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## CNN NEWSNIGHT AARON BROWN

**Clarke Testifies Before 9/11 Commission; New Leadership of Hamas Promises Revenge**

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HEIDI COLLINS, CNN ANCHOR: And good evening, everyone. I am Heidi Collins, as you know. Aaron Brown is off tonight.

For a second straight day while the television cameras rolled, the 9/11 commission asked tough questions and got blunt answers from some very big names in government.

Richard Clarke was, without question, the day's star witness, his testimony coming in the wake of the controversy set off by his new book, a book which is deeply critical of the administration he once served.

The Bush administration has been attacking his credibility for days. Today those attacks continued and both sides of the story dominated the news. We get to all of that tonight in the program.

CNN's David Ensor gets us going with a headline -- David.

DAVID ENSOR, CNN NATIONAL SECURITY CORRESPONDENT: Heidi, it was the blame game in the hearing room today. Richard Clarke reaffirmed and sharpened his critique of the Bush administration saying it didn't do enough to stop al Qaeda before 9/11. There was criticism from Clarke and others also for the FBI, the CIA and the Clinton administration.

COLLINS: David, thank you.

Onto the electricity inside the hearing room and out, our Kelly Wallace covering that end of things, Kelly a headline from you.

KELLY WALLACE, CNN NATIONAL CORRESPONDENT: Heidi, all you had to do was look out in the audience to get a sense of the weight of what was being discussed. Family members who lost loved ones on September 11th holding pictures of their loved ones up close to their chest, listening to questions, looking for answers and an apology -- Heidi.

COLLINS: Kelly, thank you.

Next to the Middle East on a tense and bitter day in which we heard from the man who is planning vengeance against Israel. CNN's Brent Sadler with that, Brent a headline.

BRENT SADLER, CNN CORRESPONDENT: Thanks, Heidi. The new leadership of Hamas vows to attack more Israelis and threatens to kill Israeli Prime Minister Ariel Sharon. Israel warns there will be no immunity from attack for what it calls Palestinian chiefs of terror.

COLLINS: Brent, thank you.

And finally to Eagle, Colorado tonight, just a spot on the map until the Kobe Bryant trial and the high stakes hearing today. CNN's Gary Tuchman is there, Gary a headline.

GARY TUCHMAN, CNN NATIONAL CORRESPONDENT: Heidi, for the first time since the night of the alleged rape, Kobe Bryant and his accuser were face to face as the woman testified about her sexual past -- Heidi.

COLLINS: All right, back to all of you in just a moment.

Also on our plate tonight two little words, one big controversy, and some major disorder in the Supreme Court.

Plus, he's only 14 years old but already infamous, why this young Palestinian boy was arrested today by Israeli soldiers.

And later, 700 sites in 20 years, tonight our still photo segment gets a little heritage, all of that ahead.

We begin though, once again, in a Senate hearing room where the man at the center of a political hurricane testified before the 9/11 commission today. Under oath, Richard Clarke, whose new book accuses the Bush administration of ignoring the al Qaeda threat before 9/11, pulled no punches in his criticism of the White House he once served, nor did the 9/11 commission.

Here again, CNN's David Ensor.

(BEGIN VIDEOTAPE)

ENSOR (voice-over): Before the 9/11 commission, Richard Clarke reaffirmed and sharpened his attack on the Bush administration he once served for failing, he says, to do enough to protect the nation against al Qaeda terrorism in its first eight months in office.

RICHARD CLARKE, FMR. COUNTERTERRORISM ADVISER: And I thought if the administration doesn't believe its national coordinator for counterterrorism when he says there's an urgent problem, and if its unprepared to act as though there's an urgent problem, then probably I should get another job.

ENSOR: Clarke said President Bush further damaged national security by going to war against Saddam Hussein.

CLARKE: By invading Iraq, the president of the United States has greatly undermined the war on terrorism.

ENSOR: But there was plenty of blame to go around for the FBI.

CLARKE: I know how this is going to sound but I have to say it. I didn't think the FBI would know whether or not there was anything going on in the United States by al Qaeda. SAMUEL BERGER, FMR. NATIONAL SECURITY ADVISER: Not only did we not know what we didn't know but the FBI didn't know what it did know.

CLARKE: And after hearing Clinton and Bush administration officials all say they just didn't have the actionable intelligence with which to successfully attack Osama bin Laden and al Qaeda before 9/11, the commission peppered the intelligence director with questions.

LEE HAMILTON, COMMISSION VICE-CHAIR: Why were we unable to do it?

GEORGE TENET, CIA DIRECTOR: We didn't steal the secret that told us what the plot was. We didn't recruit the right people or technically collect the data notwithstanding enormous effort to do so.

ENSOR: And if they could have found bin Laden, even killed him, would it have made any difference?

TENET: Decapitating one person, even bin Laden in this context, I do not believe it would have stopped this plot.

ENSOR (on camera): Commission members suggested there may be plenty of blame to go around. For present and former policymakers it was a nerve-racking day in the hearing room or close to a television set.

David Ensor, CNN, Washington.

(END VIDEOTAPE)

COLLINS: The 9/11 commission has been holding hearings behind closed doors for months. Richard Clarke, himself, gave 15 hours of testimony in private before today.

The last two days have given the world a chance to hear for themselves a parade of sobering facts, including failures and shortcomings that apparently contributed to the 9/11 attacks. Among those listening inside the Senate hearing room today were relatives of 9/11 victims. For them it was an especially difficult day.

Here's CNN's Kelly Wallace.

(BEGIN VIDEOTAPE)

WALLACE (voice-over): You could see the heaviness in the front rows on the faces of families who lost loved ones and you could hear it.

BOB KERREY (D), FORMER SENATOR FROM NEBRASKA: Osama bin Laden held a press conference to declare open war on the United States of America in February, 1998.

WALLACE: Two days of troubling questions, could September 11th have been prevented? Could the Clinton and Bush administrations have done more? SAMUEL BERGER, FMR. NATIONAL SECURITY ADVISER: We struck with the intent of killing bin Laden and/or his operatives. I deeply regret that we did not succeed.

WALLACE: Henry and Elaine Hughes of Smithtown, Long Island listen and take notes. Their son Chris worked on the 89th floor of the South Tower.

HENRY HUGHES, LOST SON ON 9/11: I'd like to see somebody come forward and just say once, you know what maybe we could have did a better job.

WALLACE: And that happened inside the hearing room Wednesday.

RICHARD CLARKE, FORMER COUNTERTERRORISM DIRECTOR: Your government failed you. Those entrusted with protecting you failed you and I failed you.

WALLACE: Welcome words even two and a half years later.

ELAINE HUGHES, LOST SON ON 9/11: At least some of the witnesses actually said they were sorry and apologized that the job didn't get done.

WALLACE: The Hughes stayed for almost every word but other families left as a public protest when Deputy Secretary of State Richard Armitage appeared in place of Condoleezza Rice, the president's national security adviser, who chose not to testify.

UNIDENTIFIED FEMALE: Three thousand lost lives warranted her coming before the American people to restore confidence and to set the record straight.

WALLACE: Politics did not stay away from the hearing room. Democratic members of the commission appeared to be tougher on the Bush team and Republicans...

UNIDENTIFIED MALE: You've got a real credibility problem.

WALLACE: Tougher on the Bush administration's critics like former terrorism adviser Richard Clarke. As the Hughes' headed home, this hope that politics during a presidential election year doesn't get in the way of finding some answers.

E. HUGHES: I mean what I'm hearing now is that God forbid something like this happens again. They're still not ready. They're not ready to prevent anything and that's what scares me.

(END VIDEOTAPE)

WALLACE: An emotional two days for those families. The commission now has just a little more than four months to come up with a report to look at the events that led up to September 11th and come up with recommendations to try and make sure there is never again another September 11th in the United States -- Heidi. COLLINS: Kelly, I'm just wondering in your best guess what do you think the impact of these families being right there in that room, what do you think that impact is on these proceedings overall?

WALLACE: Well, Heidi, I mean every witness from the Clinton administration, the Bush administration who came to that witness table today and yesterday saw those families and saw them holding up pictures of their loved ones, so that was a very powerful moment.

And also you had CIA Director George Tenet saying something he really hasn't said before. He said to the families in the room, he said to the men and the women who lost loved ones, we have got -- he basically said we have got to do a hell of a better job in the future, so the families think they got that message through but, Heidi, most of them left feeling like they still have so many more questions and still so few answers.

COLLINS: All right, Kelly Wallace thanks so much, live from Washington tonight, appreciate that.

On to the Middle East now where once again tonight there are reports of Israeli forces on the move in and around Gaza. It comes after a day that saw a 14-year-old boy nearly blow himself up and a new leader of the Hamas movement step into the spotlight. More on the attempted suicide bombing a bit later in the program.

But first, the Hamas leader who is marked for death by Israel and who spoke out today with our Brent Sadler.

(BEGIN VIDEOTAPE)

SADLER (voice-over): In Gaza, a show of defiance from the new leader of Hamas. Abdel Aziz Rantisi moving easily and openly through a crowd of mourners shrugging off renewed Israeli death threats in the wake of Monday's assassination of his disable predecessor Sheikh Ahmed Yassin.

For a man who admits he may be living on borrowed time, Rantisi says he's in no mood for compromise, no going back on Hamas' aim to eliminate Israel. He assumes he can protect himself from death by missile if enough people crowd around this likely target. He's warning Israelis it's their turn next to face another deadly attack.

ABDEL AZIZ RANTISI, HAMAS LEADER: They have to expect that, assassination of a quadriplegic symbol of our Islamic nation in that way, in that (unintelligible) so they should expect that.

SADLER: But not the United States explained here, Israel's staunchest ally. Hamas has only one enemy, says Rantisi, Israel the occupier and Israel the assassin.

A second influential voice in the new Hamas leadership booms from speakers here. It's an amplified telephone call from Syria, a live call they're told from the head of Hamas' political bureau Khalid Mashal (ph), firing a salvo of violent threats against Israel, threats to kill the prime minister, defense minister and army chief of staff. Neither the Israelis nor the Palestinians expect to be able to talk their way out of this.

RANTISI: I'll do my best to put an end for my people's tragedy. I think that negotiation failed.

(END VIDEOTAPE)

SADLER: Meaning that Rantisi and the group around him seem convinced that an escalation of violence is inevitable while Israel continues to implement an unwavering policy to eliminate what it calls Palestinian chiefs of terror in advance of a possible unilateral Israeli pullout from the Gaza Strip -- Heidi.

COLLINS: Brent, you know, we've heard quite a bit about Yassin being regarded as a spiritual leader. Is that all just talk since he's been killed?

SADLER: Well, certainly Sheikh Ahmed Yassin was a unifying factor within the Hamas movement. He was the founder of that organization but he held no real official religious title, so there is, if you like, an appreciation of a man who could pull both the political and the military sides together in terms of gaining their respect. And in the wake of his disappearance, the wake of his assassination, this is one of Hamas' obstacles to try and unify a leadership around Abdel Aziz Rantisi.

COLLINS: All right, Brent Sadler thanks so very much for that tonight.

While the 9/11 hearings were being televised around the world, another hearing was unfolding away from the cameras in a Colorado courtroom where the basketball star, Kobe Bryant, today faced the 19-year-old woman who has accused him of raping her. She was there too to answer questions under oath about her sexual past.

Here now, CNN's Gary Tuchman.

(BEGIN VIDEOTAPE)

TUCHMAN (voice-over): For the first time since they were in a Colorado hotel room together nearly nine months ago, Kobe Bryant and the woman who has accused him of rape saw each other face to face inside this courtroom where the accuser was compelled to answer

questions from Bryant's attorneys about other sexual encounters. No reporters were allowed inside.

CRAIG SILVERMAN, COLORADO ATTORNEY: They'll probably start off sensitive and slow. It will be toward the end before they get belligerent and a little tougher.

TUCHMAN: Bryant's lawyers say injuries the woman says she suffered at the hotel while having sex with Bryant could have come from a different sexual encounter and want the judge to listen to the evidence and allows its introduction during a trial.

SILVERMAN: The questioning is going to be x-rated and intimate. Not only will they ask about sex acts, they're going to ask about foreplay, sexual positions, duration, all the sorts of intimate questions that a person would normally not want to answer, let alone under oath in front of strangers.

TUCHMAN: The accuser entered the courtroom in a business suit, a serious expression on her face. CNN has decided not to show images of her.

The Colorado Rape Shield Law ordinarily does not allow a woman's sexual past to be used as evidence but exceptions are made.

KATHIE KRAMER, RAPE ASSISTANCE AND AWARENESS PROGRAM: So, if there is evidence then it certainly needs to be sought out because Kobe Bryant deserves a fair trial but we don't want it to turn into this fishing expedition where they're going back years and years and asking about, you know, every sexual encounter she's ever had because we don't feel that that is relevant.

(END VIDEOTAPE)

TUCHMAN: The accuser testified for about three and a half hours and was then excused. The hearing then continued with testimony from some of her friends and some of her alleged sexual partners. We can tell you that day two will occur tomorrow. They will continue talking about her sexual history.

Kobe Bryant left right afterwards getting on an airplane and flying to Los Angeles, because in 15 minutes his Lakers have a game. After the game is over, he will fly back here to Colorado to continue the hearing -- Heidi, back to you.

COLLINS: All right, Gary Tuchman thanks so much, live from Eagle, Colorado tonight.

Ahead now on NEWSNIGHT, one dad goes to court, the Supreme Court, and all because of two words.

Plus, panoramic views of the world heritage from Armenia to Timbuktu to Ghana to Guatemala. Get ready. NEWSNIGHT is taking you on a tour.

(COMMERCIAL BREAK)

COLLINS: (AUDIO GAP) 9/11 commission and the White House reaction to it. Safe to say Mr. Clarke landed a number of body blows, including testifying that he warned in a letter just a week before 9/11 of the consequences of a major attack. But as its done all week, the administration responded with some heavyweight counter punching of its own.

Here to talk about all of that now, CNN's Jeff Greenfield. Jeff, thanks so much for being with us tonight. You know the focus of today's hearings was clearly Richard Clarke and his charge that the Bush administration didn't take this threat of terror very seriously. Do you think that the disclosure of Clarke's 2002 background briefing accomplished that pretty well? JEFF GREENFIELD, CNN SR. ANALYST: I think it hurt Richard Clarke because the presentation that he's been making ever since the "60 Minutes" appearance Sunday night was the man anguished at the administration's failure to respond to his urgent warnings.

And then they produced this background briefing from August, 2002, as you said, revealing that the senior official was, in fact, Richard Clarke, briefing the press about how on top of the situation the Bush administration was.

And what Richard Clarke said in the hearing today was, well I was an employee of the White House, in effect. I went out and, you know, was the good soldier. I put the best face on it but that is going to raise some questions about just how much of a truth teller he prepared to be.

Now, what was not addressed in that briefing and really the most serious part of what Clarke keeps talking about is his view that the administration was committed to going to war with Iraq and that hurt the war on terrorism. That this doesn't address at all but the credibility probably has taken a bit of a hit.

COLLINS: Well, so as a political matter then do you think that the president is still vulnerable from these charges that Clarke is making?

GREENFIELD: Here's why I think so. It goes back to my days in New York City playing highly unorganized ball and whenever we'd get into a fight it was always settled by this line. Your own man says so. If somebody on your team said, yes, my guy was out, that was it.

I mention that because I don't believe there are many rules in politics but the your-own-man-says-so rule is one. When people who are supposed to be on your side of the fence have problems with you that's when you have problems.

And, if you look at what's happened to the president, his former secretary of the treasury has had very harsh things to say, both about Iraq and his tax policy.

His faith-based initiative first director quit the White House and gave a very tough interview saying in effect that the Bush White House wasn't serious. You have this Medicare actuary who was on Capitol Hill today saying I was forced not to tell what I knew.

If the people in the middle politically come to believe that this hawkish anti-terror guy, Richard Clarke, is right in what he says about Bush that pulls the props to some extent out from under the central argument of the Bush reelection, steady leadership in a time of change. So, I think there is still some vulnerability on that score because of who is saying this.

COLLINS: All right, Jeff, you know a little bit earlier in the evening I spoke with the deputy national security adviser, just wondering what you think about their claims that this is all about selling books. GREENFIELD: Well, I'll tell you what I think. If you strip this away from politics and you watch the two days of hearings, you come away, I think, with a very uneasy sense.

Here you have the situation, for instance, where Clinton's national security adviser says no. We were out to kill bin Laden but according to the staff of this commission none of the CIA people got that message. They thought they had to capture him.

You have the situation in 2001 where all the terror warnings are spiking and nobody in the FBI thinks it's worth telling Clarke or anybody else, hey you know what we got these guys in flight schools. We got two people on a terror watch list in the country. We got this computer we seized.

It's a very, very disturbing picture and the question that I think haunts us all is after all of the last two and a half years and the Homeland Security Agency and the Transportation Security Agency and all that we've gone through, is the communication at the top any better or are there things that two years from now we'll be looking back and saying how did we not know this was coming? I came away from this hearing really quite unsettled about just how protected we are.

COLLINS: All right, Jeff Greenfield, thanks so much for that. We know that you've been watching this very closely and we certainly do appreciate it right here on NEWSNIGHT.

GREENFIELD: OK.

COLLINS: Once again, Jeff Greenfield, thanks so very much.

Coming up next now the Pledge of Allegiance lands before the Supreme Court courtesy of a father who says the words "under God" have no place in it.

From New York this is NEWSNIGHT.

(COMMERCIAL BREAK)

COLLINS: High drama at the Supreme Court today in front of a divided panel of justices on a bitterly polarizing issue. In an election year, one man came to argue the constitutionality of two words, "under God."

Here's CNN's Bob Franken.

(BEGIN VIDEOTAPE)

BOB FRANKEN, CNN NATIONAL CORRESPONDENT (voice-over): As demonstrators rallied outside, inside as usual the justices began after the words "God save the United States and this honorable Court." Atheist Michael Newdow came to argue on his own behalf, not usual. He doesn't want his daughter saying the words "under God" in the Pledge of Allegiance.

MICHAEL NEWDOW: I have an absolute right to know that when my child goes to the public schools she's not going to be indoctrinated with any religious dogma.

FRANKEN: But first, a debate over whether Newdow could even bring the case because the child's mother has custodial rights. She supports saying "under God."

SANDRA BANNING: As a mother, as a Christian and American, as I said, I'm hoping that the court will resolve this issue today.

FRANKEN: Bush administration Solicitor General Ted Olson, "under God is merely ceremonial, patriotic exercise." Newdow: "To say this

is not religious is somewhat bizarre."

Although supremely inexperienced, Newdow calmly parried with the seemingly skeptical Supreme Court.

Chief Justice William Rehnquist: "What if the school asked your daughter to sing God Bless America." No response.

Justice David Souter called "under God" not a prayer but "tepid, diluted, beneath in effect the constitutional radar."

(on camera): Newdow acknowledged the political uproar saying that after the lower court ruling, "the country went berserk." The justices will have to decide if they want to try and calm things down.

Bob Franken, CNN, the Supreme Court.

(END VIDEOTAPE)

COLLINS: As you would imagine, there's a lot at play in this case, which landed in Washington two years after the Ninth Circuit Court of Appeals ruled in Mr. Newdow's favor.

As Bob Franken just mentioned, the court may in the end decide that Mr. Newdow has no standing in the case. In other words, the justices might decide to punt and we'll get into those implications in just a moment.

First, though, the color. Sparks were flying today and Dahlia Lithwick saw it all firsthand. She's a law professor and senior editor at "Slate" magazine. Dahlia, thanks for being with us tonight, sure do appreciate it.

DAHLIA LITHWICK, SLATE.COM LEGAL ANALYST: Thanks for having me, Heidi.

COLLINS: You know it's obvious this has really become a very explosive issue in this country. Can you characterize the morning in court today for us?

LITHWICK: Yes. It was one the most dramatic sessions in the Supreme Court that I have ever seen, all sorts of unprecedented things. As Bob said, Newdow argued on his own behalf. He was quite emotional, very personal, something you rarely see in front of the justices. And, at some point, after he parried back and forth with Chief Justice Rehnquist, the audience burst into applause and Rehnquist threatened to shut down the hearing unless they controlled themselves.

COLLINS: What was the crux -- can you hear me all right?

LITHWICK: Yes.

COLLINS: Just double checking, OK. What was the crux of Newdow's argument then? You said he became so emotional. Was he not even able to get his point across?

LITHWICK: Oh, oh quite the opposite. He was very lucid, very, very cogent but he was talking about his own daughter and that was clear. The crux of his argument was he's an atheist. He doesn't believe in God and he doesn't feel like his daughter should have to get up and say the word "God." It makes him look like a liar in the eyes of his child.

COLLINS: Well then, surely that begs the question there are many people in the country who are thinking that, all right, maybe Mr. Newdow is fighting this fight for himself and not so much for his daughter.

LITHWICK: Well, that certainly appeared to be the case somewhat because he backed off the argument that this was about his daughter that he had standing because of her rights. He said this is about me. This is an individualized harm to me.

But at the same time, he was very, very clear that this is on behalf of atheists around the country that he felt very, very strongly that we live in a culture that makes atheists feel second class and that children shouldn't be coerced into either saying a prayer or feeling second class.

COLLINS: All right. So what is it then that the court is actually going to be deciding about now?

LITHWICK: Well, as Bob said, they can decide that they're not going to decide. They can decide to just punt and say that Newdow has no standing to bring this case and make it go away for another day.

But, more likely, based on what I saw today, they're going to say he has standing, and they're going to really get to this issue. They're going to decide if the words "under God" that were added to the pledge in 1954 somehow make it an unconstitutional establishment of religion for children to have to say it. That's what they'll decide, and it's going to have shockwaves.

COLLINS: It's just interesting to think about for a moment. Do you think children understand the rest of what we are saying in the Pledge of Allegiance, really the context of a lot of those words?

LITHWICK: That's such a good question, Heidi, and it's something that the court really struggled with. Several of the justices said, do these words really have any meaning? Justice Souter called it tepid, said it was under the constitutional radar.

There's this implication that saying "under God" is no different than saying "under a pumpkin." But the truth is, the protesters out front screaming at each other today made it pretty clear that we care a lot, that "under God" is part of a prayer, and that this is a religious issue.

COLLINS: All right, so how do you think the justices will decide this one?

LITHWICK: Who knows?

As you know, there is a little bit of a wrinkle to the case, which is that Justice Scalia, the ninth tie-breaking vote, did not hear this case. He was forced to recuse himself because of comments he made about the 9th Circuit decision being wrong. So we have a very, very strong possibility of a 4-4 tie and a very, very strong possibility in that case of the 9th Circuit opinion standing, so that, in some states in this country, it will look like the policy of forcing kids to say the pledge in school is unconstitutional.

In other states in this country, it's perfectly constitutional, and that's the kind of nightmare the Supreme Court is really supposed to step in and resolve.

COLLINS: All right, so, as if you really know the nation to this, that being said, when are they expected to rule?

LITHWICK: Sometime between now and June, they will hopefully decide the big issue, but at the very least they will decide the standing issue.

COLLINS: You know, Dahlia, what is it that Newdow is exactly hoping for?

LITHWICK: Well, I think what he's hoping for at the end of the day is that those words, "under God," which were jammed into the pledge in 1954, will be removed.

He said the pledge has unified this country through a World War, another World War, and a Depression. It can keep unifying us without the words "under God," which ultimately tear us apart. And we saw some of that tearing apart happening today in front of the court.

COLLINS: And you got to ask the question, what about little girl? And how does she feel about saying those two words, "under God"?

LITHWICK: That's another good question. It turns out her mother is a born-again Christian. Her mother has primary custody of it, and she apparently doesn't mind saying it. So in some sense, she's the most sort of unlikely hero for the atheists of this country.

But, at the same time, Michael Newdow sort of wants us to know that his rights as a father, his profound constitutional right to control the education and the religious upbringing of his child, or at least to have some say in it, can't be ignored easily.

COLLINS: All right, very good. Dahlia Lithwick, we certainly appreciate your time tonight. Thanks so much.

LITHWICK: Always a pleasure.

COLLINS: Thank you.

And still to come on NEWSNIGHT tonight, around the world in 20 years with Tito Dupret. Coming up, the latest installment of the NEWSNIGHT still photo piece.

(COMMERCIAL BREAK)

COLLINS: More now on the hearing today in which Kobe Bryant's accuser was obliged to talk about her sexual past. It was a moment that pitted two principles against one another, the right of the defendant to face the evidence without potential victimizing the woman for a second time.

With us now is Julie Hilden attorney and legal analyst for FineLaw.com.

Julie, good to see you tonight. Thanks for being with us tonight.

JULIE HILDEN, FINDLAW.COM LEGAL ANALYST: Good to see you.

COLLINS: Set this up a little bit for us, if you would. What's your perspective of these hearings today? Do you think they were necessary?

HILDEN: I think they were both necessary and appropriate, in the sense that Colorado law tries to make this provision for a closed hearing to figure out if there is any sexual history evidence that would be appropriate to present in open court.

And so this kind of a hearing, although it does force the victim to testify, it allows her to testify in a situation where it is closed. It's just the judge, the lawyers and her, and, of course, Kobe Bryant as well. And in that situation, she's not focusing -- there's not media scrutiny focused on her. And so I think that, in a way, it benefits the victim to have this chance to not have it all come out under the bright spotlights.

COLLINS: But you do say there's another theory that might be a little bit more complicated. What about the possibility of just trying to make some ex-boyfriend jealous?

HILDEN: I think that there's basically two defense theories on which the sexual history evidence for the accuser could be relevant.

And one theory that they've given is that it's possible that the bruises on the accuser could have come from a prior sex partner. And, if so, I think that the judge would -- if there's evidence to support that theory, then I think the judge will definitely deem that evidence relevant because it's just basic whodunit evidence, who did that and is this evidence of force? Is that being attributed to the wrong sex partner? And that would certainly be relevant.

The other theory that you're referring to that's a little more complicated is the idea that the defense has put forward that the accuser sort of concocted a scheme to make her ex-boyfriend jealous by sleeping with Kobe Bryant.

Now, if there is -- if there's evidence in support of that, then the judge may also deem that to be relevant. But that sounds a little bit more tenuous to me because it's more going to the victim's motive or the -- I should say the alleged victim's motive to lie, as opposed to going directly to the kind of whodunit question.

COLLINS: All right, let me ask you this. Is there a time limit on how far back they can look into the sexual accuser's history? Are we talking a year, two years? What are the rules there?

HILDEN: There is essentially no time limit, because we would look to the relevance of the evidence rather than to the date that the evidence was first generated or found.

But, that said, it seems to me that both of these defense theories in the Kobe Bryant case in particular would have to draw upon some pretty recent evidence. I mean, it's got to be a pretty recent ex-boyfriend if she was trying to make him jealous with Kobe Bryant, and it's got to be also some fairly, you know, recent evidence in the other scenario as well.

COLLINS: Amongst the people that you've talked with about this case, I'm just wondering what you're hearing about the possibility and the very real possibility that the accuser, since she's being questioned now on her own personal history, this may keep other possible victims from coming forward so that they avoid this whole thing?

HILDEN: I think that, unfortunately, there definitely is a risk with any kind of procedure like this of discouraging victims from coming forward. And, unfortunately, I think that that kind of risk has to be balanced against the rights of the accused in this situation.

I mean, under the Constitution's confrontation clause, there's the right to confront your accuser. I'm sure that that also prevents some victims from coming forward because they have to face the defendant in the courtroom. But, nevertheless, it's a part of our Constitution. So I think that, realistically, yes, some victims may be discouraged from coming forward even by this closed hearing that Colorado law provides for.

At the same time, that may just be the price that we have to pay to give people a fair trial before we send them away to prison for years.

COLLINS: All right, Julie Hilden, we appreciate your time tonight so much. HILDEN: Thank you.

COLLINS: Thanks again.

A quick look now at some other stories making news around the country. The Coast Guard is still searching for a helicopter that vanished last night over the Gulf of Mexico. It was carrying 10 crew members to an oil exploration ship off the Texas coast. Rescue workers are focusing on an oil slick 100 miles South of Galveston.

A Pennsylvania photographer has been charged with murdering a 23-year-old Canadian woman he was allegedly photographing just before killing her. She was a porn model and had been missing nearly three weeks before her body was found yesterday near a river.

And pop diva Aretha Franklin is back at home in time to celebrate her 62nd birthday tomorrow. She was released today from a Detroit hospital where she had been hospitalized since Saturday to treat a blood disorder.

Our "Moneyline Roundup" tonight begins at the pharmacy, the Food and Drug Administration today giving its approval for a pair of drug companies to market a generic version of the painkiller OxyContin. Teva and Endo got the OK after a court ruled that some of the patents on brand name OxyContin are unenforceable. The maker, Purdue Pharma, plans to appeal. No word on when the generics will hit the market. But when they do, they'll come with all the same abuse warnings and doctor education materials of the name brand stuff.

European regulators hit Microsoft today with a \$611 million fine. The ruling says Microsoft used its near monopoly on Windows to force its music and video player on customers. The regulators are giving Microsoft 90 days to unbundle the player. Microsoft, as you might imagine, promises to appeal that decision.

Wall Street meantime had an up-and-down day, with the Nasdaq providing a little hope for a change.

Ahead on NEWSNIGHT tonight, 14 years old and on the way to commit murder, why a young boy was loaded with explosives.

Around the world, this is NEWSNIGHT.

(COMMERCIAL BREAK)

COLLINS: Back to the Middle East now, where Israel is preparing for new suicide bombings and has seen in just the last few days a wave of young would-be bombers. A few days ago, it was an 11-year-old who apparently didn't know what he was doing. Today it was a 14-year-old who did, then changed his mind at the very last minute. His drama played out at a checkpoint on the West Bank with cameras rolling.

Here's CNN's Paula Hancocks.

(BEGIN VIDEOTAPE) PAULA HANCOCKS, CNN CORRESPONDENT (voice-over): A 14-year-old Palestinian with eight kilograms of explosives strapped to his body. The boy was stopped at a checkpoint near the West Bank city of Nablus. When soldiers asked him to lift his shirt, they saw the explosives.

CAPT. SHARON FEINGOLD, IDF SPOKESWOMAN: He was frightened by the sharp and quick reaction of the soldiers who pointed the guns and stopped him. And he raised his hands. At that time, we grabbed him and persuaded him to assist us to dismantle him of the suicide vest that he was wearing.

HANCOCKS: The boy told the soldiers he didn't want to die. He didn't want to blow up. Explosive experts used a remote control robot to pass the boy scissors so he could cut the belt from his body. He struggled with the straps before removing the vest and showing soldiers he had no more explosives.

The IDF blew up the vest. Shortly afterwards, the boy was shown to reporters. No questions allowed. The boy was then taken for interrogation to find out exactly who sent him and if he was coerced.

Paula Hancocks, CNN, Jerusalem.

(END VIDEOTAPE)

COLLINS: Before we go to a break, a few more items from around the world now, starting in Spain, where memorial services were held for victims of the train bombings nearly two weeks ago in Madrid. With that as a backdrop, a judge today leveled charges at another pair of Moroccans in connection with those attacks.

In France, meantime, authorities discovered a bomb along a rail line about 120 miles southeast of Paris. The country has been on a heightened state of alert in the wake of the Spanish bombings. It's also dealing with threats from a shadowy group promising to blow up trains unless it gets millions of dollars from the government. No word yet if this bomb was related to that threat.

And the U.S. Embassy in Dubai has been shut down in light of what officials call a specific threat. No specifics, though, on what that threat might be. The embassy is expected to remain closed until the weekend.

Still ahead on NEWSNIGHT, the world in all its panoramic glory.

From New York, this is NEWSNIGHT.

(COMMERCIAL BREAK)

COLLINS: Here at NEWSNIGHT, we're not shy about our love affair with still photographs. The photographers we feature from time to time in segment seven share our passion for the medium. That much goes without saying, which brings us to Tito Dupret. He was born in

Belgium, but considers himself a citizen of the world and plans on spending the next 20 years on one single project, an enormous project that will take him around the globe. The goal is to photograph every World Heritage site in the world and then turn each one into a virtual reality.

We met him last fall when he was working on the World Monuments Fund in New York, where his work is now on exhibit.

(BEGIN VIDEOTAPE)

TITO DUPRET, PHOTOGRAPHER: The name is the World Heritage Tour. It's just to go from one World Heritage site to another and to cover it with panoramic pictures, which is virtual reality. We don't have timeline. It's interactive.

You can see above. You can see down. But you decide it. The idea of the project is to raise awareness about the World Heritage sites are particular sites because they are listed by UNESCO.

It's beginning to be very exciting. Wow.

By visiting all these places, you are more aware how it is. It's a virtual tour around the world that could makes you more happy about the world you are in.

First is to make 360 with 10 pictures. Now I put the camera 50 degrees down or up.

In the World Heritage list, there are 754 sites in 128 countries. I've covered 52 of them in China, Southeast Asia, and one in Egypt. I've been in the one closed town in the Valley of the Kings. It was opened to me thanks to the Egyptian government. And I've been there for two days alone in the town. And that was the most emotional shooting session in my life.

When you get inside a World Heritage site, you get back to peace. You get back to calm. It's a place where you can just be yourself in the middle of what came out from nature or from humanity.

This picture was made in Angkor Wat, which is the main temple in Angkor in Cambodia. It was discovered in the middle of the jungle. A lot of the site is still standing up thanks to the roots of the tree that were growing on the walls. And because of its size and because of its magnificent preservation, you can still see the statues as they were in some parts of them.

The magic of this medium, virtual reality movie, is that you can really be on the border of something. I always liked to work very near one part of the image and to open on the other part, to have a wider view of the space. You can almost feel the texture of the wall.

This is the 53rd for this project. You know, it's always something -- well, it's new. It's new. You want to understand why it's there.

The whole idea of World Heritage is, of course, to be aware of what's our beauty on this Earth and that culture is our link for us all together.

(END VIDEOTAPE) COLLINS: Our Lady of Liberty tonight.

Still ahead on NEWSNIGHT, we'll recap our top story and look ahead to tomorrow.

On CNN, this is NEWSNIGHT.

(COMMERCIAL BREAK)

COLLINS: Before we go tonight, a quick recap of our top story now.

Richard Clarke testifying before the 9/11 Commission, the former counterterrorism chief in the Clinton and Bush administration beginning with an apology for failing in his job. He went on to slam the Bush administration again, for which he came under tough questioning from a number of commission members. The White House, meantime, also kept up the heat, again accusing Mr. Clarke of inconsistent and seven-serving behavior.

Tomorrow night on the program, a new lifestyle magazine with a difference, not "Vogue" or "Cosmo." It focuses instead on life in modern Muslim society.

Now here's Bill Hemmer with a look at tomorrow's "AMERICAN MORNING" -- Bill.

(BEGIN VIDEO CLIP)

BILL HEMMER, CNN ANCHOR: Heidi, thank you.

Tomorrow morning here on "AMERICAN MORNING," former prosecutor Linda Fairstein back with us talking about that hearing in the Kobe Bryant matter, the woman accusing him of sexual assault forced to explain details about her own sex life. Will the NBA star's lawyers convince the judge that her history, her sexual history, is admissible in trial?

We'll have a look at that tomorrow morning, 7:00 a.m. Eastern time, right here on "AMERICAN MORNING." Hope to see you then -- Heidi.

(END VIDEO CLIP)


COLLINS: Thanks, Bill.

And thanks to you for watching NEWSNIGHT tonight. Aaron is back tomorrow night.

Good night, everybody.

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