

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JORDAN FRANCIS TOYNE,

Defendant.

Case No. 24-CR-24-RAW

**GOVERNMENT’S OPPOSED MOTION TO RE-OPEN REQUEST FOR DETENTION
AND BRIEF IN SUPPORT**

COMES NOW the plaintiff, United States of America, by and through United States Attorney Christopher J. Wilson and Assistant United States Attorney Nicole Paladino, and pursuant to 18 U.S.C. § 3142(f)(2), respectfully moves this Honorable Court to re-open its request for detention related to this defendant. The Defendant objects to this motion. The United States’ Motion is based on new information not known to the United States when the Defendant’s conditions of release were originally set. The United States now respectfully requests this Court enter a detention order under 18 U.S.C. § 3142(e).

I. PROCEDURAL HISTORY

The Defendant is named in a three-count indictment charging him with three counts of Sexual Abuse of a Minor in Indian Country in violation of 18 U.S.C. § 2243(a), 1151 & 1152 (Doc. No. 2). The Defendant was arrested on these charges in Tulsa County on March 4, 2024. Upon his arrest, the United States filed its original motion for pretrial detention (Doc. No. 11). During his Rule 5 appearance in the Northern District of Oklahoma, the Defendant requested a same day detention hearing. The appearance and hearing were held on March 6, 2024, before United States Magistrate Judge Susan E. Huntsman (Doc. No. 7). Because the Government’s

Motion for Detention was held immediately and on the same day as his Rule 5 appearance, the matter was handled by an out-of-district AUSA who was unfortunately unaware of and did not present all relevant information surrounding the case. At the conclusion, the Magistrate Judge ordered that the Defendant be released with conditions (Doc. No. 9).

The United States did not appeal the Magistrate Judge's order. Subsequently, the United States received new information "related to the safety of any other person and the community" and now promptly files this motion to re-open its request for detention. 18 U.S.C. § 3142(f)(2)

II. APPLICABLE LAW

"[A detention] hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community." 18 U.S.C. § 3142(f)(2). The appropriate grounds for reconsideration of detention include new evidence previously unavailable. *Aplt. App.*, Vol. III at 355 (quoting *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000)). *United States v. Robertson*, 852 F. App'x 331, 337 (10th Cir. 2021).

"If, after a hearing . . . the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial." 18 U.S.C. § 3142(e)(1). "The facts the judicial officer uses to support a finding pursuant to [section 3142(e)] that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence." 18 U.S.C. § 3142(f).

III. ANALYSIS

A. Charged Conduct

The Defendant was an Internet Crimes Against Children (ICAC) detective with the Oklahoma State Bureau of Investigation (OSBI) until his resignation due to the allegations contained in the indictment. The Defendant has approximately 99 hours of sex crimes related law enforcement training which cover topics including grooming, the disclosure process, etc.

The Defendant and [REDACTED] have been best friends since high school. They remained in very close contact and essentially raised their children together. In 2016 when she was 9 years old, the victim who is the subject of the indictment was adopted by [REDACTED] and his wife, [REDACTED]. The victim considered the Defendant her uncle and called him “uncle Jordan.”

In 2019, the Defendant became an OSBI Agent and moved to an address on Ono Ct., Bache, OK, in Pittsburg County. The Defendant remained at that address until October of 2022, when he moved to Broken Arrow. The victim was 13 years old in 2019 and was 15 years old when the defendant moved to Broken Arrow.

The victim’s family and the Defendant’s family were very close, and the victim would spend time with the defendant, his wife [REDACTED], and their 4 young children (3 of whom are from a prior marriage). In 2019, the summer before the victim began 8th grade and when she was 13 years old, she joined the family for a camping trip at Marval Resort in Gore, Oklahoma. [REDACTED]’s younger sisters, who were minors, also joined [REDACTED]’s family at the Resort. During this trip, the victim was sitting with the Defendant on the couch, and both were underneath a blanket. [REDACTED]’s two sisters were also on the couch and were seated on the other side of Defendant. The victim laid her head on her “uncle’s” shoulder. When the Defendant thought she was asleep, he put his hand on the victim’s thigh, and then moved it up her thigh and into her panties. The Defendant’s hand went inside the victim’s panties but did not penetrate her vagina. This quick movement in and out of the

victim's panties was the first instance of inappropriate touching and the Defendant then returned his hand to the victim's thigh. The victim was confused and did not speak of anything.

During the following days of the trip, the Defendant and all the kids played in the pool. The Defendant would pick the victim up to throw her in the pool and he would slide his hands up her legs and into her bathing suit. These "hand slips" were quick, no one saw them, and he did not penetrate the victim's vulva. The victim returned home and did not disclose anything.

The next time the Defendant acted out against the victim was during fall break 2019. The Defendant reached out to ■■■ to see if the victim could come to his McAlester home to watch his children while he and his wife worked. Due to the distance, the victim stayed the night. During this trip and many others that occurred over the next couple of years, the Defendant took advantage of alone time with the victim. During the first overnight stay and when ■■■ was at work, the Defendant kissed the victim with an open mouth in an approach she called "rough." He caressed her breasts over and under her clothes. He tried to "go inside" her with his hands, but she had him stop because it hurt. The Defendant told the victim on numerous occasions that she could never tell anyone what was happening because it would ruin the Defendant's life and career and that no one would believe her anyway. The victim also knew her dad was the Defendant's best friend, and she did not want to destroy her family.

Touching and kissing continued over the course of various visits. In the summer of 2021, before the victim started 9th grade, she accompanied the Defendant's family on another camping trip in Gore and then returned home with them for a few days afterward. Upon their return to the home, the Defendant placed his mouth on the victim's vagina for oral sex for the first time. Oral sex and touching went on for a period of time. Around Christmas of 2021, the Defendant attempted to penetrate the victim's vagina, but it was painful for the victim and hard for the Defendant to enter. Ultimately, during Christmas break of 2021 and while on the floor of his youngest son's

bedroom, the Defendant successfully penetrated the victim's vagina with his penis. The Defendant shared with the victim that he was "fixed", but he wore a condom because he but couldn't be too careful.

The Defendant subsequently penetrated the victim with his penis on other occasions, but it was difficult to find time because [REDACTED] was home more often. On one occasion when the Defendant brought his kids to their mom's house in Owasso in December of 2022, he attempted to sexually abuse the victim in his car, but she denied him, and it ultimately did not happen.

In January of 2023, the Defendant sent the victim a text about how easy it would be to "unalive" her. [REDACTED] thought the text was weird and stopped the contact between the Defendant and the victim for a period of time. In March 2023, within two months of being separated from the Defendant, the victim was finally able to disclose to her parents the abuse the Defendant had been perpetrating. [REDACTED] promptly called law enforcement and ceased all contact with the Defendant and his family.

B. Additional victim not charged

The Defendant's wife, [REDACTED], has two younger sisters, one of whom is identified herein as victim 2. In 2021, victim 2 was a minor child approximately 14-15 years old. Victim 2 spent a substantial amount of time with her sister [REDACTED] and her sister's family in McAlester, OK. Victim 2 considered the defendant to be her "big brother."

Victim 2 disclosed an incident in December of 2021 when she was awake with the Defendant after her sister [REDACTED] had gone to sleep. Victim 2 was under the age of 16 at the time. The Defendant tried to get victim 2 to play a romantic version of adult truth or dare, which made her uncomfortable. The Defendant also tried to get victim 2 to complete a dare that involved taking off the pants of the other person with his or her mouth.

The Defendant talked to victim 2 about how he thought it would be funny if victim 2

walked in on him having sex with J.T. When victim 2 acted uncomfortable, the Defendant showed her pictures of himself and J.T. and then confided in her that J.T. had cheated on him. Victim 2 felt bad for the Defendant and tried to comfort him. In response, the Defendant placed his hand on the inside of victim 2's thigh and caressed her. Victim 2 tried to get up, which caused the Defendant's hand to move closer to her "crotch" and down the back of her butt. Eventually, victim 2 said she wanted to go to bed. Despite knowing that victim 2 slept on the couch, the Defendant asked her where she was going. Victim 2 said she wanted to snuggle with the Defendant's youngest son for the night. The Defendant told victim 2 that he thought that was "BS" and he then acted mad at her.

Victim 2 was worried the Defendant would follow her inside, so she got the Defendant's youngest son from the crib and laid him on her chest. The next day, victim 2 disclosed to her sister what had happened. ■■■ initially expressed that she believed victim 2 about the events. Later, ■■■ called victim 2 and told her that she had watched a camera in the living room and that the events did not happen. However, victim 2 knew that there were areas in the living room which were outside the view of the camera. Because ■■■ supported the Defendant instead of her younger sister, victim 2's mom made a decision that victim 2 would no longer be allowed to sleep over at the Defendant's home or be alone with the Defendant. Close in time to the events that happened between the Defendant and victim 2, she wrote a description of what had happened in her journal.

The charged victim and victim 2 know each other well from spending overlapping time with the Defendant and ■■■. However, the two young girls never discussed with each other the abuse that each suffered at the hands of the Defendant.

C. New information not known to the United States at the time of the detention hearing in the NDOK

In a non-custodial interview given by the Defendant on May 2, 2023, he admitted that he engaged in an extra-marital affair with ■■■ and that ■■■ was unaware of the affair. According to

the Defendant, [REDACTED] was frequently at his and [REDACTED]'s home and had a great friendship with both parties. The Defendant claimed [REDACTED] was present in the home on many occasions with the Defendant and the named victim. The Defendant claimed that [REDACTED] could support his alleged innocence through her observations of the victim. However, contrary to the Defendant's assertions, [REDACTED] informed the FBI that she has "felt in her heart" since day one that the Defendant is guilty and that she would never help him with his case. Despite that, [REDACTED] was told by the Defendant that "you gotta help me."

Based upon the Defendant's own statements, [REDACTED] is therefore a potentially material witness in this case. On Tuesday, March 12, 2024, a victim advocate reached out to the named victim's father to provide him with an update regarding court. On that phone call, he informed the advocate that after the Defendant was arrested for this case, [REDACTED] had filed a police report regarding the Defendant. Based on that information, the police report (attached hereto as Exhibit 1) was secured and an interview of [REDACTED] (summary of which is attached hereto as Exhibit 2) was conducted on March 13, 2024. That summary was provided to the Government on March 13, 2024.

[REDACTED] reported that she became scared when the Defendant became obsessive of her in February of 2023. The Defendant would tell [REDACTED] that he wanted to be with her and that he wanted her to move in with him so his wife would leave. [REDACTED] quickly realized that the Defendant was very possessive and jealous, and she tried to end their relationship. On one occasion after she tried to break up with him, the Defendant refused to let [REDACTED] out of his car at a gas station and began repeatedly hitting himself in the face and legs. Watching the Defendant's physical reaction was frightening to [REDACTED]. The Defendant would also show up uninvited at [REDACTED]'s home and job. The Defendant would also repeatedly call [REDACTED]. The Defendant threatened to commit suicide if [REDACTED] would not be with him.

On Monday, March 4, 2024, [REDACTED] learned that the Defendant had been arrested and was

being held in Tulsa County Jail. She became aware that he was in custody because the Defendant began calling her in back-to-back succession. ■■■ did not accept any calls from the jail. Instead, she took advantage of the knowledge that she was temporarily safe from the Defendant because he was in custody, and she filed a police report and petition for a protective order. A hearing on the protective order is currently scheduled in Newkirk, OK, on Monday March 25, 2024. ■■■ also informed authorities that the Defendant regularly posts “snaps” about burning down the world of those who refuse to help him.

The United States subsequently requested and received the Defendant’s jail calls from the Tulsa County Jail on March 13, 2024. The Defendant’s jail call manifest (attached hereto as Exhibit 3) corroborates the information provided by ■■■ and shows seven (7) outgoing calls to her. Having received this new information, the United States now promptly brings this motion to re-urge that the Defendant be detained because the new information demonstrates that *the safety of any other person and the community* is at risk if the Defendant is not detained. The United States urges that the safety of any person related to the case at bar is especially at issue.

Additionally, when the Defendant’s case was originally reviewed, the Defendant reported that he had employment. However, there has been a change in circumstances as the Defendant subsequently lost his job and is now unemployed.

D. Evidence Regarding the § 3142(g) Factors

“The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning” the following factors. 18 U.S.C. § 3142(g).

§ 3142(g)(1)

The charged crime is a crime of violence because it is a felony under chapter 110 of Title 18 of the United States Code. *See* 18 U.S.C. § 3156(a)(4)(C). The nature and circumstances of the charged offense supports a finding that the safety of the community cannot reasonably be assured should the Defendant be released. The Defendant positioned himself as a prominent figure in his victim's lives. He purported to be someone they could trust and then took advantage of that trust in a reprehensible fashion. The Defendant's actions of preying on children weigh in favor of detention.

§ 3142(g)(2)

Under § 3142(g)(2), the weight of the evidence is substantial. The Defendant abused two victims, neither of which has ever discussed their abuse with the other. The sexual conduct is incredibly similar with both victims. Multiple witnesses corroborate the Defendant's inappropriate closeness to the child victims. The Defendant has professional training in the area of child sexual abuse. These factors weigh in favor of detention.

§ 3142(g)(3)

The Defendant's character and past conduct support the entry of a detention order. The Defendant is a former ICAC investigator with the OSBI. He was entrusted to protect children from sexual abuse and yet he perpetuated it upon children in his care. The Defendant has approximately 99 hours of sexual assault related training. He was uniquely situated to groom these children and that is exactly what he did. He engaged in several small "test touches" to gauge their proclivity to disclose. Initial touches could be explained as "mistakes." As time went on without disclosure, the touching advanced to oral sex and penetration of the vulva with the named victim. The named victim considered the Defendant her uncle. The Defendant also threatened his named victim and

told her that no one would believe her if she disclosed and that doing so would ruin his career and life.

The uncharged victim, victim 2, is the defendant's minor sister-in-law and she looked at him as her "big brother." Luckily for her, victim 2 disclosed immediately after the initial thigh-touching incident. Her disclosure prevented the Defendant from progressing his abuse on her. Unfortunately, the named victim was not as lucky. This factor weighs in favor of detention.

§ 3142(g)(4)

Under § 3142(g)(4), the Court should consider the nature and seriousness of the danger to any person or the community that would be posed by the Defendant's release. "The concern about safety is to be given a broader construction than the mere danger of physical violence." *United States v. Gilliard*, 722 F. App'x 818 [2018 WL 660152, at *3] (10th Cir. 2018).

The Defendant is erratic and unpredictable. He has been harassing the woman who he cheated on his wife with for over a year including calling her seven times while in jail in Tulsa County. ■■■ is so scared of the Defendant and what he might do that she filed for a protective order while she knew he was in custody, and she was safe to do so. The Defendant has previously shown up at her home and her place of employment unannounced and unwelcome. The Defendant has ignored ■■■'s pleas to be left alone. He is now unemployed with more free time than ever to cause harm.

Further, the Defendant has threatened suicide if ■■■ refuses to be with him. Research conducted on the correlation between suicide risk and individuals charged with a crime involving an offender's sexual interest in children exacerbates this concern. When comparing suicide risk with the general population of Irish males (1/5524), sex offenders who offended against children

were 230 times more likely to commit suicide.¹ This study found that the offender’s shame and “catastrophic loss of standing and irreparable damage to one’s reputation” are most closely linked to the offender’s subsequent suicide. *Id.* In 2005, a study was conducted of 374 male, child sex offenders and found that they were 183 times more likely to die by suicide than the male general population.² Results also indicated that the suicides occurred around the time of the disclosure of the sex crime or trial. *Id.* These studies make clear that there is an increased chance of suicide when a defendant is charged with a crime involving a sexual interest in children. This concern is highly probative both of the Defendant’s likelihood to appear as required and of the safety risk created by releasing the Defendant pending trial.

Courts have viewed the potential for suicide as grounds for pretrial detention. *See, e.g., U.S. v. Cody*, 498 F.3d 582 (6th Cir. 2007), *United States v. Fitzhugh*, No. 16-MJ-30364, 2016 WL 4727480 (E.D. Mich. Sept. 12, 2016), *U.S. v. George-Rodriguez*, 2013 WL 3246114 (D. Utah 2013), *U.S. v. Krueger*, 2013 WL 8584873 (E.D. Michigan 2013), *U.S. v. Robinson*, 2012 WL 5863636 (2012).

IV. CONCLUSION

For the foregoing reasons, the United States respectfully requests that the Court grant its motion to re-open detention pursuant to 18 U.S.C. § 3142(f)(2) and enter a detention order pursuant to 18 U.S.C. § 3142(e).

¹ Brophy, J. (2003). Suicide outside of prison settings among males under investigation for sex offenses in Ireland during 1990 to 1999. *Crisis: The Journal of Crisis Intervention and Suicide Prevention*, 24, 155–159. doi:10.1027//0227 5910.24.4.155.

² Pritchard, C., & King, E. (2005). Differential suicide rates in typologies of child sex offenders in a 6-year consecutive cohort of male suicides. *Archives of Suicide Research*, 9, 35–43. doi:10.1080/13811110590512903.

Respectfully submitted,

CHRISTOPHER J. WILSON
United States Attorney

s/ Nicole Paladino
NICOLE PALADINO, AR Bar #2017113
Assistant United States Attorney
Attorney for the Plaintiff
520 Denison Avenue
Muskogee, OK 74401
Telephone: (918) 684-5100
E-mail: Nicole.Paladino@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2024, I electronically transmitted the attached documents to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrant:

Tom Wright
Counsel for Defendant

s/ Nicole Paladino
NICOLE PALADINO
Assistant United States Attorney

SEALED EXHIBIT 1

Newkirk Police Department Report

Filed under seal pursuant to this Court's Order filed on March 15, 2024

SEALED EXHIBIT 2

FBI FD-302

Filed under seal pursuant to this Court's Order filed on March 15, 2024

SEALED EXHIBIT 3

Call Log

Filed under seal pursuant to this Court's Order filed on March 15, 2024