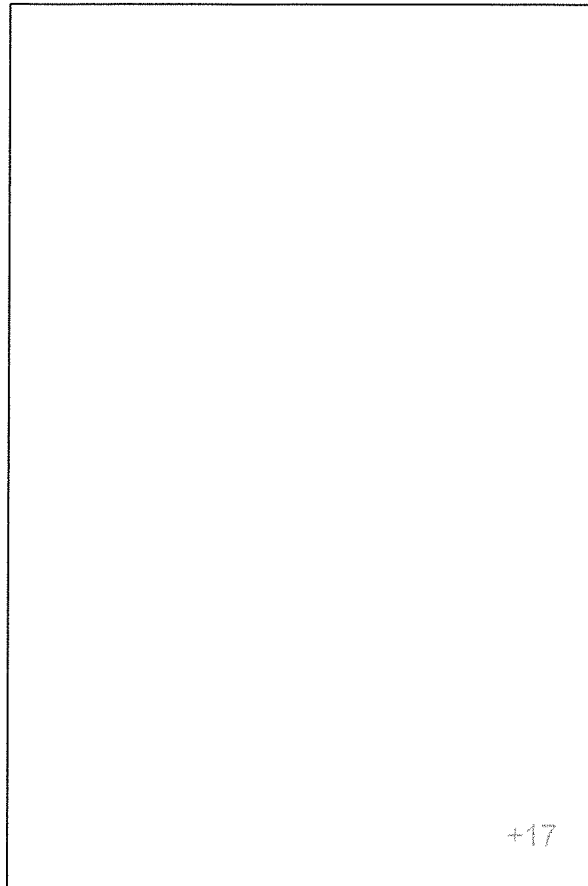
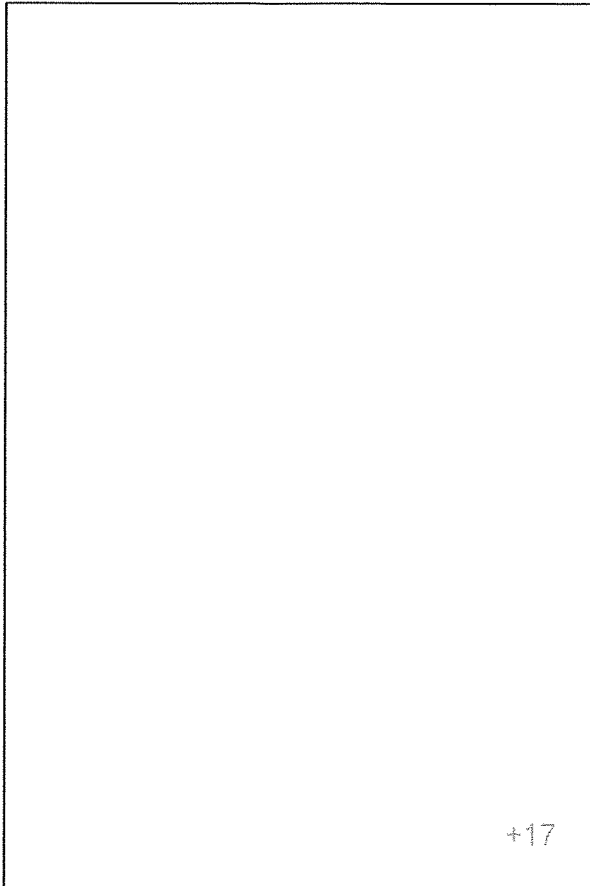
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► Kanye West
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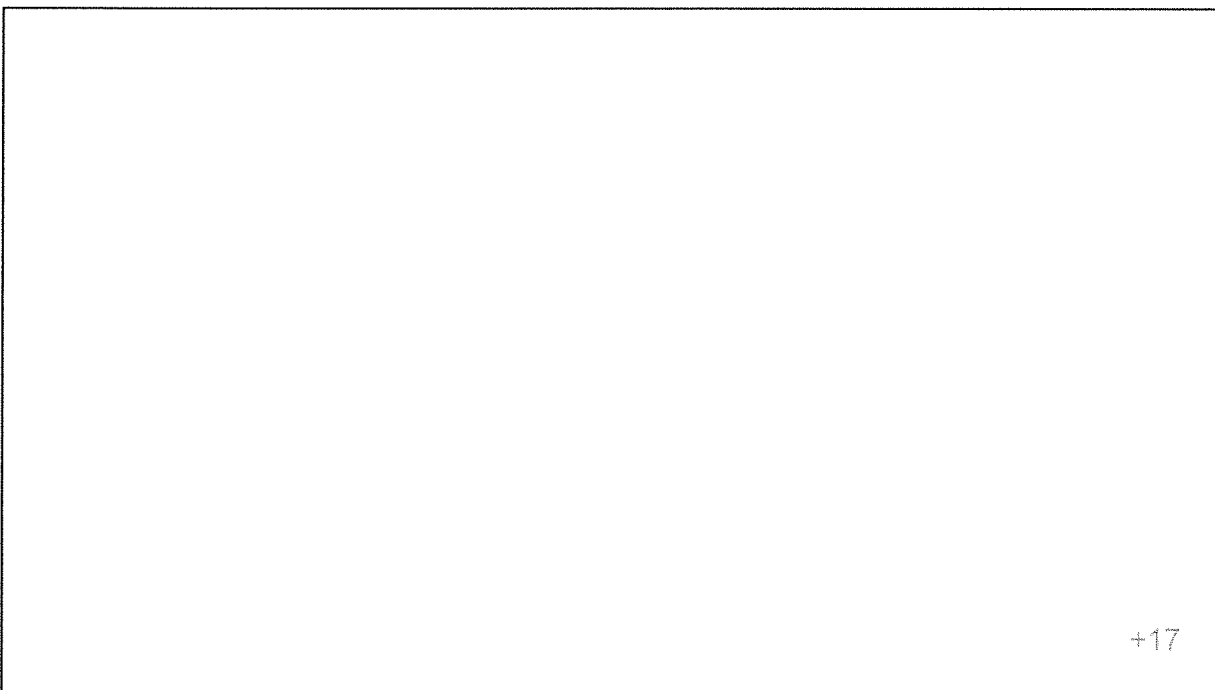
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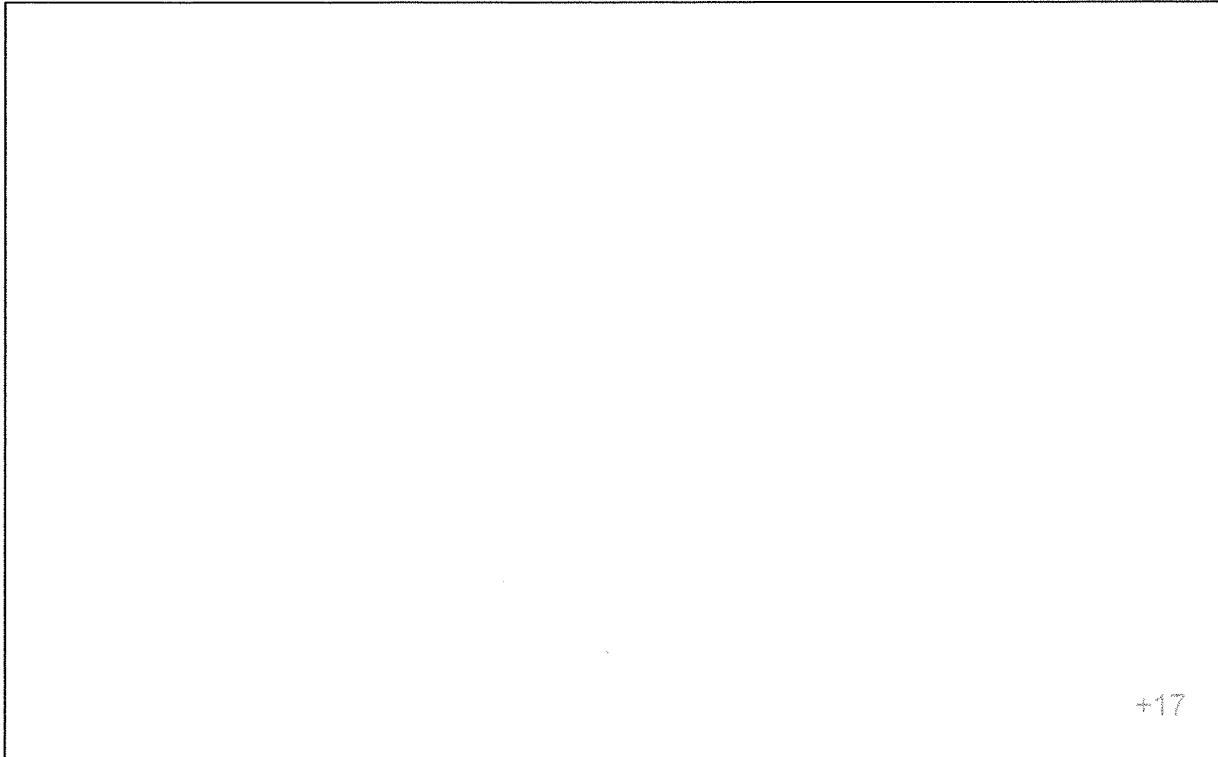
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She's a New Y
Week fixture

No charges have ever been laid in her murder. Her body was found on the floor of the family's cellar several hours after the 911 call was placed



The three-page ransom note claimed to have been written by a 'group of individuals that represent a small foreign faction'



+17

The length ransom note found inside the home was also re-examined by forensic linguistic James Fitzgerald who claimed it was clearly staged and had deliberate spelling mistakes

FULL TEXT OF THE ORIGINAL JONBENET RANSOM LETTER

Mr. Ramsey,

Listen carefully! We are a group of individuals that represent a small foreign faction. We respect your bussiness (sic) but not the country that it serves. At this time we have your daughter in our posession (sic).

She is safe and unharmed and if you want her to see 1997, you must follow our instructions to the letter.

You will withdraw \$118,000.00 from your account. \$100,000 will be in \$100 bills and the remaining \$18,000 in \$20 bills. Make sure that you bring an adequate size attache to the bank. When you get home you will put the money in a brown paper bag. I will call you between 8 and 10 am tomorrow to instruct you on delivery. The delivery will be exhausting so I advise you to be rested. If we monitor you getting the money early, we might call you early to arrange an earlier delivery of the money and hence a earlier pick-up of your daughter.

Any deviation of my instructions will result in the immediate execution of your daughter. You will also be denied her remains for proper burial. The two gentlemen watching over your daughter do (not) particularly like you so I advise you not to provoke them. Speaking to anyone about your situation, such as Police, F.B.I., etc., will result in your daughter being beheaded.

► 'This is part journey': Olivia John reveals step away from spotlight and money for cancer research as she disease

► Ladies in lac Fanning and Williams show cleavage in ris ensembles for Shelly premie They are the y Hollywood elite

► Emma Robe her prim white a TINY semi-s as she Toront after p film W

► Man Shanir drama length struts down tl at New York F Week

► She's no An Adriana Lima the flesh in sk black dress as flaunts bounty at Maybelline gala A world class l model

► Braless Vict Secret model frames her cle an eye-poppin jumpsuit with cut-out at NYI Supermodel

Benedict Curr shares the rec with The Curr co-star Kathe Waterston at Film Festival..

If we catch you talking to a stray dog, she dies. If you alert bank authorities, she dies. If the money is in any way marked or tampered with, she dies. You will be scanned for electronic devices and if any are found, she dies. You can try to deceive us but be warned that we are familiar with law enforcement countermeasures and tactics. You stand a 99% chance of killing your daughter if you try to out smart (sic) us. Follow our instructions and you stand a 100% chance of getting her back.

You and your family are under constant scrutiny as well as the authorities. Don't try to grow a brain John. You are not the only fat cat around so don't think that killing will be difficult. Don't underestimate us John. Use that good southern common sense of yours. It is up to you now John!

Victory!

S.B.T.C

Fitzgerald said the first two words of the note, 'Listen carefully,' struck out as unusual during the investigation.

'Right away, I said, 'This doesn't even make sense.' Grammatically it's correct, the words were spelled right, but it was an unusual way to begin an alleged ransom communication,' he said.

Ramsey also pointed out that after claiming they were a foreign faction, they misspelled the words business and possession.

'I believe both words were misspelled on purpose, because they both had to do with the double consonant 's,' he told Yahoo TV.

'If you're going to misspell one word, you're probably going to, almost by accident, get the other word right.'

He said at that point, he knew they had someone pretending to be someone they were not, noting within the first three sentences he was convinced it was not an 'authentic kidnapper.'

'This was someone doing his or her best to make themselves appear to be one of those entities, but it was clear that that was not the case,' he said.

At the time the note was discovered JonBenet's mother Patsy told police she found it on the stairway, which led to the discovery that JonBenet was missing from her bed.

[Take a look at the first trailer for The Case of JonBenét Ramsey](#)

► admits playi
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► Emma Thom
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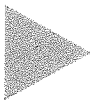
► More
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► 'That's my v
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Pre-catwalk S
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► runway at Al Wang's NYFW



► EXCLUSIVE PICTURES: T keeps her head back in New York weeks after hit at multiple centers her new reveal video

► Blonde ambassador Shanina Shaik signature brush for a light wig puts on a leg at NYFW party The Australian supermodel

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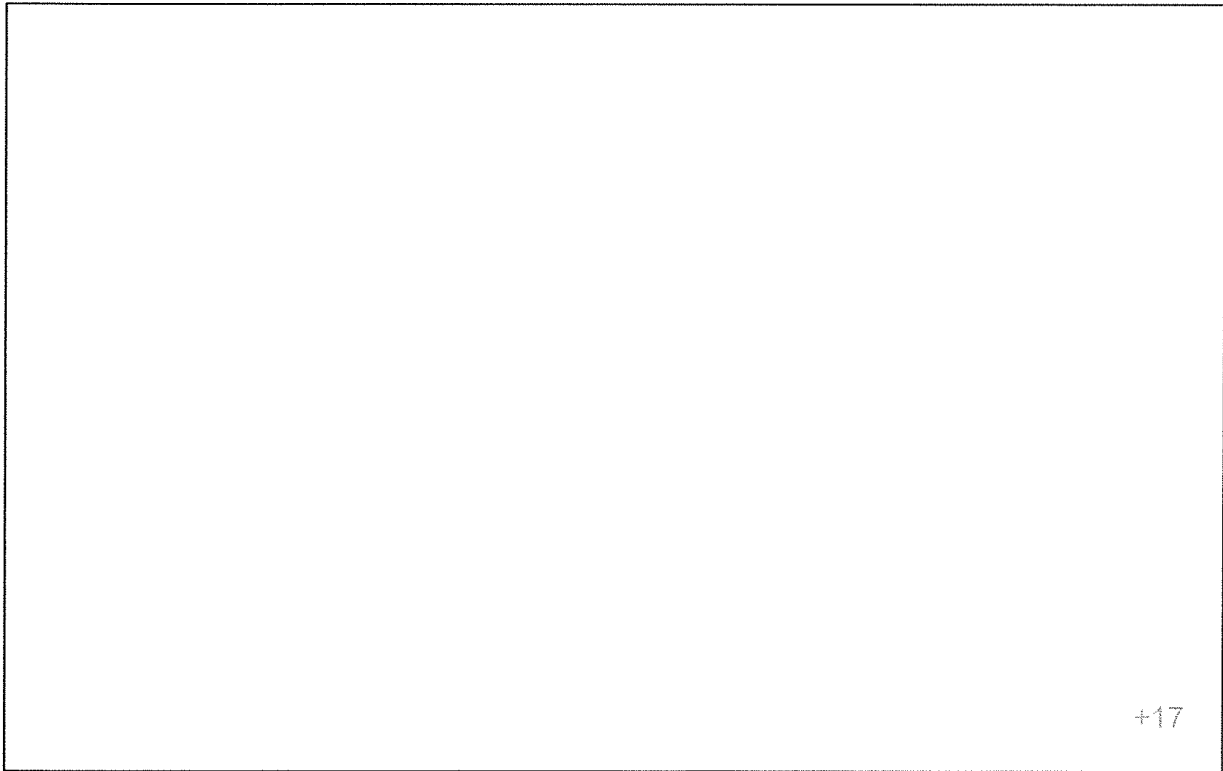
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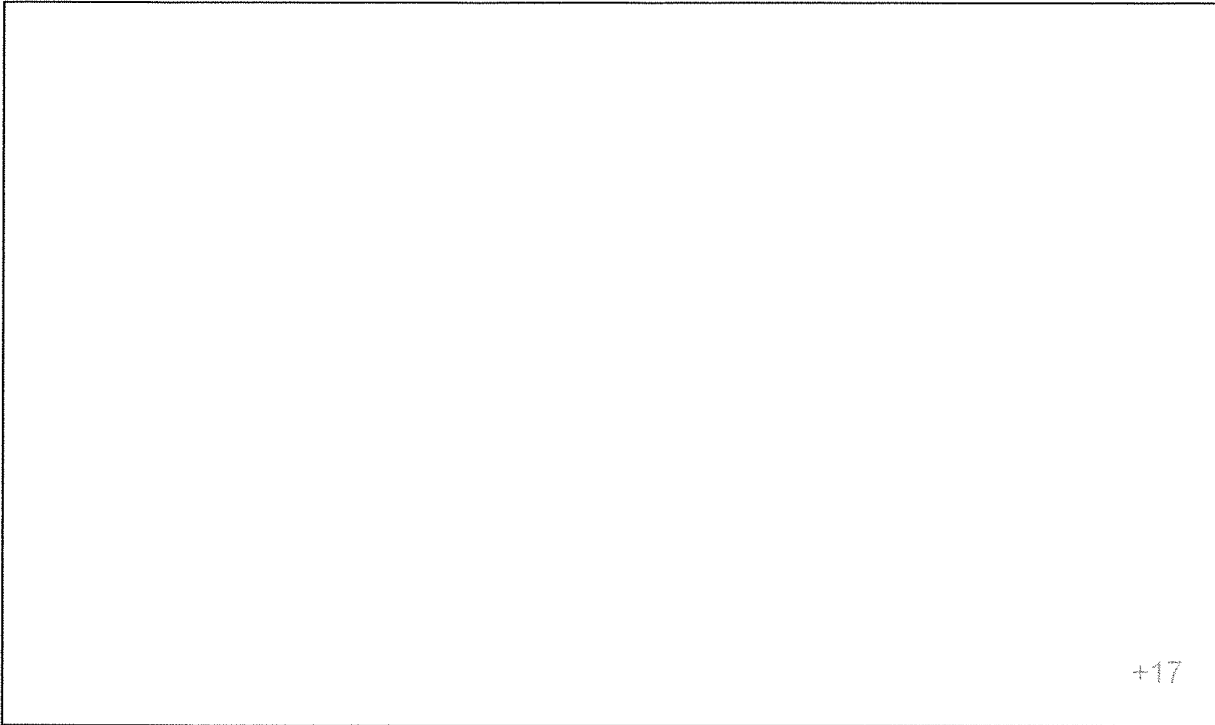
► Four actresses Maggie Smith Dench appear together for first ever in BBC documentary

► Well that's one get noticed! Baldwin rocks bright green t shorts while r absent from New York runways

► Ever youthful Kidman, 50, in flawless figure white dress at Film Festival Also showed off Keith Urban

Fitzgerald (pictured), who helped seek out Ted Kaczynski as the Unabomber, was involved in JonBenet's case as an FBI profiler and a forensic linguistic, focusing on the ransom note

Keeping it simple Blonde Emma rocks an LBD star-studded magazine par



A replica of rooms in the house has been constructed in a 50,000-square-foot warehouse

Despite the letter explicitly saying not to notify authorities, and despite the couple withdrawing the ransom money, Patsy still called 911 and frantically reported her daughter had been kidnapped.

As the morning passed, the expected phone call from the kidnappers never arrived, and a few hours later, the child's body was located on the floor of the wine cellar.

It was later determined the letter had been written on paper ripped from a notebook that Patsy kept in the kitchen.

Experts had previously said the note was of similar handwriting to Patsy Ramsey but could not unequivocally say she was the one to have written it.

Fitzgerald told Yahoo TV that investigators later learned the Ramseys financially could have paid a million dollars but noted the \$118,000 was not a coincidence.

He believes it was a 'red herring by the author' to make it look like it was an inside job, referencing the fact the amount was the same as John Ramsey's bonus.

When concluding what the ransom note meant in terms of understanding who might have been involved in the murder, Fitzgerald noted the length of the letter suggested it was not a 'real criminal or real kidnapper.'

He said while other ransom notes over the years have been about 50 to 60 words long, or shorter, the Ramsey note had about 385 words.

► Toronto International Film Festival

► Kourtney Kardashian shares steamy underwear sex workout at new redecorated penthouse. Hard work in the gym has been paying off.

► Kim Kardashian SLAMS Sharbat Ghalani for a 'ho' for postcard pictures and claims they are helping women's rights.

► Julianne Hough old Hollywood in silk gown. She joined LaChapelle for the Emmy. The 29-year-old is With The Stars.

► Red Hot Chili Peppers pours body-lubricant and crop top. Plein NYFW's Flaunted her sassy Big Apple.

► Yacht a young figure! Make-a Longoria, 42, her curves in bikini as she Greek getaway husband Jose.

► Never wash shirts again! Harry Styles' intimate gig for Nova's Red R. Los Angeles Former One Direction star.

Age-defying! Mirren, 72, looks ravishing in a hugging marriage as she joins Cate Sutherland at Toronto Film Festival.

'It's clear that all of it could have been written in about three sentences,' Fitzgerald told Yahoo TV.

'This thing, instead, read like a Stephen King novelette, with people being beheaded and all kinds of nasty things happening to people,' he continued.

'The person who was writing this was truly out of his or her element, in terms of trying to be a real criminal or a real kidnapper.'

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Fitzgerald said in the end of the re-investigation, he believes he and his colleagues have found the suspect in the unsolved murder case

► **Amazon pull on period pie**
The Last Tycc starring Lily C Matt Bomer and Grammer
Show was bas 1930s

► **Brie Larson red dress and InStyle event.**
hours after fly LAX in unicorn and fuzzy slip
Also had a glit

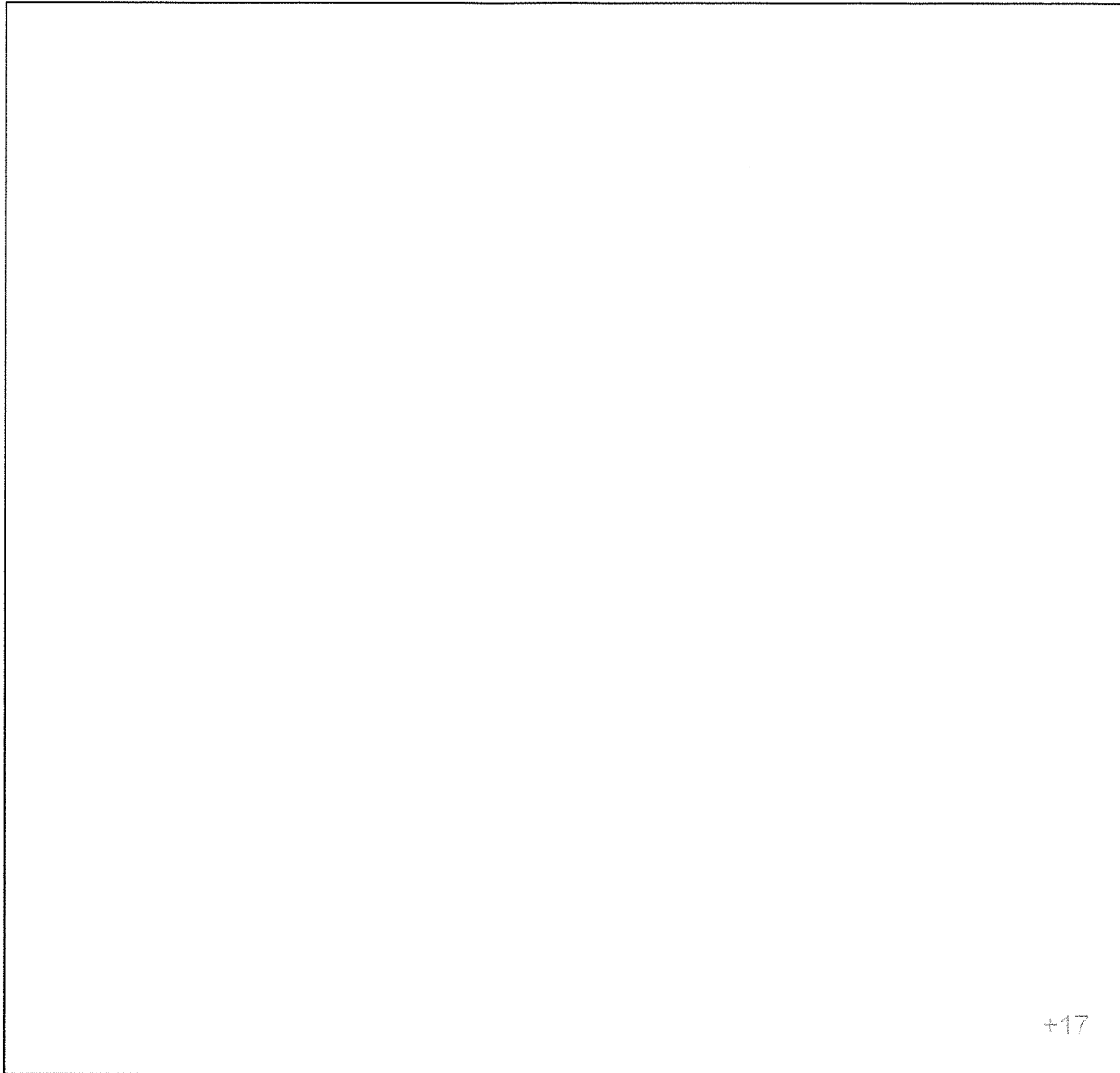
► **DWTS alum Trebunskaya**
she and actor Millan
before new bi

► **She's Nicole**
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dress as she red carpet in

► **'My sweet gi Witherspoon .**
Philippe post photos and lo
messages for daughter Ava' birthday

► **Singer Tina . Melbourne ap**
for sale - and to go for a so
\$1.8 million
Was passed o' auction this we

► **Wonder in w Ashley Graha**
cleavage and cut number w
high split at E Of Fashion 5C



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CBS is investigating the JonBenet Ramsey murder in an upcoming six-part docuseries. Here John and Patsy Ramsey leave their lawyers office in 2000

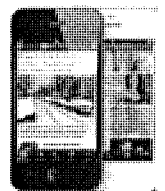
► **Lady in red!**
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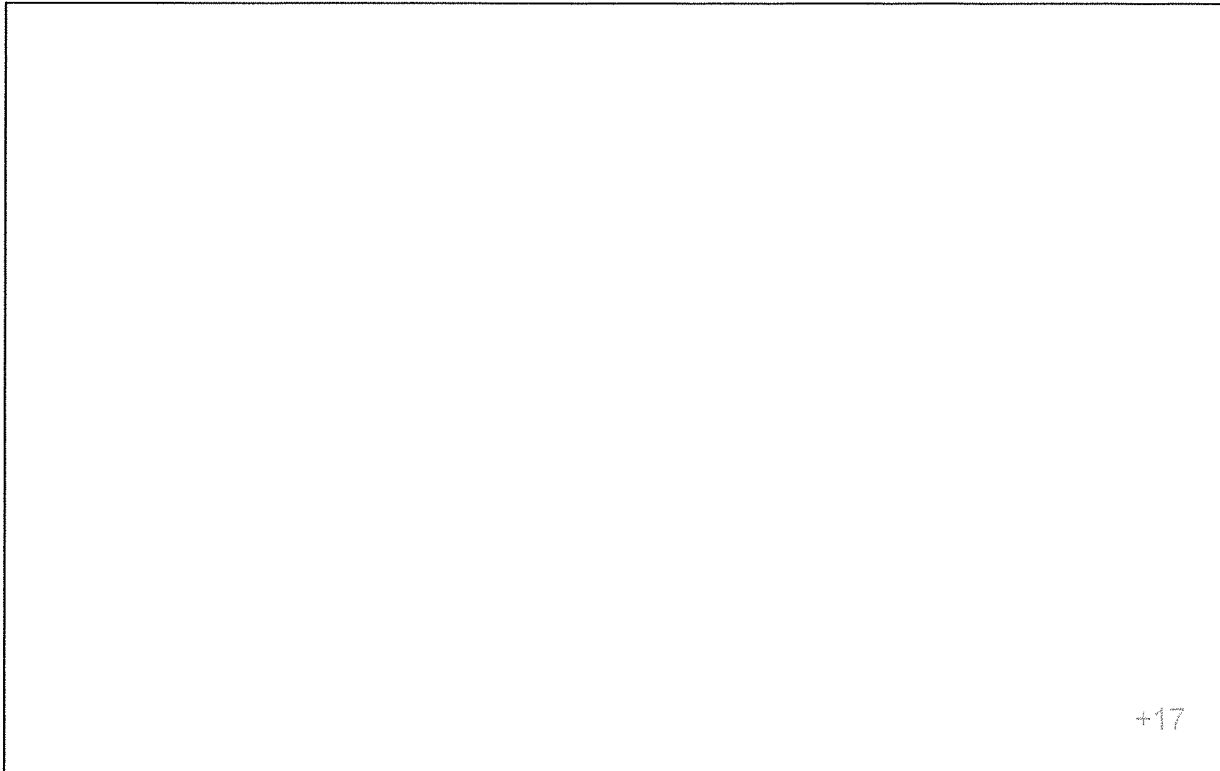
► **Working on**
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► **'He doesn't**
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► **Won**
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Advertisement



Experts have also recreated the Boulder home of the Ramsey family to conduct their investigations. Here they look at a recreation of the smashed basement window

JonBenet Ramsey's brother Burke speaks to Dr Phil



DON'T MISS

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Fitzgerald also noted the ransom letter was not ever a ransom letter and was 'part of a staged crime scene.'

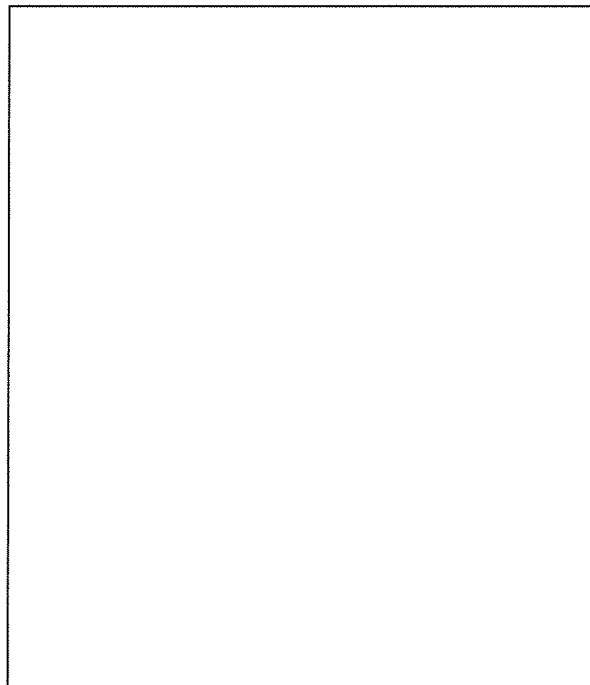
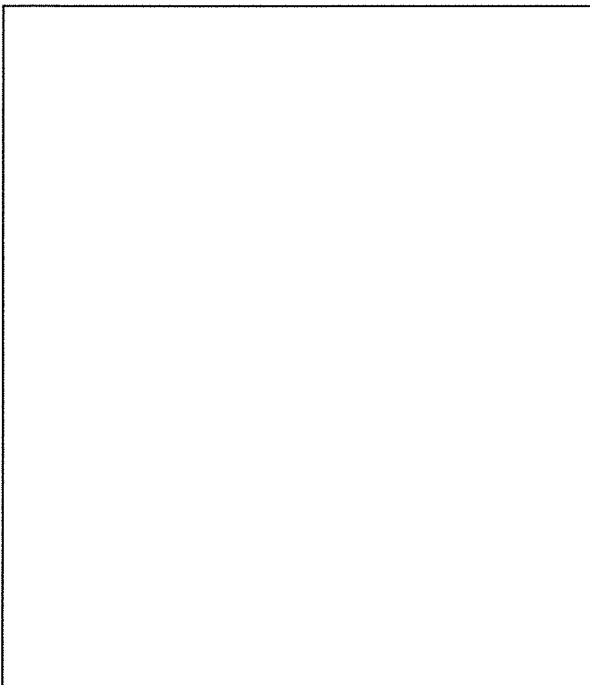
In the trailer of the miniseries, Fitzgerald says the series will hope to present a solution to one of the biggest U.S. crime mysteries.

'This little girl's homicide to this date has not been resolved. In my opinion, I think we can change that right now,' he says in the trailer.

Fitzgerald told Yahoo TV that in the end of the re-investigation, he believes he and his colleagues have found the suspect in the unsolved murder case.

He added that taking a suspect into custody and convicting them in a court of law would be the ultimate end.

'Whether that happens or not is up to other people above and beyond the seven experts who worked on this show,' he said.



Burke Ramsey recalled how his mother burst into his room the morning she first noticed his little sister JonBenet missing in 1996, during a recent interview with Dr Phil

But based on all the evidence, he said they feel 'very firm and very much convinced [about] who it is we're going to name at the end,' according to Yahoo TV.

'We feel very firm in rendering an opinion within the last 15 minutes of the show,' he added.

As for why investigators feel it important to re-examine the case 20 years later, Fitzgerald said this is the closest thing they can get to justice being served or not.

Investigators to be featured include retired FBI special agent Jim Clemente, forensic pathologist Dr. Werner Spitz, forensic scientist Dr. Henry Lee and James Kolar, the

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former chief investigation for the District Attorney in Boulder.

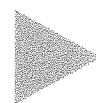
The documentary aired days after Burke Ramsey gave his first-ever interview to Dr. Phil and recalled the night his frantic mother came to to his room after discovering JonBenet was not in her bed.

'The first thing I remember is my mom bursting in my room, really frantic, saying, "Oh my gosh! Oh my gosh! Oh my gosh!" running around my room - now I know looking for JonBenet,' Burke recalled.

'The next thing I remember is a police officer coming into my room and shining a flashlight.'

He added: 'I know people think I did it; that my parents did it. I know that we were suspects.'

20 years after JonBenet Ramsey's death police ask public for help



► Where's the Delta Gooden down in Hugh Sheridan's ho Adelaide... as of a romance the pair heat i

► Taking the p Michele dons low-cut cleav; frock for Pale Beverly Hills Turned heads arrived at the e

► The queen o is Elon Musk's How the 69-ye grandmother who's been m since 15 still s in the crowd

► 'We are all b Plus-size mod male models ' Christian Siria spring runwa along

► New Rihanna cleava blazer as she NYFW Launched her Beauty line thi

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► Ivanka Trum Jared Kushne somber gray t couple's jog a White House deal with the Hurricane Irm

► How low car Karlie Kloss s extreme cleav plunging gow Harper's Baza bash Scene-stealer



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TIMELINE OF A TRAGEDY: THE INVESTIGATION OF JONBENET'S DEATH

December 26, 1996: JonBenet Ramsey, 6, is found dead in the basement of the family's Boulder home, several hours after her mother called 911 to say the girl was missing and that she had found a ransom note. She was killed after she was strangled and suffered a fractured skull

January 1, 1997: Patsy and John Ramsey appear in first TV interview to protest their innocence

April 30, 1997: They undergo formal interviews at the Boulder County Justice Center

May 20, 1997: Mrs Ramsey, who authorities believe could have written the ransom note, gives them a fifth handwriting sample

Summer 1997: The Ramseys move from Colorado to Atlanta

March 12, 1998: Boulder police ask the DA to take the case to a grand jury

June, 1998: Boulder police present the results of their investigation to Boulder District Attorney Alex Hunter's prosecutorial team and outside advisers; the Ramseys are interviewed separately over three days by investigators

August 12, 1998: Authorities say the Ramsey case will go to a grand jury and the following month, it begins

October 13, 1999: The grand jury disbands and the DA announces there is not enough evidence to file charges against the couple

March 29, 2001: The Ramseys file an \$80 million libel and defamation lawsuit against officers at the Boulder Police Department who agree to an undisclosed settlement in the case

March 31, 2003: Federal judge says evidence is 'more consistent with a theory that an intruder murdered JonBenet than it was with a theory that Mrs. Ramsey did'

December 2003: New DA confirms that DNA from a spot of blood from JonBenet's underwear has been entered into the FBI's national database - but that it's not from her family

June 24, 2006: Patsy Ramsey dies in Roswell, Georgia, at age 49, from ovarian cancer

August 16, 2006: John Mark Karr, a 41-year-old American school teacher who confessed to the crime, is arrested in Bangkok, Thailand - but his DNA does not match that found on the body

July 9, 2008: DA makes public a letter she has written to John Ramsey explaining that new DNA tests have convinced her that no member of the Ramsey family should remain under any suspicion

► **GIRL ABOUT**
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► **'It's an amaz**
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► **Ireland's first**
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► **Kendall Jenni**
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► **Vane**
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► **Poppy Delev**
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Bazaar ICONS
during NYFW

► **Eva Longori**
sizzles as she
her toned leg
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Haute Living :
For the magaz
issue

► **'A sad day for**
music': Tribut
for Troy Genti
tape reveals t
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September 2010: Reports surface that police seek to re-interview JonBenet's brother Burke, who had been 9 at the time of her death, as they continue to investigate the death

July 21, 2011: John Ramsey remarries to Jan Rousseaux, 53, a designer

June 14, 2012: A. James Kolar, who worked as an investigator in the DA's Office, writes in a new book that the Ramsey family 'may have been involved at least as an accessory after the fact'

October 23, 2013: Judge rules that the court will release grand jury indictment about the Ramseys

October 25, 2013: Indictment is released, revealing that in 1999 it accused the Ramseys of two counts each of child abuse resulting in death in connection to the first-degree murder of JonBenet

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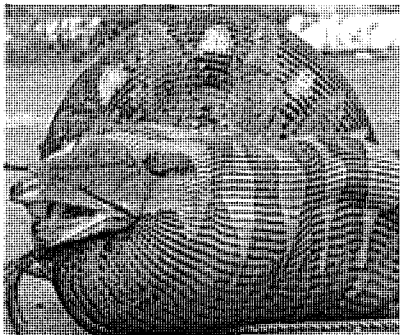
'The Case Of: JonBenet Ramsey': Investigator Says He and His Colleagues Will Name a Suspect

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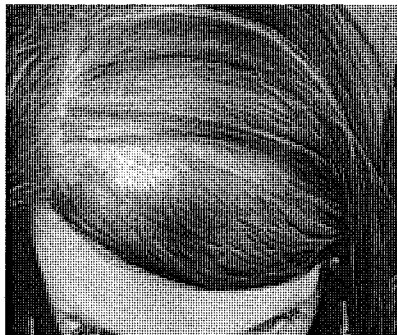
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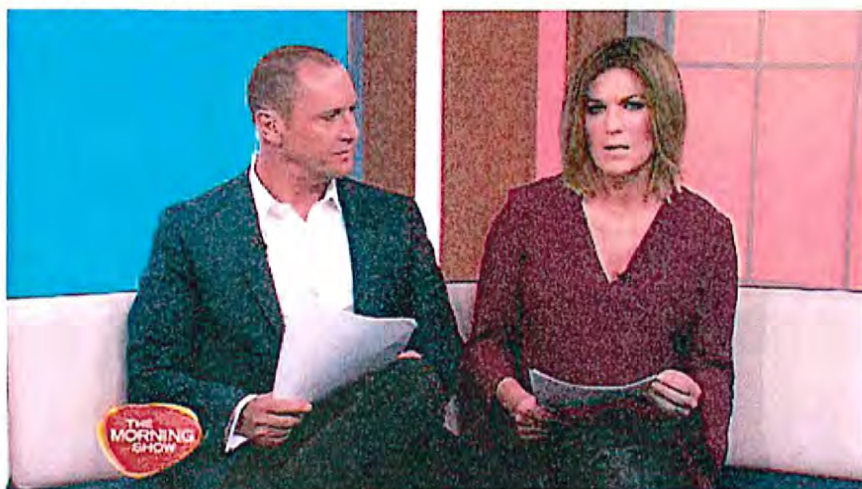
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Explosive new evidence in JonBenét Ramsey case revealed as 911 operator claims call seemed 'rehearsed'

Krystal Johnson and Yahoo - Yahoo7 and Agencies on September 20, 2016, 9:16 am


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Six seconds of previously-unheard audio from the 911 call made by JonBenét Ramsey's family has called into question their version of events with the 911 operator who took the chilling call saying the call seemed rehearsed.



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VIDEO JonBenét Ramsey's brother speaks

Investigators re-examining the JonBenét Ramsey murder case used modern technology to uncover the six extra seconds of what Patsy Ramsey said after she believed she had hung up the phone after calling 911.



JonBenét Ramsey was found dead in her parents' Colorado basement in 1996. Photo: Supplied

While some of the conversation is inaudible three phrases are clearly heard.

"We're not speaking to you," a male voice, believed to be John Ramsey, says.

"What did you do? Help me Jesus," a female voice, thought to be Patsy Ramsey, replies.

"What did you find?" a male child, believed to be Burke - who the family claim was asleep when they discovered the body, can be heard to say.

Kim Archuleta, the 911 operator, has spoken publicly for the first time and says she was "disturbed" by the way Patsy Ramsey's tone switched from hysterical to matter of fact over the phone.



John and Patsy Ramsey hold up a flyer promising a \$100,000 reward for information in 1997. Photo: Getty Images

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"I just remember having that sunken feeling, like something wasn't right," Archuleta said.

"The problem was, if you hear the frantic (tone) in her voice when she's speaking to me, where she couldn't even answer my questions, it immediately stopped."

After Patsy attempted to end the phone call, the 911 operator claims the mother could be heard saying, "Okay, we've called the police, now what?"

"It sounded like she said, 'Okay, we've called the police, now what?' and that disturbed me," Archuleta said.

"So I remained on the phone trying to listen to what was being said. It sounded like there were two voices in the room, maybe three. Different ones."

"I had a bad feeling about this, to me it sounded rehearsed."



Kim Archuleta, the 911 operator, says the mother's tone switched from hysterical to matter of fact over the phone and believes this "disturbed" her. Photo: Yahoo US

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- Ex-detective claims major flaws in JonBenet murder case

A tearful Archuleta said she stayed on the phone because she believed "there were things being said that people needed to know".

The operator said she was never contacted to testify during the 1999 Grand Jury proceedings against Patsy and John Ramsey, but believed her information may have "turned the case around" and contained evidence that was "never addressed".

Six-year-old child beauty queen JonBenét Ramsey was found dead in her family's Boulder, Colorado home the day after Christmas in 1996.

Retired FBI agent James Fitzgerald, an expert in forensic linguistics, told Yahoo US that the three-page ransom note left in the Ramsey family's home revealed the most about JonBenét's killer or killers.



Burke Ramsay's body language led many to speculate on what was going through his mind as he spoke to the TV psychologist. Photo: Dr Phil

Fitzgerald, who played a key role in identifying Ted Kaczynski as the Unabomber, said he wasn't convinced the letter demanding \$118,000 was written by an "authentic kidnapper," but instead said it was part of a staged crime scene.

"Within the first three sentences, quite frankly, I was convinced that this was not an authentic kidnapper, crime syndicate or terrorist group," he said.

The first thing Fitzgerald said he and investigators noticed were the first two words, which said: 'Listen carefully!'

"This is a written communication meant to be visually comprehended, but here someone is using an audible reference," he said regarding the first line.

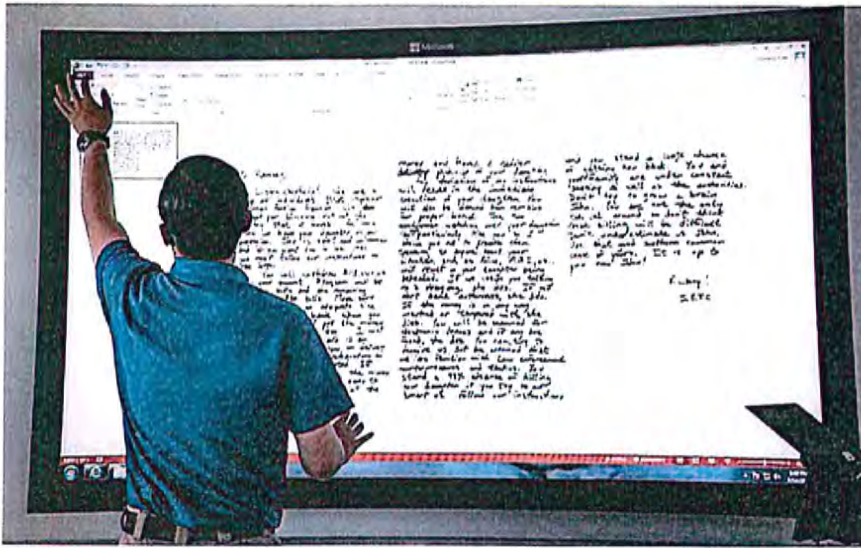
"The person who was writing this was truly out of his or her element, in terms of trying to be a real criminal or a real kidnapper."

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A lab technician gets ready for an examination of the ransom note. Photo: Yahoo US/CBS

After reexamining the case using new technologies and law enforcement expertise, the group is confident they know who killed JonBenét, he said.

"We feel very firm in rendering an opinion within the last 15 minutes of the show," Fitzgerald said, noting that identifying the little girl's murderer will be the closest thing to justice in the nearly 20-year-old case.

"If we as a species, as human beings, can't protect the youngest and the most innocent among us, then we fail," he said.

"Short of protecting them, when something bad does happen to them, death or an assault of some sort, then we owe it to that victim, and we owe it to every other child or innocent victim out there, to bring justice."

VIDEO Documentary suggests evidence of 'intruder' in JonBenet Ramsey case

None of the Ramseys, including JonBenét's then-9-year-old brother, Burke, were ever charged in the killing and they have always maintained their innocence.



Patsy Ramsey died in 2006 from ovarian cancer, two years before she, John and Burke were officially cleared by then-District Attorney Mary Lacy, who wrote that DNA evidence pointed elsewhere.

Fitzgerald and his team's findings were filmed for CBS's special, The Case Of: JonBenét Ramsey, which premiered Sunday in the US.

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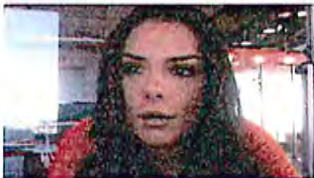
A whale calf caught in shark nets off the Queensland coast line has been freed.



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SEPTEMBER 19, 2016

9:04pm PT by Ryan Parker

'The Case Of: JonBenet Ramsey': Investigators Land on Theory of Brother Burke Ramsey



'The Case of: JonBenet Ramsey'/CBS

The Ramsey family



"In my opinion, the Ramsey family did not want law enforcement to solve this case, and that's why it remains unsolved," says retired FBI profiler Jim Clemente.

After going through the evidence and conducting interviews with some of those involved in the case, a panel of law enforcement specialists all agreed on the theory that Burke Ramsey killed his sister, JonBenet, during Christmas 1996.

Retired FBI profiler Jim Clemente and former Scotland Yard criminal behavior expert Laura Richards worked with specialists for the CBS two-part special, *The Case Of: JonBenet Ramsey*. The series premiered Sunday night.

The panel of investigators included forensic linguistics expert James Fitzgerald, famed criminologist Werner Spitz, former Boulder County District Attorney's Office investigator James Kolar, statement analyst Stan Burke and forensic scientist Dr. Henry Lee.

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'The Case Of: JonBenet Ramsey': TV Review

Everyone on the panel settled on the theory that the then 9-year-old Burke — who, along with his parents, has always maintained his innocence — killed then 6-year-old JonBenet by accident in a fit of rage, perhaps over a toy or her eating his food.

The seasoned investigators also asserted that John and Patsy Ramsey concocted the entire kidnapping scenario to confuse authorities and spare Burke.

"I don't think Burke was involved in the cover-up," Fitzgerald said.

Clemente added, "In my opinion, the Ramsey family did not want law enforcement to solve this case, and that's why it remains unsolved."

During the two-night series, investigators looked at numerous pieces of evidence, and to better understand the surroundings had rooms from the Ramsey home reconstructed to look the way they did on the day JonBenet was reported missing and ultimately found dead.

The evidence that formed the basis of the investigators' theory included the transfer of DNA onto JonBenet's underwear — it could have come from someone at the manufacturer — which led them to rule out a sexual assault; the red marks on JonBenet's back being made by a toy train track piece, not a stun gun; and that nothing — neither spiderwebs nor other debris — around the window seal through which the perpetrator allegedly entered was disturbed.

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'The Case of: JonBenet Ramsey' Premiere: Multiple Bombshells Dropped in Colorado Cold Case

During the Sunday premiere, Clemente and Richards worked with an audio expert to decipher what was said on the emergency phone call after Patsy Ramsey believed the line was disconnected following her report that JonBenet had been kidnapped for ransom.

Investigators heard what sounded like three different voices talking in the background on the other end.

Clemente, Richards and the audio engineer said they heard what sounded like JonBenet's father, John, saying, "We're not speaking to you." Then, likely Patsy, asking, "What did you do?", followed by "Help me, Jesus." It may also have been "Help me, Jesus" twice in a row. Finally, what sounded like the voice of a child — which the investigators claimed must have been Burke — asking, "What did you find?"

During the first episode, investigators also discussed how the ransom note did not make sense for multiple reasons and examined the exact cause of JonBenet's death, with Spitz concluding it was a blow to the head by a blunt force object, likely a Maglite flashlight.

A note at the end of the series on Monday stated that the investigators hoped their findings would inspire the Boulder County District Attorney's Office to reexamine the case.

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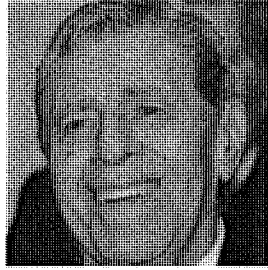
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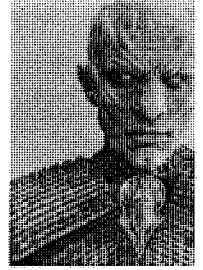
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CBS Panel: Burke Ramsey killed sister JonBenet

Newser Editors , KUSA 1:05 PM. MDT September 20, 2016



(Photo: AP Photo/Ric Feld, File)

(NEWSER) – A team of investigators who pored over evidence in the JonBenet Ramsey murder 20 years after the fact presented its conclusion Monday night: Brother Burke did it.

The scenario laid out by the panel: Burke, who was just a shade under 10 at the time, hit his sister in a rage with a flashlight when she stole a piece of his pineapple from a bowl he was snacking on before bed. (A bowl on the kitchen table and the contents of JonBenet's stomach helped lead to that theory.)

Panelists do not think he killed her intentionally, but they were unanimous in asserting that parents John and Patsy Ramsey then took over and concocted an elaborate fake kidnapping story as a cover-up, reports E! Online (<http://www.eonline.com/news/796127/cbs-the-case-of-jonbenet-ramsey-solves-the-murder-here-s-who-investigators-say-did-it>).

The show includes an interview with a former neighbor who said Burke had a temper and once hit JonBenet in the face with a golf club.

"If you really, really use your free time to think about this case, you cannot come to a different conclusion," renowned forensic pathologist Dr. Werner Spitz, a member of the panel, tells CBS Local (<http://detroit.cbslocal.com/2016/09/19/jon-benet-ramsey-killer-was-in-the-family-dr-werner-spitz-believes/>).

"It's the boy who did it." Among other things, the panel is sure that Patsy Ramsey wrote the unusually long three-page ransom note found in the home. And the supposed stun gun marks on JonBenet? Investigators say they more likely came from a piece of track from Burke's railroad set, perhaps as he was poking his sister in an attempt to revive her.

In part one of the show (<http://www.newser.com/story/231329/911-dispatcher-something-was-off-in-jonbenet-911-call.html>), the panel replayed the original 911 call, which keeps recording after Patsy thinks she has hung up. With enhanced audio, the panel makes the case that Burke himself can be heard speaking to his parents, though he was supposed to have been sleeping the whole time. (Burke denies any involvement and recently gave an interview to Dr. Phil (<http://www.newser.com/story/230975/jonbenets-socially-awkward-brother-breaks-his-silence.html>)).

Newser

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'The Case Of: JonBenét Ramsey' pins her death on her brother Burke

Erin Jensen, USA TODAY 4:14 p.m. EDT September 20, 2016

A team of investigators, who assembled for the two-part CBS docu-series *The Case Of: JonBenét Ramsey* (<http://storylife/tv/2016/08/16/jonbenet-ramsey-murder-new-tv-shows/88768310/>), believes the beauty queen's brother is responsible for her death in December of 1996.

With retired FBI profiler Jim Clemente and criminal behavioral analyst Laura Richards at the helm, the team reexamined evidence from the nearly two-decade old case which seemed to indicate JonBenét was killed by someone in her immediate family.

The team dissected a lengthy three-page ransom note that they said contained an extremely extraneous amount of words, not common of ransom notes since speed and brevity are usually key. It was also written on stationery and with a pen found in the home.



The team: (left to right) James Kolar, Dr. Werner Spitz, James Fitzgerald, Laura Richards, Dr. Henry Lee, Jim Clemente, and Stan Burke. (Photo: Neil Jacobs/CBS)

STORY FROM THE MOTLEY FOOL

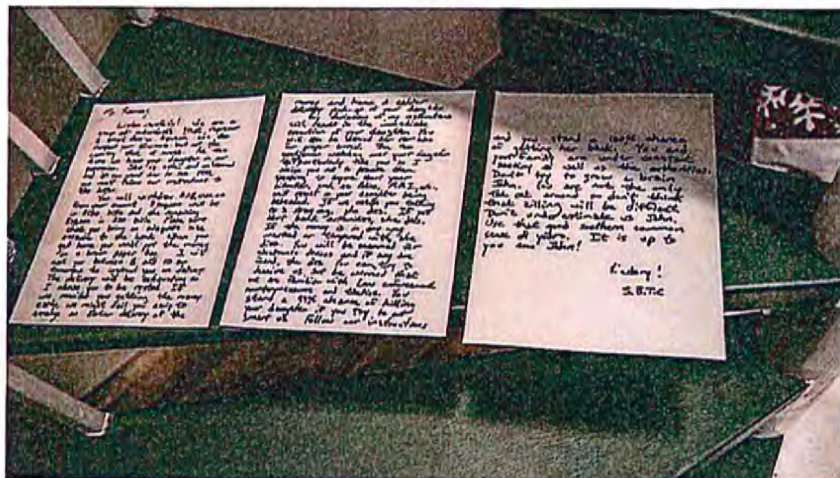
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Using sound reduction, Clemente and Richards believed they could identify three voices from the 911 call Patsy made after she thought she'd hung up the phone. The investigators thought they heard John, Patsy, and Burke Ramsey who was 9 at the time and said to be asleep.

"We're not speaking to you," the team believed John said with Patsy possibly saying, "What did you do?" The pair also thought they heard Burke say, "What did you find?"

For the investigation, a life-size replica of the Ramsey house was built. Using the model, they explored the intruder theory which they ultimately felt did not hold up.

They also concluded that the foreign DNA found on JonBenét's clothing, which led people to believe the Ramseys were innocent, could've been transferred in the manufacturing process.



The three-page ransom note found on the stairs of the Ramsey home. (Photo: Neil Jacobs/CBS)

Clemente and Richards also talked to a former member of the Boulder Police Department, Gretchen Smith, who believes that Boulder's former District Attorney, Alex Hunter, didn't want to prosecute the Ramseys because of their clout.

"The parents of the child, they have money," Smith said. "The District Attorney's office and some of administration did not want to hear that an affluent member of the community was guilty of a crime like this ... I don't think they wanted to solve this crime, and if they had to go down a different path that might not have been the truth, I think they were willing to do that."

Clemente and Richards also chatted with Steve Thomas, a former Boulder Police co-lead investigator, who stated in his resignation letter that, "Attempts to gather evidence were met with refusals and instead it was suggested that we ask for permission from the Ramseys before proceeding."



(Left to right) Laura Richards and Jim Clemente, members of the investigative team. (Photo: Michele Crowe/CBS)

Thomas believes Patsy wrote the ransom note, and said Hunter was extremely uncooperative. Despite a grand jury voting to indict ([/videos/news/2013/10/25/3196091/](https://www.cbsnews.com/news/2013/10/25/3196091/)) John and Patsy, Hunter said he did not have enough evidence to prosecute the Ramseys. Hunter also did not comply to be interviewed for the docu-series, because he said it would be too difficult to do without getting into grand jury information which he cannot discuss.

So who in the home could've committed the crime? John was the one who found his daughter's body and then moved it upstairs, compromising the crime scene and the forensic evidence. But was he a key component of his daughter's death or the cover-up?

In a video-taped interview administered by a child interview specialist, Burke was playful and light-hearted though the timestamp indicates it is Jan. 8, approximately two weeks after his sister was killed. He had no concern about his security and told the specialist, "I'm basically just going on with my life."



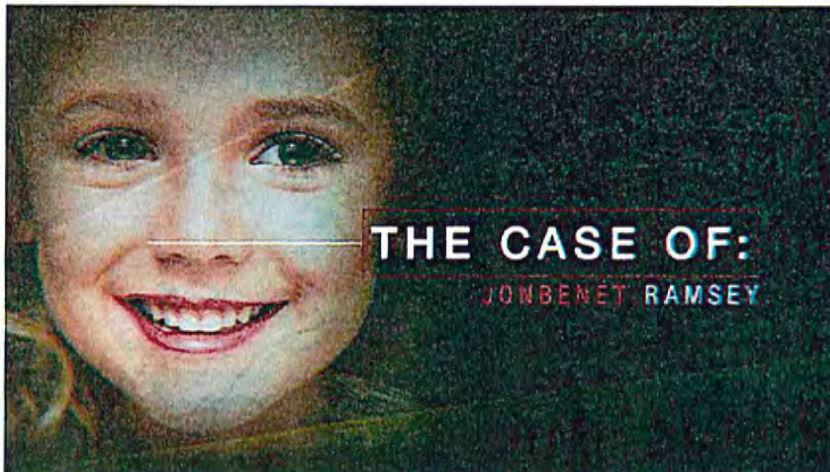
Former Boulder District Attorney Alex Hunter in 1999. (Photo: MARTY CAIVANO, Associated Press)

But does that mean he's a murderer? A family photographer said that Burke had a temper and once hit JonBenét in the face with a golf club. Burke admitted in a subsequent interview that even though he heard his mom going "psycho" he didn't feel the need to get out bed to see what was wrong. Also, the team believed a piece of a toy train track, like the ones found in Burke's room, could've caused an injury on JonBenét's back.

The investigators surmise that JonBenét made her brother mad — perhaps by stealing a piece of pineapple he was snacking on. Then, in retaliation, Burke hit her on the head with a flashlight. Some members of the team did not think he had an intent to kill, but believed John and Patsy had an intent to mislead and cover up.

"I think in the end this was about two parents (who) deeply cared for the daughter they lost," Clemente said, "and wanted to protect the child they had remaining."

On a recent episode of *Dr. Phil* ([/videos/news/2016/09/13/90302014I](https://www.youtube.com/watch?v=90302014I)), Burke said he stayed in his room because he likes to avoid conflict and is "not the worried type." He also said the handwriting on the ransom note was "too sloppy" to be his mother's, who pushed him to take pride in his penmanship.



The conclusion of 'The Case of: JonBenét Ramsey' aired Monday. *(Photo: CBS)*

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