Wednesday, April 10, 2024 / Prosecuting parents

[HALF SECOND OF SILENCE]

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SEAN RAMESWARAM (host): On Tuesday, something happened in Michigan that’s never happened before.

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*<CLIP> TODAY - Prosecution James and Jennifer Crumbley*

*HOST: James and Jennifer Crumbley are the first parents in the United States to be held responsible for a mass shooting by their child. Both were convicted of involuntary manslaughter for failing to secure the gun that Ethan used to kill four of his classmates.*

SEAN: The parents of a school shooter were sentenced for a crime their kid committed.

*<CLIP> ABC News, Michigan school shooting*

*Student John Edwards: Over the PA we hear our principal Mr Wolf is shouting ‘Alice, lockdown! Alice, lockdown!’ And then we heard the gunshots in the class and … I was praying for, you know, my safety, my friends’ safety, you know, everyone's safety*

SEAN: On *Today, Explained* we’re going to hear from two Michiganders. One is gonna remind us what happened in Oxford, Michigan back in November 2021, and tell us what happened in the subsequent trials. The other is gonna tell us what prosecuting the parents in this case means for future ones.

[THEME]

SEAN: *Today, Explained*. Sean Rameswaram. Joined by Quinn Klinfelter. He’s the senior news editor at WDET, public radio in Detroit. And he was one of the first reporters to show up to Oxford High School in Oxford, Michigan after the shooting.

QUINN KLINFELTER (SENIOR NEWS EDITOR, WDET): At the time, Ethan Crumbley, who was 15 years old, came to the school. He had had some problems beforehand in terms of looking up, ammunition for guns in class. And then on that morning he drew pictures of a gun shooting a figure that was bleeding and had phrases like, ‘Blood everywhere!’ ‘Help me!’ ‘The thoughts won't stop.’ That kind of thing. And it was very concerning to one of the teachers they saw it, they took a picture of it on their phone, sent it to the counselor. The counselor took Ethan down to his office.

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QUINN: In the meantime, Ethan had scribbled out some of those words, and replaced them with things like, “My life rocks!”  
  
SEAN: Hm.   
  
QUINN: But the, but the counselor had the original already, from the teacher on the phone and looked at it and said, ‘Well, this is concerning.’

*<CLIP> SHAWN HOPKINS, OXFORD HIGH COUNSELOR: This drawing also gave me a lot of concerns of suicide. When I looked at it and I saw one body. When I looked it at and saw words that were internalized of ‘The thoughts won’t stop, help me.’*

QUINN: So they called the parents of Ethan with who are James and Jennifer Crumbley, to come down. The parents came in and talked with them. For what, by all accounts, was a fairly short and somewhat terse meeting, where the counselor said, look, you got to get him counseling. You know, this is some problematic incidents. And they said that they were both working and they really didn't want to try to take him out of class at that point yet. But they promised they would get him counseling.

*<CLIP> SHAWN HOPKINS, OXFORD HIGH COUNSELOR: It was clear that they were not going to take him home that day. So my first thought was ‘I don’t want him alone.’ I want to make sure someone who’s experiencing—*

*CROSS EXAMINER: Why didn’t you want him alone?*

*SHAWN HOPKINS: Because I don’t want a student who may be suicidal alone.*

QUINN: So they put him back in class with, his backpack, and the parents left off to their jobs.

SCORING OUT

QUINN: A couple hours, I think, roughly afterwards, Ethan took the backpack into the bathroom where he got out a high powered handgun which had been bought for him by his parents as a Christmas present just about 4 days before that, and came out and began methodically shooting at students and teachers in the hallway.

*<CLIP> WDIV:*

*PAULA TUTMAN, REPORTER: This is what we do know based on what the under sheriff reported. We have three students who are dead. Six people injured, including a school teacher. They’ve been taken to various hospitals. This all went down in a matter of about five minutes.*

SEAN: What happened to Ethan Crumbley after he committed this heinous crime?

QUINN: About a year later, he pleaded guilty to all the counts. He had many, many counts. Not just of murder, but of terrorism, because the prosecutors said that he had so traumatized the entire community.

*<CLIP> ETHAN CRUMBLEY: I have done terrible things that nobody should ever do. I have lied, been not trustworthy. I’ve hurt many people, and that’s what I’ve done, and I’m not denying it. But that’s not who I plan on to be.*

QUINN: He pleaded guilty to all of those charges. And so the judge sentenced Ethan to life without the possibility of parole, which his court appointed attorneys now have been in the process of, getting set to appeal.

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SEAN: Tell us how this case plays out against the parents. How does the prosecution make its case?

QUINN: Well, there was two things they basically said. Whether or not they were too lax in allowing access to the gun that Ethan Crumbley got.

*<CLIP> JAMES CRUMBLEY TRIAL DAY 1*

*MARC KEAST, PROSECUTION: James Crumbley bought that gun that his son used to kill as a gift for his son four days before the attack. James Crumbley failed to secure that gun in a way to prevent his son from accessing it.*

QUINN: They said ~~one~~ that, you had to look at what a reasonable person would do in such a situation.

<CLIP> WDIV: JENNIFER CRUMBLEY TAKES STAND FOR CROSS-EXAMINATION AT HER OWN TRIAL

*MARC KEAST, PROSECUTION: You don’t deny that in April of 2021, the evidence shows, that your son told his only friend that he had asked you for help.*

*JENNIFER CRUMBLEY: No, I don’t deny that.*

*MARC KEAST, PROSECUTION: OK. And you also don’t deny that he told his only friend that you laughed at him.*

*JENNIFER CRUMBLEY: I do not deny that.*

QUINN: And the the reasonable person thing, it was in regards to what Ethan Crumbley had said or did and that they ignored it, is what the prosecution charged. He had written in his own journal himself. Ethan Crumbley had he had text that he sent to a friend where he said he was hearing hallucinations. He was seeing things, and that his he'd asked his parents to take him to a doctor and that they had refused. That his mother laughed. At one point he said in the message, that is, my dad just, gave me some pills and told me to suck it up.   
  
SEAN: Hm.  
  
QUINN: And he was saying that, he thought maybe he should just call 911, you know, or fake something so that they would get him to be looked at by a doctor. But he thought his parents would be really pissed if he did that. So, you know, he wasn't going to do that.

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QUINN: Now, that's what Ethan was claiming whether he in fact did that was a question. And that’s what the defense would argue, is that the parents had no idea that he was writing or saying any of this. What the prosecution would also say is that the parents were too self involved, to notice these situations. The other part was whether they secured the firearm enough, so that Ethan couldn’t get to it. Jennifer was saying, you know, it's James is the one that was supposed to keep it secure. James is the one that hid it. You know, we hid it in the in this drawer, and we had the bullets hidden elsewhere, you know, under jeans, But there was never any saying that it was locked.

SEAN: How did lawyers defending the Crumbley parents make their case?

QUINN: They claimed that the, that the Crumbleys were never aware of what Ethan was writing, that the things that were sent in the texts or written in his own journal, they were not aware that there was any kind of a spiraling downward.

*<CLIP> JENNIFER CRUMBLEY: I did not go through his text messages. I didn’t have a reason to. His bedroom I would go through when I cleaned it, and I’d come across things and I’d look through it and see if it was something he needed to keep or throw away. But I never went through his text messages.*

SEAN: So, Quinn, you were in the courtroom. The defense that the lawyers representing the Crumbley parents made was that these these two individuals who knew their child owned a firearm, and, and knew that he was fantasizing about shooting up his school didn't know that he was depressed and that he was capable of something like this. Is that what happened?

QUINN: Not exactly. They would say they knew he was depressed, but they didn't think he was either suicidal and certainly not homicidal. And they would say that because they, they would say that the counselors, the school officials that they talked to are supposed to be trained in such matters. And they had said, it's okay to leave him in school.

SEAN: How long did it take the jury to decide that both of these parents were guilty?

QUINN: Super short amount of time, which, you know, was pretty obvious they were going to find him guilty. A little over a day, maybe. Which I have to say, as an outside observer, you know, they would go on at length about the home life of them and whether or not they had noticed things that Ethan had been doing that, you know, you should have picked up on as a parent those kinds of things. And I kind of wondered at times just, just covering it, you know, well, I wonder if you really put this kind of microscope on anybody's life, would anyone escape looking, you know, completely innocent or, yes, we followed everything a parent should do – even though these were such egregious circumstances.

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SEAN: You know, I want to bring this back to this community that, that you seem to know pretty well, Quinn. You know, did the people of Oxford, Michigan want this to play out the way it has? Did they think it was a good idea to punish the Crumbley parents for what their child did?

QUINN: Among the ones I've heard in Oxford, a lot of them are family members of the victims or people that were wounded or they know them. You know, it's a fairly tight knit community, and they think that justice should be done. And that includes holding those responsible for this kind of thing, They had press conferences afterwards where one of the fathers in particular, I remember, was saying that his daughter had been killed by Ethan Crumbley. And he said, you know, no matter what happens, nothing's going to bring my daughter back. He said, but maybe, maybe if this kind of thing goes forward, maybe in the future some parent will see this or think of this, and they'll think twice before they let their kid go off the way the Crumbleys did with Ethan.

SCORING BUMP  
  
SEAN: Quinn Klinefelter. WDET. Detroit Public Radio. You can find and support his work at WDET dot Org. When we’re back on *Today, Explained* we’re gonna ask a law professor how much the Crumbley case is gonna change how prosecutors prosecute parents for what their kids do.

[BREAK]

*<CLIP> SIMON & GARFUNKEL: It took me four days to hitchhike from Saginaw. I’ve gone to look for –*

SEAN: *Today, Explained*. Joined now by Professor Ekow Yankah.

EKOW YANKAH (PROFESSOR, UNIVERSITY OF MICHIGAN): I'm the Thomas Cooley Professor of Law and a professor of philosophy at the University of Michigan.

SEAN: Philosophically speaking, what do you make of these verdicts for these two parents?

EKOW: I do think there's a kind of big philosophy question here, and it's one that's embedded all the way in our law and in the ordinary way we speak to each other. And there's a baseline legal intuition that we teach in first year criminal law that if somebody else acts, that's not on you.   
  
SEAN: Mm.   
  
EKOW: With a few exceptions for being, co-conspirator or, an accomplice and a small set of exceptions for felony murder, the law just says, you know, if I give you a gun and you shoot somebody, I might be responsible for a lot of things. But I don't count as a murderer. And that is the fundamental question that hit, that hit land in this case.

SEAN: And and beyond that, this is sort of an unprecedented moment in our legal history.

EKOW: Yeah. I mean, this is pretty close to unprecedented.

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EKOW: What the prosecution argued in this case was not that the Crumbleys were responsible for what their child did. Now, I could be responsible for what my child does if I give a three year old a gun and they fire it off, then I'm going to be responsible because the three year old just isn't a legal agent in the world, right? By the way, that's also true if I give a gun to somebody who's quite literally insane, right? If they have no idea what's happening in the world and they shoot it off, I'm going to be responsible. But when somebody is responsible for their own actions, then that severs the causal chain is what we call it. That is, it's not your action anymore, it's on them. Ethan Crumbley was tried as an adult, right? He's going to spend the rest of his life in jail, and he wasn't found non-responsible by reason of insanity.

SEAN: Mm.

EKOW: It's very clear he had deep mental health issues. And in that sense, it's clear that lots went wrong. You know, even the defense had to admit these are not parents who were doing as well as they could have. But one of the innate tensions in this case is that Ethan Crumbley was found responsible for his own actions and tries as an adult, and yet still, his parents were found liable. So that's what makes this case slightly unprecedented or close to unprecedented.

SCORING OUT

SEAN: Are there people out there right now who are seeing these verdicts and these sentences and saying <sick sigh> ‘Were these Crumbley parents found criminally liable for being bad parents?’

EKOW: Yeah. Look, I mean, that's what the defense was betting on – is that at some point you shouldn't be punished just because you're a bad parent, that there's something dangerous about a case that makes parents liable for what a young adult who knows what to do, like him, you know, he's at least old enough to know where to go get a gun, where to find it, how to unlock it, how to shoot it, and what the what the defense lawyer really wanted to make, sort of vivid in the jury's mind, is that cases like this pose a danger to every parent out there, including, frankly, everybody who falls short of being a perfect parent, but even good parents who are doing their best right, good parents who, frankly, may know that their son is tempted to do something dangerous or stupid or illegal. And the defense is asking us quietly, at what point do you get to say those are his actions, not mine?

SEAN: What kind of precedent does this set here? Because I think that's what a lot of people are wondering. This wasn't the first school shooting. It won't be the last, but it is the first time the parents are held on the hook. What does that mean for future school shootings? Or, you know, future drunk drivings? Or who knows, future … my kids went to a party and over, overdosed on some drugs, and the parents should have been responsible there? There's so many possible scenarios.

EKOW: No, you've put your finger right on it, right? So I mean, look, there's a kind of old legal saying that bad facts make from bad law. And I'm not yet saying this is bad law. I mean, this case was heartbreaking. But the point is, these facts were horrendous, and they were stunning. And they were, they were heartbreaking. But, you know, exactly as you say, you know, the law lives on precedent. That's what lawyers are trained to do, right? You train your students to see an argument and make the next analogous argument.

*<CLIP> FOX 2 DETROIT:*

*CHARLIE LANGTON, REPORTER: If there is a school shooting the law enforcement will now look to the parents. And they’re going to ask the same questions that they asked in this case.*

EKOW: And every prosecutor who sees this case is going to use it to make a precedent argument, an argument from precedent in the next time that somebody is violent, somebody, takes a weapon and fires it. Or maybe, you know, your kid is struggling with drugs and alcohol and they go for a joyride and hurt somebody, right? This precedent will live in those cases.

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EKOW: One other thing we have to worry about is over the last few generations, when we have tried to use criminal law to solve fundamental social problems, we've rarely gotten at the thing we need to do. So, for example, I think about, a set of laws that, reform minded criminal law scholars worried about greatly but went under the radar when we started punishing over a generation in the 90s, in particular, mothers of children who were truant in school. Right.

*<CLIP> FORMER CALIFORNIA ATTORNEY GENERAL KAMALA HARRIS: I believe a child going without an education is tantamount to a crime. So I decided I was going to start prosecuting parents for truancy. Well, this was a little controversial in San Francisco.*

EKOW: So it was another kind of instinct to use criminal law to punish people for their children's behavior. And what we discovered was what we almost always discover when we use criminal law to address social problems, right? A mother who's struggling to keep a sick child, or a child who's, not going where they're supposed to be, a child who's skipping out on school, mother who's working a job or two. The things she needs in her life is support, not criminal law. Coming in and throwing her in jail for a couple days. And what we also discovered, surprising nobody, is that these laws became heavily focused on poor and minority communities. They became just a bludgeon for poor black mothers who were trying desperately to keep their kids in school. They didn't address the failing school. They threw those black mothers in jail. And so one thing I worry about is when we systematically look at social problems and instead of addressing the underlying problem, we aim the criminal law at the most vulnerable among us.

SCORING OUT

EKOW: Given that we as a nation have founded, you know, most states and our entire country seems to find it impossible to aim at global solutions for gun violence. Frustrated, prosecutors are going to reach for whatever tools they have, including these kind of cases. But I also think the important thing is that, you know, if I'm perfectly honest, it will be hard for us to know when these kind of, precedents are used, because I have to be perfectly honest, I've had conversations about this case from Australia through Europe through everywhere in the country.

SEAN: Hm.   
  
EKOW: The problem is, the next set of cases will not be a spectacular as the Crumley case. They will not all the international news. There will be some quiet case where a prosecutor uses this precedent to extract a plea bargain out of a parent who truly doesn't believe they're guilty. But a prosecutor will say, look, you can either take the two years I'm offering you or I'm going to prosecute you for 15. And one question that we should all ask is, in those cases where no jury will have a chance to vote and no scholar will have a chance to criticize, no judge will have a chance to weigh in, and no newspapers will carry that story. Are we comfortable with this being an ordinary basis of liability from prosecutors in their daily work?

SEAN: Hm. At the end of the day, I think, you know, irrespective of how Americans feel about guns, no American wants to see schools being shot up. Do you think the Oxford school shooting or these verdicts for Ethan Crumbley and his parents will bring about any changes to the likelihood that we see more school shootings in Michigan or anywhere else in the country.

EKOW: It's a great question. I mean, what I can say is, the Oxford school shooting did lead to a set of gun laws being passed in Michigan.

SEAN: Mm.

EKOW: These are the first gun laws being passed in Michigan in decades.

*<CLIP> WDIV: ROD MALONEY, REPORTER: If you’re gonna have a weapon like this and it’s gonna be unattended in your home, it has to have one of these now on it. It’s a gun lock. But there’s also something else gun owners need to know. And that is, if you’re a prospective gun owner, you want to buy one, it’s going to take a whole lot longer.*

EKOW: Including red flag laws for those who might be going through mental health crises, and even a domestic violence, restriction on, on, gun possession.

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EKOW: So it is true that the most painful moments finally led to legislative action. I am not one of the people who thinks that just because I can't figure out a law that will solve the entire problem tomorrow, we should do nothing, right? I think one of the really painful things about our gun debate is that when people propose quite sensible gun regulation, somebody raises their hand and says, ‘But that wouldn't have stopped this one particular shooting in this one particular place.’  
  
SEAN: Mm.   
  
EKOW: And that strikes me as an insane way for us to go forward. But that being said, if what we want to do is tackle our epidemic of gun violence, one that looks unlike any other in the industrialized world, the idea that what we should do is pick these extreme cases and try to legislate parental liability for shooters strikes me as just a, you know, a really frustrated, bordering on hopeless way to go about it. If we want to do something about gun violence, we probably have to do something about guns.

SCORING BUMP

SEAN: Professor Ekow Yankah. University of Michigan in Ann Arbor. He also sits on the board of the Innocence Project.

Our program today was produced by Haleema Shah, edited by Miranda Kennedy, fact-checked by Laura Bullard, and mixed by Patrick boyd. Hady Mawajdeh was also in the house.

It’s *Today, Explained*.

[10 SECONDS OF SILENCE]