



Stunning Development in Anna Nicole Case

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FOX NEWS

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GRETA VAN SUSTEREN, HOST: Tonight, manslaughter or worse? Is Anna Nicole's death a murder? Just hours ago, a stunning report. Seminole police have been meeting with homicide prosecutors.

Joining us, Nikki Waller, a reporter for The Miami Herald. Welcome, Nikki.

NIKKI WALLER, MIAMI HERALD: Good evening.

VAN SUSTEREN: Nice to see you. So explain to me, since The Miami Herald broke this story — at least, as far as I can figure out, you guys did — what is going on in terms of the investigation of Anna Nicole in south Florida?

WALLER: Well, what we know right now is that the Seminole police came to our prosecutors in Broward County and had a meeting. We don't know what they said. We're not too sure what they talked about. We hear a couple things. But they had a meeting just yesterday with homicide investigators. It's not a homicide investigation yet. This is still a death investigation. It's still a non-criminal investigation. But a lot of people are reading a lot of meaning into that meeting.

VAN SUSTEREN: All right. Now, you say it's not a homicide investigation. I take it that's because Broward County is saying this is not a homicide investigation, this is a death investigation, although it's a homicide — homicide prosecutors who are talking to the police.

WALLER: Right. And what the Seminole police have said to us is, You know, if you're investigating a death, the homicide investigators are the people you're going to want to go to at the prosecutor's office.

VAN SUSTEREN: Do you know if Dr. Perper was in any way part of any of these discussions?

WALLER: As far as we know, he's not. They are still reviewing some of the findings that have been presented to them, and they're working on determining what that cause of death was and when they can produce that cause of death, so all the rest of us can learn about it.

VAN SUSTEREN: Are your sources describing this meeting between the Seminole police and the Broward County homicide prosecutors as routine, or are they suggesting that it's unusual?

WALLER: Well, it's hard for any meeting like that, I think, to be exactly routine, but what they're — they say they're just trying to do is exhaust all possibilities in this investigation. And before they look at some evidence, they want to make sure that they're doing it right. They want to know that they're looking at every possibility and that they're investigating it in the correct way. That's the main thing that they keep telling all of us. I'm sure they're telling you and everybody else. They're just trying to be, with a death as public and as visible as this one, as careful as they can be.

VAN SUSTEREN: Nikki, oftentimes, the police will make recommendations to the prosecutors in terms of whether or not they think that this is a criminal case or an accident, suicide or natural causes, in conjunction with discussion with the

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medical examiner. Do you know if the police are suspicious this is anything more than, you know, natural causes or an accident?

WALLER: Well, this is officially termed a suspicious death. That just means it's something they're still looking into. Other than that, the Seminole police are holding their cards very close to their chest. We would love for them to tell us something like that, but right now, we're not getting anywhere with that. They're just saying they're investigating it thoroughly, and that's as far as they're going to go.

VAN SUSTEREN: Do you know if the Seminole police or the Broward County homicide prosecutors have asked to speak to Big Moe, who was in the room, about the time she died or his wife or Howard K. Stern?

WALLER: You know, we don't know that. We have seen reports, actually, from FOX News that the Seminole police talked to Big Moe very recently. But as far as whether homicide prosecutors have ever done that, we do not know. We do know that there is some concern over some of these computers that they have in their possession. We have sources telling us that one of the things they may have talked to homicide prosecutors about was whether or not they can access those computers without a search warrant. I think they're trying to get a warrant, possibly, so that they are just — You know, they don't know what's on those computers, but they want to make sure their tracks are entirely legal and that they're accessing everything in the best way.

VAN SUSTEREN: One last question. Bahamas — any police in the Bahamas involved in this discussion or any law enforcement from the Bahamas?

WALLER: Well, we do have law enforcement from the Bahamas who are here in south Florida right now, and they are meeting with Seminole police. As far as we've heard from the Bahamian assistant police commissioner over in the Bahamas, they're meeting to, of course, talk about this death, this death — because Anna Nicole was a Bahamas resident at the time of her death, this is an issue for them. And if it is about these computers, there's also an issue in the Bahamas as to whether or not those computers were taken lawfully from the home that Smith was living in when she died. We don't say it's Smith's home because, obviously, that, too, is being contested in the Bahamas.

VAN SUSTEREN: And of course, the person who is suggested of having taken those computers said that Anna Nicole told him, even gave the password so that the computers could be accessed. But I guess we'll hear more about that. Nikki, thank you.

WALLER: Thank you.

VAN SUSTEREN: Could murder charges be a possibility, or is this just a routine investigation? Let's bring in our legal panel. In Tampa, prosecutor Pam Bondi. Here in D.C., criminal defense attorneys Ted Williams and Bernie Grim.

Pam, this is your state and you're the prosecutor, so we'll start with you. A meeting with the prosecutors, routine or was your antenna up on this one?

PAM BONDI, PROSECUTOR: Routine, Greta. Routine. First of all, in our county — and we have a population in Tampa of about the same as Broward County — we talk to law enforcement on a daily basis. We meet with law enforcement once a week. Any time there's a suspicious death, they consult with the state attorney's office. So no, it really doesn't raise my antenna at all that there was a meeting because it's routine, it's done. And I think they would be negligent if law enforcement didn't bring it to the state attorney to at least look at the legal issues. That's part of what we do.

VAN SUSTEREN: Wouldn't you expect that meeting to occur after a final autopsy report? Maybe they have one. But at least — at least — you know, we — it's termed a suspicious death, but the fact is, we don't even know whether it truly is suspicious, at this point. It's suspicious to us.

BONDI: Yes. And most likely, Dr. Perper has completed his investigation and now he's dotting all the I's and crossing the T's and meeting with the state attorney's office, if, in fact, they did meet on it. But again, it's very routine. And I'll tell you, we work hand in hand with the medical examiner's office here from day one. I mean, we're present in many of the autopsies. So that's not unusual and that really shouldn't raise a lot of suspicions for us, at this point.

VAN SUSTEREN: Bernie?

BERNIE GRIMM, CRIMINAL DEFENSE ATTORNEY: Yes, by definition, anyone that's 39 years old and presumptively in some sort of good health, not terminally ill cancer patient — somebody dies at 39, there's going to be — it's going to be looked into by the authorities. I agree with Pam. You have the following four scenarios are possible. Natural, accident, suicide, homicide, perhaps some convergence of one or two. But you need those facts in order for Dr. Perper to just

conclude.

VAN SUSTEREN: All right. Let's jump way ahead, and this might be — you know, this might not be the case, but let's assume that this is a methadone overdose. And we've seen the pictures in the refrigerator. If I were investigating it as a criminal investigator, I'd like to know whether she had it lawfully, whether someone was, you know, violating any law in giving it to her, and I would also like to know whether — I mean — I mean, prescribing it to her or delivering it to her. I'd also like to know if someone actually administered it to her, and in what amounts.

GRIMM: Right. I mean, that is critical. I wouldn't call that a first-degree murder. It's probably a negligent homicide, but...

VAN SUSTEREN: Manslaughter.

GRIMM: Manslaughter. But if there's a doctor prescribing that and she doesn't need it and she's getting it to get high and she overdoses on it, that doctor's going to be on the hook.

VAN SUSTEREN: And I heard Pam mutter, Third degree, which must be the standard for manslaughter in Florida, right?

BONDI: I'm sorry. Actually, in Florida, we have a drug overdose statute, and it's a third degree murder. It's under the homicide statute. But as we've discussed, Greta, it's very difficult to prove without an eyewitness, without a confession because you have to show that the person who supplied the drugs to the victim, that those drugs were the proximate cause of the victim's death and it was the actual drugs that that person supplied them.

VAN SUSTEREN: And you know what? If you take the real extreme, though, I don't know if you need an eyewitness — if you bring someone, you know, a barrel of methadone who's got a problem and the person takes it — I mean, there are some situations that are just — you know, I assume, would overcome the eyewitness aspect.

All right, Ted, your turn. Your turn.

TED WILLIAMS, CRIMINAL DEFENSE ATTORNEY: Yes, well, being a former homicide detective, I can unequivocally agree with both of my colleagues here...

VAN SUSTEREN: You leave me out, as usual!

(LAUGHTER)

(CROSSTALK)

VAN SUSTEREN: Some things never change, Ted! I was waiting to see if I got included.

(LAUGHTER)

WILLIAMS: I'm going to bring you in this time and make you inclusive. But...

VAN SUSTEREN: So I'm this charity case.

WILLIAMS: It is routine for homicide detectives to meet with the state's attorney or the U.S. attorney's office, as well as the medical examiner. As Pam has said, they're normally within the autopsy, even observing the autopsy.

Now, what is interesting in this case, though, is that the Bahamian police department is here in Florida, talking to the police department there. And the only reason that I can see that they are there is that they're looking to see if there's any nexus between the death of Daniel in the Bahamas and Anna Nicole's death.

VAN SUSTEREN: Oh, that's an interesting point because they're having the inquest at the end of March in the Bahamas. But the thing that still sticks — I mean, sticks with me is the amount of methadone in the refrigerator.

WILLIAMS: You know...

VAN SUSTEREN: Nobody — I mean, according to Dr. Baden (INAUDIBLE) join us, it's not prescribed by that — I used — obviously exaggerating — by a bucket. You know, but...

WILLIAMS: Oh, and as you know, we've been told that Daniel died of a drug overdose. Now, the question is, What happened to Anna Nicole Smith? Was it a methadone death? Now, I can tell you that we know what happens and why methadone is given to individuals. It's given to them for drug habits. So the question is, was there an overdose of Anna Nicole Smith here in Florida?

VAN SUSTEREN: All right. And how she got it and all the rest of it.

WILLIAMS: Absolutely.

VAN SUSTEREN: Well, anyway, panel, thank you. Nice to have you all back. Thank you.

VAN SUSTEREN: We don't know — as Ted just noted, we don't know if Anna Nicole's death is an accident, natural causes or a crime. We do know that the medical examiner's report is expected any day.

Joining us, forensic pathologist Dr. Michael Baden.

DR. MICHAEL BADEN, FORENSIC PATHOLOGIST: Hi, Greta.

VAN SUSTEREN: Good evening, Dr. Baden. Dr. Baden, am I wrong to sort of be stuck on the sort of large amount of methadone in the refrigerator?

BADEN: No. I think you're absolutely right. And the way it was given — it was sent under a false name. This was not distributed in the way that it normally would be distributed. And it would only be distributed if she were a heroin addict. Methadone works specifically on other narcotic drugs. Remember, there's some Vicodin or Oxycontin, some other drugs in that refrigerator also. So if Anna Nicole was taking various narcotic drugs that were prescribed for her and sent to her improperly, that may be the reason that they're looking for some criminality.

VAN SUSTEREN: So they probably — so they — so — an alleged criminal investigation — I use "alleged" because, you know, we don't know for sure — could be that they aren't looking into necessarily why she died but it's rather how she got the drugs and whether there was some criminal behavior in — in — with that.

BADEN: I think that's exactly right because they — Dr. Perper knows the cause of death at this stage. All the medical stuff has been completed — the autopsy, toxicology. He knows the cause of death. It's the manner of death that I think is being further evaluated. Remember, a homicide is different for medical examiners than for lawyers.

VAN SUSTEREN: Dr. Baden, were you taught or is it understand within the medical profession, if you have someone particularly vulnerable to some sort of drug or whatever — I mean, the person's an addict or (INAUDIBLE) excessive prescribing and actually handing the drug to the person, is that considered a crime?

BADEN: Yes. If a physician is writing script or as — a lot of illegal drugs get on the street because physicians overprescribe for certain patients, certain drug users to get money. And we would call that kind of a death homicide if illicit drugs were taken and given to a person and caused death. Now, whether or not it's a crime is up to the prosecutor and the district attorney. But by saying homicide, it means death because of what some other person did, in this case, supplied drugs.

VAN SUSTEREN: All right. Well, then I would not be so quick to dismiss this as simply a routine — it may be a routine discussion between the prosecutor and the police, but I would have my antennas a little bit up. Anyway...

BADEN: I agree.

VAN SUSTEREN: All right, Dr. Baden. Thank you.

What does Anna Nicole's mother, Virgie Arthur, think about this development? And what about the paternity fight over Dannielynn. Joining us, Virgie Arthur's lawyer, John O'Quinn. John, Welcome back. Last night, we didn't have much time, and you wanted to speak in greater depth about this whole issue about whether or not your client, Virgie Arthur, the grandmother of this child, should have custody of this child. So take it away.

JOHN O'QUINN, ATTORNEY FOR VIRGIE ARTHUR: OK, Greta. Thank you very much. In the law, there's two phrases that control custody. One phrase is, Do what's in the best interests of the child. The other phrase is, Who is fit to be a parent? And in this case, what's in the best interests of Dannielynn is that her grandmother mother her and provide maternal support, love and affection.

VAN SUSTEREN: All right, let me stop right there...

O'QUINN: It's not — it's not — no?

VAN SUSTEREN: I mean, just let's take this one by one.

O'QUINN: Go ahead.

VAN SUSTEREN: Best interests — that's the first point? You say that it's in the child's best interest.

O'QUINN: Correct.

VAN SUSTEREN: All right. Would you agree that a parent, instead of a grandparent, might be — is — in the law would have priority over a grandparent in terms of best interests, assuming that the parent is not a drug addict or a ne'er-do-well of some sort?

O'QUINN: Not in this case because a parent — either of those men are nothing but sperm donors. They're like one-night stands. They had maybe sex one time, not sex to create a child, not have any interest to have a child, just sex. And here's this fellow, Stern, who is sneaky and whatever. He won't even have a blood test to prove that he is or is not the parent. That is a not a fit person that is not willing to come forward as an honest man and say, I will take the blood test. I will let the court know for sure what my status is regarding this child.

VAN SUSTEREN: All right. Now, let me just stop you...

O'QUINN: And also, he...

VAN SUSTEREN: Let me — let me talk about Howard K. Stern. Let me answer that, just, you know, to get — we'll take them one by one. Howard K. Stern, you say, is not fit, that he's sneaky, won't do the test. Look, I have lots of objections to him not allowing that baby to be swabbed so that paternity can be established. But he has certainly cared for that child and — since the day the child was born, living in the same household. I mean, he's not unfit in that he's going to harm the child. Do you agree?

O'QUINN: I do not agree with that. Howard K. Stern is going to do whatever helps Howard Stern. Remember, he was trying to strike a bargain with Larry Birkman (SIC) that he would yield and let Birkman have custody if Birkman would make sure that Stern got to run the estate of Anna Nicole. Stern's motives, Stern's agenda is to keep control of the money.

VAN SUSTEREN: All right. Now, you characterized both of them as one- night stands, sperm donors. Let me take to you task a little bit with that. And that's not to take away from Virgie as the grandmother. But both of them had long-term relationships with Anna Nicole in various forms. Howard K. Stern's been living with her at least since — I mean, off and on, I mean, he's had something for several years of a relationship with her. And Larry Birkhead had a relationship with her and even sought to establish paternity right after the child was born. So it's not like these are runaway dads or attempting to be runaway dads.

O'QUINN: Stern was a user. He used Anna Nicole. He wasn't there for any other reason. Remember, Anna Nicole took a massive amount of drugs while she was pregnant with Anna — with Dannielynn. That was dangerous to Dannielynn. And Stern is the one that got the drugs. He got — they had so many drugs, they got them from more than one doctor. And he took them around in a duffel bag — he being Stern — and fed them to Anna Nicole while she was pregnant, which is absolute insanity when it comes to not only the health of Anna Nicole, but the health of the baby.

VAN SUSTEREN: All right, you say Howard K. Stern...

O'QUINN: This man's not showing real concern.

VAN SUSTEREN: You say Howard K. Stern. What about Larry Birkhead? Are you saying that he is unfit?

O'QUINN: I'm saying that Larry Birkhead should not have custody ahead of the grandmother. I'm not saying anything else about that. I don't know what, if any, involvement he had with the drugs. I do know he had a very brief relationship with Anna Nicole. He was a photographer, took her picture, apparently had some sex with her.

Look, the main thing is who's going to have custody right now? This is a 5-month-old child. All the child psychologists tell us

that the first five years of the life of a child are absolutely crucial to their long-term health and happiness. And who is going to take care, while these two guys skirmish about who's going to take a blood test, who's not going to take a blood test, whether it's going to be in California or it's going to be in the Bahamas, dancing, dancing, dancing, dancing!

VAN SUSTEREN: I agree. I'm with you on the DNA swab. One final question. There is a paternity hearing Friday in the Bahamas. Are you — do you intend to be there? Does your client intend to be there? Are you going to assert demand for custody at that hearing?

O'QUINN: We both will be there, and we'll ask for interim custody at this time in order to provide a life for this child. And it's subject, of course, to (INAUDIBLE) later if these men ever do take a blood test and it's ever proven either one of them is the father.

VAN SUSTEREN: All right, I lied. I have one more. How is Virgie doing, by the way? How is the grandmother doing?

O'QUINN: This is an extremely hard time of her life. Not only has she lost her daughter, she lost her grandson, who died in the presence of Stern of a drug overdose. She now has a granddaughter who's still in the hands of the man who all arrows (ph) are pointing to as having killed her daughter and her grandson, and she's worried sick about what's going to happen to her granddaughter.

VAN SUSTEREN: All right. Well, of course, I'm not going to belabor the point. You know, there's been nothing to suggest — not — there's been no even allegation that he killed the grandson or the daughter. But I heard what you said. All right...

O'QUINN: There are allegations.

VAN SUSTEREN: All right. Well, OK. Well, they're your allegations. And so, well, we'll see what happens on Friday. Good luck, John, and I hope you come back.

O'QUINN: Thank you, Greta.

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