

Guest Opinion

# Boulder DA Stan Garnett: Another perspective on release of Ramsey indictment

*By Stan Garnett, For the Camera*

POSTED: 10/27/2013 01:00:00 AM MDT



Boulder County District Attorney Stan Garnett

The lessons for a district attorney from the tragic murder of JonBenet Ramsey are many. I have studied this case closely both before and after becoming DA.

The first lesson is the incomparable value of jury trials. Jury trials are public and fair: all witnesses are subject to cross examination and the ultimate decision makers are juries: people with no stake in the matter who have heard all the evidence. An excellent DA's office must have a cadre of top trial lawyers, capable of ethically presenting tough cases to juries, which requires practice and skill.

The over 200 felony jury trials that my office has handled since 2009, including nearly 15 homicides, represents more than three times the average number of cases tried annually in this judicial district in the 20 years prior to my taking office. Without a verdict at a jury trial, or a plea of guilty, the justice system provides no meaningful resolution of any particular case.

Because no case has ever been brought against anyone in Ramsey, the community has had no resolution and the tabloid press has been free to speculate, sometimes recklessly, based on only parts of the evidence. There has been no public airing of all the evidence in open court, nor can there be, unless and until a case is filed, which has been an understandable frustration to the community.

Second is the importance of law enforcement relationships. The Boulder DA must have strong relations with all 10 agencies with which it works. Up and down the chain of command, my staff works closely advising, training and listening to the sheriff, police departments, state patrol, FBI and DEA and we have a strict on-call protocol to advise police 24/7 and immediately send senior lawyers to all significant crime scenes.

Third is the importance of having excellent grand jury lawyering. Though this judicial district, as one of Colorado's largest, has for decades had the statutory right to a standing grand jury, until 2009, the grand jury was used only sporadically. Since 2009, my office has handled regular grand jury cases and returned over 20 public indictments, mainly on complex cases.

Finally, it's important to understand the proper role of the DA in the justice system. A DA's job is to file cases where ethical standards are met and to pursue them to justice. District attorneys are not priests; our job is not to forgive, and rarely to "exonerate", and straying from this role can be very confusing to the public and can create false impressions of certainty about uncertain evidence, subject to conflicting inferences, that has never been presented and tested in open court. Under our system of justice everyone is presumed innocent (or, is "exonerated" ), unless charges are brought and there is a conviction by a jury in open court.

Which brings me to the "true bills" from the Ramsey grand jury. I became aware of the existence of these documents when I took office in 2009. I asked my appellate department to review them and was told that they related to charges for which the statute of limitations had run years ago. My staff evaluated the Ramsey case to determine if there was any charge for which the statute of limitations had not run and for which there was conclusive evidence. Because there was none, we focused on other matters (including four murders we tried in 2009, two of which were cold cases). My, or my staff's view of what the evidence in the Ramsey case proves will only be stated in open court if a case is ever filed. In the meantime, everyone, including the Ramsey family, is entitled to the full presumption of innocence.

When the plaintiffs in the recent lawsuit first requested these documents, I checked with investigators as to whether such disclosure would jeopardize the investigation. Being assured that it would not, as the custodian of these archival documents, I responded

repeatedly to the plaintiffs that I would not release any document absent a court order to do so, both to protect the viability of grand jury secrecy and due to the extremely unusual nature of this situation for which there is virtually no legal precedent anywhere. When ordered by Judge Lowenbach to do so, we turned over the documents.

These documents mean that this grand jury believed there was "probable cause" (a lower threshold standard of proof than "beyond a reasonable doubt" ) based on the evidence they had heard, that the named defendants had committed the crimes listed. That they were not pursued within the statute of limitations means that the DAs with the authority to do so believed that the evidence did not rise to the necessary level to prove guilt beyond a reasonable doubt at a jury trial. I don't know if I would have made the same decision, but I know how difficult these decisions are.

I will continue, together with my excellent staff, to focus on the cases where we can take action, taking as many as possible to jury trial, as we continue to have the honor to serve the people of the 20th Judicial District.

*Stan Garnett is the Boulder County District Attorney.*