

Law ties DA's hands over jailing of juvenile in homicide

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By Karen Kane, Pittsburgh Post-Gazette



An undated photo made available by the Houk family shows Kenzie Marie Houk with her daughters Jenessa, left, and Adalynn in Wampum.

It's a case that cries for the wisdom of Solomon.

On one hand, a pregnant mother of two was fatally shot in the back of the head and left to be found by her frightened 4-year-old who was alone in the house.

On the other hand, an 11-year-old boy is accused of the horror, caught in limbo between adult and juvenile courts, sitting in isolation in a county lockup with little more than a cot, a sink and a commode for company.

"Yeah, it's enough to make me throw up," said Lawrence County District Attorney John Bongivengo, prosecutor of the child who, in the eyes of the law, is an adult facing the most serious criminal charge on the books: two counts of premeditated homicide.

Before a court can decide whether the child is guilty or the right measure of punishment, the justice system must decide what to do with the boy while his rights to due process are pursued.

"I'm not necessarily sure that I want him sitting in jail while we figure all this out," said Mr. Bongivengo in an interview yesterday.

Lawrence County Jail Warden Charles Adamo agrees. In fact, he stands ready to go on record as saying the 10-foot-by-10-foot jail cell is definitely not the right place for Jordan, who is so small it's tough to find prison garb to fit him.

"I've got to keep him in isolation. He has to be checked constantly. But he's also got the right to be able to get out for a bit. He's got the right to a shower. It's really tough," the warden said.

He said he will recommend that Jordan be moved to a juvenile facility, though the warden admits that option has downsides as well. "There's really no good place that I know of anywhere in Pennsylvania to put an 11-year-old. Nothing that I can think of anyway," he said.

The subject has been keeping the district attorney up at night as he struggles to discern the right way to proceed. "I don't think I've slept more than three hours since Friday," he said.

1. Describe the crime

2. Jordan Brown is facing two counts of what felony?

3. Why two counts, instead of one?

4. How old is Jordan Brown?

5. Where is he right now?

6. Due process is the principle that the government must respect all of the legal rights that are owed to a person.

Why is there debate that Jordan Brown's is not being given due process?

That's the day when Jordan Brown, a fifth-grader from New Beaver, Lawrence County, allegedly killed his father's pregnant girlfriend, Kenzie Marie Houk, 26.

Police say he used the child-sized 20-gauge hunting shotgun his father, Chris, had given him for Christmas. Ms. Houk, who was due to deliver a son in a couple of weeks, was shot while lying on her bed in the family's two-story farmhouse near New Castle.

Her body was found by her 4-year-old daughter, Adalynn.

Mr. Bongivengo described the killing as "premeditated and cold-blooded." He said Jordan shot his future stepmother, put the shotgun back in his bedroom, got rid of the spent shell casing and rode the bus to Mohawk Elementary School with Ms. Houk's 7-year-old daughter, Jenessa. Jordan's father was at work at a local factory at the time of the killing.

By early Saturday, Jordan had been arrested and charged with two counts of homicide, including the killing of an unborn child. And Mr. Bongivengo was beginning what he expects to be one of the most difficult cases he'll ever face.

"I'm really struggling with this," said the district attorney, a 38-year-old father of a nearly 9-year-old son and twin 6-year-old boys.

"I can't help but pull on my experience as a father here. I don't like thinking of this boy in jail, either. But, I also have to be a DA," he said. Mr. Bongivengo is in his fourth year as the county's chief prosecutor.

The dilemma is what to do with a child who has been deemed an adult. If he had his druthers, Mr. Bongivengo said, he would see the state Legislature change the law that employs what's known as a "direct transfer," which automatically requires children 10 and older to be charged immediately as adults if they are suspected of homicide.

"The law puts us in the position of dealing with a child who must be treated as an adult," he explained. "I feel like I'm short on options." Although several juvenile detention facilities are in the vicinity, Mr. Bongivengo said, many such facilities have concerns about accepting minors without a court order, because they are viewed under the law as "adults."

"Remember, these are juvenile facilities," he said.

Even if a juvenile facility is willing to accept the child-deemed-adult, the court system must address the reality of the child's safety. "These places can be housing dangerous people, even if they are juveniles. There are sexual molesters there, tough kids. And [the facilities] generally aren't equipped to deal with kids who need to be kept isolated from the general population," he said.

The boy's defense attorney, Dennis Elisco, who is a county public defender and also has a private practice, is expected to file a motion to have the child released on bond today. In Pennsylvania, defendants charged with homicide often remain in jail until they face trial.

7. Describe the murder weapon.

8. Where did he get it?

9. Where does Jordan Brown attend school?

10. What evidence does the Lawrence County DA have to suggest this killing was "premeditated and cold-blooded"?

11. Why does PA law require he be charged as an adult?

12. Describe the "direct transfer" law.

13. Why is there confusion/concern about "where to put" him?

Later this week, tentatively Thursday, the child is to face a preliminary hearing during which Mr. Bongivengo will have to prove that he has enough evidence in the case to warrant a prosecution. He said he also expects that hearing to include a discussion on whether the case should proceed in adult court or be transferred to juvenile court. Mr. Elisco has indicated he will ask that the case be transferred.

Though Mr. Bongivengo believes Ms. Houk's killing to be premeditated, he said Jordan would not face the death penalty even if convicted in adult court because the U.S. Supreme Court does not allow executions of people younger than 18. However, Jordan could face life in prison if found guilty of first-degree murder.

The district attorney said he has no intent to prosecute Jordan's father in connection with the child's access to the hunting weapon. "It was his own shotgun. He actually won a turkey shoot using it within the last week or so. [Hunting] is part of the culture up here," he said.

Mr. Bongivengo said he has heard that Jordan has been visited by his father and his attorney and has been exhibiting "little emotion. Is that because he's cold? Is it because he's in shock? We need a lot more information."

He said he expects the case will involve discussions with adult and juvenile probation officers, children and youth service officials, court personnel and doctors.

Liz Ryan, president and chief executive officer of the Washington, D.C.-based Campaign for Youth Justice, said no right answer should involve time in an adult jail. "We have to remember that this child has had no trial. He has not been found guilty of anything. We really feel strongly that he should not be with adult offenders. And isolation isn't good either. ... Neither way works. The simple fact is that he can't remain [in an adult facility]," she said.

The district attorney is open to suggestions.

"I want to listen to what anybody and everybody has to say. I want to protect the boy and protect the witnesses and the community. I'm not the DA guy that says, 'I want to lock him away and I don't [care].' I probably won't be totally comfortable with whatever happens, but this decision will stay with me the rest of my life. I have to be able to live with it."

Karen Kane can be reached at kkane@post-gazette.com or at 724-772-9180.
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14. Why can't he get the death penalty?

15. Respond (on the back, separate page, on the wiki, etc.) to this case. Give me a couple of well-conceived paragraphs.

This is an open response, and I want to hear your thoughts. Be prepared to share them with the class.

Respond to any of the following:

- the case itself
- the DA's tough spot
- the investigation
- due process
- detention concerns
- juvenile law
- problems with "direct transfer"
- the fact that the death penalty's not an option
- gun control
- crime and gun culture in Western PA
- this seeming contradiction: abortion remains legal, but the kid faces two murder raps
- really, anything that addresses the law involved in this case