

**STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case No: 22-279506-FC  
Hon. Kwamé L. Rowe

v.

ETHAN ROBERT CRUMBLEY,

Defendant.

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**OPINION AND ORDER RE: DEFENDANT'S PLACEMENT WHILE IN DETENTION**

PRESENT: KWAMÉ ROWE, Circuit Judge

This matter is before the Court pursuant to the requirements of the Juvenile Justice and Delinquency Prevention Act (hereinafter "JJJPA"), 34 USC 11101 *et seq.*, which makes federal funding available for states that implement various procedures regarding the detention and confinement of juveniles that are charged and/or treated as adults. Defendant argues that he should be placed in the Oakland County Children's Village rather than the Oakland County Jail under the JJJPA and MCL 764.27a. The People object and request that this Court maintain Defendant's detention at the Oakland County Jail.

On February 22, 2022, this Court held a hearing to determine whether Defendant's current placement in an adult jail is appropriate. Prior to the hearing, both sides submitted briefs for this Court's review. During the hearing, the People called three witnesses: Christina Belling, Heather Calcaterra, and Captain Tom Vida. Both sides stipulated to the admission of the People's exhibits 1 through 18, and Defendant's exhibit "A." This Court admitted the exhibits based on the

attorneys' stipulation.<sup>1</sup> Defendant did not call any witnesses. At the end of the hearing, the Court advised all attorneys of record that they may submit supplemental briefs addressing any additional issues regarding Defendant's detention. This Court took the matter under advisement to review all exhibits and to allow the parties to submit additional information.

This Court, having heard the testimony of the witnesses, and having reviewed all exhibits and briefs finds that Defendant's current placement at the Oakland County jail is appropriate; therefore, Defendant's motion to transfer Defendant to Children's Village is DENIED for the reasons stated below.

**Christina Belling's Testimony:**

At the hearing, the People's first witness was Christina Belling. Belling works at the Oakland County Jail as an inmate case worker and has been employed as such for nine years. She is a licensed professional counselor. Her job responsibilities include accessing and managing crisis situations that may come into the jail. As a caseworker, Belling has worked with under ten juveniles in the jail but has worked with hundreds of adults.

On December 1, 2021, Defendant was assigned to Belling's caseload. Initially, Belling, in a team effort, placed Defendant on constant, suicide watch based on the nature of the offense and Defendant's juvenile status. During Defendant's suicide watch, Belling would visit him daily for five to ten minutes to assess mental health concern(s).

In January 2022, Belling and others made the decision to change Defendant's status from constant, suicide watch to behavior watch. Behavior watch is a "step-down" from suicide watch. If she had any concerns, then she would not have agreed to change Defendant's status. Belling is

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<sup>1</sup> The People submitted a binder with all exhibits, and the Court is in receipt of all admitted exhibits.

still Defendant's caseworker, and she continues to see him at least two times per week. Defendant has access to a psychiatrist, if needed. Belling provided Defendant with Harry Potter books.

**Heather Calcaterra's Testimony:**

Next, the People called the manager of Oakland County Children's Village – Heather Calcaterra. As manager, Calcaterra oversees the day-to-day activity at Children's Village. She described Children's Village as a "child caring campus for youth." Children's Village is comprised of multiple buildings on a large campus. One building houses females, and two other units house males. The Children's Village has both unsecured and secured detention. The secured detention facility holds approximately sixty individuals with ages generally ranging from eleven to seventeen years old. Currently, there are approximately thirty-eight individuals housed in secured detention. The individuals housed in secured detention have been charged with a variety of crimes – none are being housed for murder. Females and males are housed in separate units in their own rooms. Residents are not allowed to have television, tablet, or video games in their room.

"Youth Specialists" supervise the residents. There is one youth specialist for every eight residents. The youth specialists' duties include maintaining the eight to one ratio and monitoring behavior problems. They do their best to monitor resident conversations but are not always able. They are to maintain line of sight with residents. Youth specialists are not trained police officers, and they sometimes must call the Oakland County Sheriff's Office for support. If there is an issue on campus, the youth specialist must call for supervisor assistance.

In addition to youth specialists, the Children's Village has case coordinators, clinicians, supervisors, and teachers from the Waterford School District on staff. Residents of Children's Village must be enrolled in school within five days after detention or detainment. Teachers teach in live classrooms during the week from 8:00am to 3:15pm. Residents earn credits toward

receiving their high school diploma. Residents attend classes with their peers. That is, male residents in secured detention attend classes together and female residents in secured detention attend classes together.

Calcaterra described several concerns if the Court were to place Defendant at Children's Village. She testified that Children's Village is understaffed, including the youth specialist position. Calcaterra advised that Children's Village had to be placed on a temporary lockdown because of staffing issues. In addition to staffing issues, Calcaterra advised that Children's Village has "never had a case like this" and she is concerned about the "trauma impact" Defendant's presence on campus would cause to himself or other residents. She advised that she is unaware if Defendant's presence on campus would be a "trigger" for other residents and it is unknown if other residents would target Defendant. Currently, Children's Village may seclude a resident from other residents if they find they are a danger to themselves or others. After May 1, 2022, Calcaterra advised that Children's Village will no longer be allowed to seclude juveniles from others based on changes in the law.

**Captain Tom Vida's Testimony:**

Lastly, the People called Captain Tom Vida as their final witness. Captain Vida has been an Oakland County Sheriff's captain for eleven months. He has been employed as a deputy sheriff for twenty-two years. He is responsible for supervising the day-to-day activities at the Oakland County Jail. Prior to being promoted to captain, he was employed as executive lieutenant of jail administration, where he also oversaw some functions of the jail.

Deputies at the jail receive certified training through the State of Michigan and in-house training. Initially, they receive fifteen weeks of training and also receive annual training. The trainings vary but include use of force training. Deputies inside the jail are unarmed.

The jail is understaffed and has two hundred and fifty deputies employed. The maximum occupancy of inmates at the jail is eleven hundred and there are approximately nine hundred thirty-one inmates currently housed. Because of the pandemic, all inmates are served cold food; however, hot food will soon be available.

In the last year, the Oakland County Jail has lodged three to four juvenile inmates. Currently, there is one other juvenile inmate lodged in the jail besides this Defendant. Both Defendant and the other juvenile are housed in the jail clinic. Upon admission, juvenile inmates are placed on constant watch, a referral is made to Easter Seals, and jail staff has team meetings with medical staff to determine proper treatment. Easter Seals provides a psychological evaluation. Juvenile inmates are not released into general population.

Currently, Defendant is on a behavior watch. Captain Vida testified that Defendant is likely to continue a behavior watch for the foreseeable future because of the nature of the allegations. A behavior watch requires a deputy to monitor Defendant every fifteen minutes. Defendant has access to food and showers. Defendant is given a kosher meal and provided an "adolescent meal" to help with calorie intake. Because of the COVID-19 pandemic, no inmate is allowed recreational activity. If recreational activity becomes available, then Defendant will be allowed to participate. Defendant also has access to a tablet. Defendant has a personal log in for the tablet and can access books, movies, games, his personal calendar, view email, send kites to file grievances, the law library, and Khan Academy.<sup>2</sup> Defendant has also been provided Harry Potter books. He has a "pretty excessive" commissary. Defendant may leave his cell for showers, phone calls, and visits. He has been housed under continuing room light because he is being kept in the clinic out of sight and sound of adult inmates. In Captain Vida's opinion, Defendant's needs are being met.

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<sup>2</sup> Khan Academy is an online K-12 school program. There was testimony elicited regarding whether Defendant has been able access the program.

### Law and Analysis

Generally, “a juvenile charged with a crime and not released may be placed in a juvenile facility while awaiting trial, and if necessary, sentencing, rather than being placed in a jail or similar facility designed and used to incarcerate adult prisoners.” MCR 6.909(B)(1). A juvenile may be incarcerated in an adult facility “upon a showing that (a) the juvenile’s habits or conduct are considered a menace to other juveniles; OR (b) the juvenile may not otherwise be safely detained in a juvenile facility.” MCR 6.909(B)(2). If placed in an adult facility, then the juvenile must be maintained separately from adult prisoners. MCR 6.909(B)(4); MCL 764.27a.

Additionally, the JJDPa provides, in relevant part,

[U]nless a court finds, after a hearing and in writing, that it is in the interest of justice, juveniles awaiting trial or other legal process who are treated as adults for purposes of prosecution in criminal court and housed in a secure facility

- (I) shall not have sight or sound contact with adult inmates; and
- (II) ... may not be held in any jail or lockup for adults;

34 USC 11133(a)(11)(B)(i)

A court may place a juvenile in an adult facility or lockup if it finds that doing so would be in the interest of justice. In determining if it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults, the court shall consider the following:

- (I) the age of the juvenile;
- (II) the physical and mental maturity of the juvenile;
- (III) the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
- (IV) the nature and circumstances of the alleged offense;
- (V) the juvenile's history of prior delinquent acts;
- (VI) the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
- (VII) any other relevant factor;

34 USC 11133 (a)(11)(B)(ii).



Moreover, if the court determines that it is in the interest of justice to permit a juvenile to be held in a jail for adults then:

(I) the court shall hold a hearing not less frequently than once every 30 days, or in the case of a rural jurisdiction, not less frequently than once every 45 days, to review whether it is still in the interest of justice to permit the juvenile to be so held or have such sight or sound contact; and

(II) the juvenile shall not be held in any jail or lockup for adults, or permitted to have sight or sound contact with adult inmates, for more than 180 days, unless the court, in writing, determines there is good cause for an extension or the juvenile expressly waives this limitation.

34 USC 11133(a)(11)(B)(iii).

The People argue that the sole issue before this Court is Defendant's placement under the JJDPJA; therefore, this Court should not disturb the district court ruling that Defendant is a "menace". MCR 6.909(B)(2). This Court finds that because Defendant was bound over to the circuit court, the district court decision is not binding on this Court and that as a matter of course this Court should also make a ruling pursuant to court rule. Nevertheless, this Court finds the district court's ruling appropriate.

Here, this Court cannot find that the juvenile would be safely detained at Children's Village. MCR 6.909(B)(2). During the "placement hearing", Heather Calcaterra, manager of Children's Village, testified that she had concerns if the Court placed Defendant at Children's Village. Specifically, Calcaterra testified that she was concerned that other residents may target Defendant. Moreover, she testified that she is concerned that Defendant's placement at Children's Village would cause "trauma impact" on other residents. She also testified that Children's Village is suffering from staff shortage.

Lastly, Calcaterra testified that Children's Village has never had an alleged school shooter and has never had anyone "presenting an insanity defense." Based upon the totality of Calcaterra's testimony, it is clear to this Court that Children's Village is incapable of safely housing this Defendant because of the unique circumstances this case presents. Moreover, after May 2022, Defendant cannot be placed in solitary or be secluded from other juveniles even if it were for his protection or for others' protection. As such, it necessitates that he will be in the presence of other juveniles during class, at the cafeteria, dinner, etc. The ratio of students to teacher will be one teacher for every eight residents. Again, Defendant's presence and potential impact on other students is concerning. Additionally, if there was an issue, Calcaterra testified that help may not be immediately available. This Court finds Calcaterra's testimony persuasive and places great weight on her testimony because she is in the best position, as manager, to determine if Defendant can be safely lodged at Children's Village. As such, the Court finds that Defendant cannot be safely detained in Children's Village based upon the testimony.

Next, pursuant to the JJDPA, this Court finds that it is in the best interest of justice to lodge Defendant at the Oakland County Jail for the reasons below.

**(I) Age:** This Court will note that Defendant is 15 years old and 9 months old at the time of this writing. This Court recognizes that the Defendant is a juvenile.

**(II) The physical and mental maturity of the juvenile.** The Court will note that Defendant appears to be of average slim build and is approximately five feet, eleven inches. Additionally, upon reading excerpts from Defendant's journal, numerous text threads, and having reviewed Defendant's jail records, in this Court's opinion Defendant shows sufficient mental maturity.



**(III) The present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile.** Defense argues that Defendant is suffering from extreme isolation, and that the isolation has a negative impact on Defendant's mental health. Christina Belling, Defendant's jail counselor, testified that Defendant is on a "behavioral watch" and no longer on "suicide watch." She stated that she would not have changed Defendant's status if she believed he was a danger to himself. Moreover, this Court read Defendant's email exchanges since being lodged at the Oakland County Jail (People's Exhibit 17).

The Court will note that Defendant has been actively communicating with members of the public – sometimes several times a day. Throughout the email exchanges, Defendant does not express any mental health concerns. In fact, in an email dated January 16, 2022, Defendant emailed an individual that he is in an adult jail and "I got a cell to myself 3 meals a day, a TV to watch and the guards are pretty nice." (People's Exhibit 17). This Court reviewed numerous jail email exchanges and will note that Defendant does not express any mental health concerns. Additionally, upon reading Defendant's jail email exchanges, the Court will note that Defendant advises others that he is doing "fine" and expressed positive thoughts through the exchanges. For example, in an exchange dated January 19, 2022, Defendant advises an individual that their mail "brightens" his day and photos of New York are what he imagined. There is nothing in the email exchanges that causes this Court concern regarding Defendant's current mental health. Although Defendant is in isolation, he does not note any mental health concerns and the jail has not noted any concerns. He is eating, reading books, playing video games, and talking to others. As such, this Court is not persuaded that Defendant's isolation is having a negative impact on his current mental health.

**(IV) The nature and circumstances of the alleged offense.** The nature and circumstances of the alleged offense are extremely troubling and disturbing. The Court is placing

great weight on this factor. The People allege that Defendant planned and executed a mass murder at Oxford High School. Allegedly, he killed four students and injured several others. The alleged facts speak for themselves and there is no need to analyze further.

**(V) The juvenile's history of prior delinquent acts.** Upon review of the People's exhibits, the Court will note several prior delinquent acts.

First, this Court reviewed text messages that occurred several months before the alleged incident. (People's Exhibits 1-4; 6-8). Additionally, this Court reviewed excerpts from Defendant's journal. (People's Exhibit 13). In one of the text threads, dated May 12, 2021, Defendant texted another individual and wrote in his journal that he planned to kidnap, rape, torture, and then kill an identified minor female.

Additionally, in the journal, Defendant describes that he had created Molotov cocktails and had started a small fire in the woods. Further, he described that he may use the Molotov cocktails during the school shooting.

Lastly, the Court will note that prior to the alleged incident, Defendant killed several baby birds. In his journal, Defendant noted that he killed "8 infant baby birds by slowley [sic] torturing them until death." (People's Exhibit 13). This Court reviewed People's Exhibit 5, which indeed shows Defendant torturing a baby bird to death.

The above prior delinquent acts are of grave concern to this Court.

**(VI) The relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth.** Here, as outlined above, Heather Calcaterra (Children's Village manager) testified that she had several concerns if the Court were to place Defendant at the Children's Village. One of Calcaterra's concerns is that other residents may "target" Defendant

and that his presence on campus may have a "trauma impact" on other residents. Additionally, after May 2022, Children's Village will not have solitary confinement. Because Children's Village would not be able to segregate Defendant in solitary confinement that necessitates that he will be in the presence of juveniles who are being detained on less serious charges. He would be required to attend class, eat, and have recreational activity with other residents. This Court notes that Defendant is a minor and should be receiving some sort of education but to place Defendant with other juveniles may have a negative impact on other juveniles' progress toward rehabilitation. Defendant's presence could possibly impact other residents emotionally. This Court cannot vet who, if anyone, currently placed at the Children's Village has been impacted by the underlying circumstances of this case. Additionally, Defendant has noted his extreme dislike for school and school authorities and used his extreme dislike as a motive to commit the underlying alleged offense. (People's Exhibit 13). This Court does not find that it is appropriate to place Defendant in a classroom with other students or teachers. Additionally, Calcaterra testified that Defendant would not have immediate access to online schooling and that Children's Village or Waterford School District would have to investigate whether online schooling could be made available.

Additionally, the Court will note, per the People's brief, the Children's Village has had eight escapes and/or walk aways from campus in the past nine months. Additionally, Children's Village is understaffed. As such, the potential of escape at Children's Village is great.

On the other hand, Defendant's basic needs are being met at the jail. He has food, water, television, books, showers, and communicates with the public and family members through electronic communication. Additionally, he has developed relationships with several members of the public that he communicates with several times a week through email communication. Additionally, Captain Vida testified that the jail is working with Oakland County Corporation

Counsel to determine if there are additional school resources, other than the K-12 program on the tablet, available to Defendant. As such, this Court finds that jail is able to meet Defendant's needs.

**(VII) Any other relevant factor.** Defendant argues that extreme isolation has a negative impact on his current mental health. Again, the Court reviewed all email threads and will note there is no evidence before this Court to support Defendant's assertion.

In conclusion, this Court finds that it is in the interest of justice to maintain Defendant's detention at the Oakland County Jail.

IT IS HEREBY ORDERED THAT Defendant's motion to transfer Defendant to Oakland County Children's Village is DENIED.

IT IS FURTHER ORDERED THAT Defendant shall be detained in the Oakland County Jail.

IT IS FURTHER ORDERED THAT the Oakland County Prosecutor's Office shall confer with the Oakland County Jail to determine if there is a place within the jail to house Defendant that does not have continued 24-hour room light and is not within sight or sound of any adult inmates.

IT IS FURTHER ORDERED THAT a review hearing shall be scheduled for March 24, 2022 at 9:00am by zoom consistent with the requirements under the JJDP.

IT IS SO ORDERED.

Date: March 1, 2022

  
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HON. KWAME ROWE