

IN THE DISTRICT COURT IN AND FOR MCCURTAIN COUNTY  
STATE OF OKLAHOMA

MCCURTAIN GAZETTE,  
and  
CHRISTOPHER WILLINGHAM,  
*Plaintiffs,*

v.

MCCURTAIN COUNTY SHERIFF'S  
OFFICE,  
and  
KEVIN CLARDY in his official capacity  
as MCCURTAIN COUNTY SHERIFF.  
*Defendants.*

COURT CLERK'S OFFICE  
County of McCurtain, State of Oklahoma  
FILED

MAR 10 2023

KATHY GRAY, Court Clerk

By \_\_\_\_\_ Deputy

Case No. *Cv 23-34*

**PETITION FOR RELIEF FOR VIOLATIONS OF THE  
OKLAHOMA OPEN RECORDS ACT**

Plaintiffs McCurtain Gazette and Christopher Willingham, by and through undersigned counsel, petition this Court pursuant to the Oklahoma Open Records Act ("ORA"), Okla. Stat. tit. 51, §§ 24A.1–24A.33, for (1) a declaration of the rights and responsibilities of Defendants McCurtain County Sheriff's Office and McCurtain County Sheriff Kevin Clardy as to the public records sought by Plaintiffs; (2) an order enjoining Defendants from continuing to deny access to the public records requested by Plaintiffs; and (3) a writ of mandamus requiring Defendants to immediately disclose the requested records to Plaintiffs.

In support of this Petition, Plaintiffs allege and state the following:

**PARTIES**

1. Plaintiff McCurtain Gazette is a "legal newspaper" as defined by Okla. Stat. tit. 25, § 106, located in McCurtain County, Oklahoma, and published by Bruce Willingham. Since

1905, the McCurtain Gazette has provided leading news coverage for McCurtain County and southeastern Oklahoma.

2. Plaintiff Christopher Willingham (“Willingham”), an individual, is a reporter employed by McCurtain Gazette.

3. Defendant McCurtain County Sheriff’s Office (“MCSO”) is a “public body” and “law enforcement agency” within the meaning of, and subject to, the ORA. *See* Okla. Stat. tit. 51, §§ 24A.3(2), 24A.3(5).

4. Defendant Kevin Clardy (“Clardy”) is a natural person and currently serves as the elected Sheriff of McCurtain County. He is being sued in his official capacity as the McCurtain County Sheriff. Since he took office in 2017, the McCurtain County Sheriff’s Office has been under Clardy’s direction. Clardy is a “public official” within the meaning of, and subject to, the ORA. *See* Okla. Stat. tit. 51, § 24A.3(4).

## **STATEMENT OF FACTS**

### **A. The death of Bobby Barrick**

5. On the evening of March 13, 2022, Bobby Barrick, a 45-year-old Broken Bow man and citizen of the Choctaw Nation, was hog-tied by local residents in Eagletown, Oklahoma after allegedly being caught burglarizing a store. *See* Ex. A, photograph and caption beginning “Eagletown residents took the law into their own hands after catching a thief recently . . .”, McCurtain Gazette, Mar. 17, 2022, at 1.

6. When MCSO deputies arrived on scene, Barrick was hogtied and surrounded by people. *See* Ex. B, *Hogtied Suspect Dies After Being Tasered*, McCurtain Gazette, Mar. 22, 2022, at 1.

7. As deputies arrested Barrick, he reportedly began to struggle and “Deputy Matt Kasbaum allegedly Tasered Barrick and he stopped breathing and ‘flat-lined,’ according to an eyewitness.” *Id.*

8. Barrick was then transported to a local hospital where he later died. *See id.*

9. Both the Federal Bureau of Investigation and the Oklahoma State Bureau of Investigation opened investigations into the circumstances of Barrick’s death. *See* Ex. C, Chris Willingham, *Officer Who Tased Barrick Resigns*, *McCurtain Gazette*, May 5, 2022, at 1.

10. MCSO initiated an internal investigation of the incident. *Id.*

11. Deputy Matt Kasbaum, who was a subject of the FBI and OSBI investigations, and the MCSO internal investigation of Barrick’s death, resigned from MCSO effective April 30, 2022. *Id.*

12. OSBI previously investigated Kasbaum for fatally shooting a civilian fourteen months before the incident leading to Barrick’s death. *Id.*

***B. Plaintiffs’ three ORA requests to MCSO***

13. On March 21, 2022, Willingham, in his role as a Reporter for *McCurtain Gazette*, submitted an ORA request (“First Request”) to Defendants for (i) “[a]ny and all reports and witness statements relating to the Bobby Barrick case,” (ii) “[a]ll officer body camera footage of the Bobby Barrick case,” and (iii) “[a]ll radio logs associated with the Bobby Barrick case (i.e., when the initial call came in, officers responded, times they arrived and left, when EMS was contacted, etc.).” A true and correct copy of Plaintiffs’ First Request is attached hereto as

**Exhibit D.**

14. A representative of Defendants responded to Plaintiffs’ First Request on March 23, 2022, stating in relevant part, “the Barrick case is tribal, we contacted them and they advised

the release of records should be sent to them.” A true and correct copy of Defendants’ response to Plaintiffs’ First Request is attached hereto as **Exhibit E**.

15. Also on March 23, 2022, Willingham, in his role as a Reporter for McCurtain Gazette, submitted an ORA request (“Second Request”) to Defendants for (i) “[a]ll sheriff’s department inventory of Taser (and/or any other less-than-lethal) equipment including gun and the cartridges,” (ii) “[a]ll Taser (and/or less than lethal equipment) certifications that sheriff office personnel has,” and (iii) “[t]he model number and serial number of the taser (or less than lethal device) that Matt Kasbaum had in his possession during this Bobby Barrick incident.” A true and correct copy of Plaintiffs’ Second Request is attached hereto as **Exhibit F**.

16. On March 30, 2022, counsel for Defendants, Justin P. Ashlock, responded to Plaintiffs’ Second Request stating in relevant part that Defendants had “no documents in its possession which are responsive to these requests and available under the Oklahoma Open Records Act.” A true and correct copy of Defendants’ response to Plaintiffs’ Second Request is attached hereto as **Exhibit G**.

17. On April 5, 2022, undersigned counsel for Plaintiffs contacted Defendants’ counsel regarding Plaintiffs’ First and Second Requests and requested Defendants provide a written response indicating whether the requested records did not exist or if Defendants believed an ORA exemption or exception applied to the records. A true and correct copy of counsel’s April 5 correspondence to Defendants’ counsel is attached hereto as **Exhibit H**.

18. On April 6, 2022, Willingham, in his role as a Reporter for McCurtain Gazette, submitted an ORA request (“Third Request”) to Defendants for (i) “[t]he McCurtain County Sheriff’s Department most recent policy and procedure on use of force from the department handbook,” and (ii) “[a]ny and all use of force reports and/or forms that were completed or

should have been following the Bobby Barrick incident of March 14, 2022,” including “what supervisors and/or administrators reviewed those use of force forms and what, if any, actions were taken following the incident.” A true and correct copy of Plaintiffs’ Third Request is attached hereto as **Exhibit I**.

19. On April 20, 2022, counsel for Defendants, Justin P. Ashlock, responded to Plaintiffs’ First, Second, and Third Requests stating in relevant part:

Presumably, [Plaintiffs’ First, Second, and Third Requests] are at least tangentially, if not directly, related to the March 13, 2022 incident involving Bobby Barrick. Currently, that incident is the subject of an ongoing internal investigation, as well as an investigation by the OSBI and/or the FBI. Due to the pending investigations, the MCSO declines to release any records not specifically required to be released under the Oklahoma Open Records Act.

A true and correct copy of Ashlock’s April 20 correspondence is attached hereto as **Exhibit J**.

20. Ashlock’s April 20 response stated Defendants’ view that witness statements, an inventory of Taser and other less-than-lethal equipment, Taser training certifications, the model and serial number of the Taser possessed by Kasbaum during the incident, Defendants’ use-of-force policy, and use-of-force reports related to the incident are not records available under the ORA. *Id.*

21. Ashlock further stated Defendants’ view that body-worn camera video footage of the incident was exempt from disclosure because it “include[d] information that would materially compromise an ongoing investigation or ongoing criminal prosecution.” *Id.*

22. Lastly, Ashlock provided Plaintiffs six pages of documents on behalf of Defendants including a radio log and three written deputy statements responsive to Plaintiffs’ First Request. *Id.*

23. As of the filing of this Petition, Defendants have not produced any additional records in response to Plaintiffs' First, Second, or Third Request.

24. In total, there are seven categories of records that Defendants have failed to produce in response to Plaintiffs' First, Second, and Third Requests:

- a. All reports and witness statements relating to the Barrick incident, other than the three deputy statements produced on April 20;
- b. All officer body-worn camera video footage from the Barrick incident;
- c. MCSO's inventory of Tasers and other less-than-lethal equipment including gun and cartridges;
- d. All Taser (and/or less than lethal equipment) certifications of MCSO personnel;
- e. The model and serial number of the Taser (or less than lethal device) possessed by Matt Kasbaum during the Barrick incident;
- f. MCSO's most recent use-of-force policy and procedure; and
- g. All use-of-force reports and/or forms that were completed or should have been completed following the Barrick incident, including what supervisors and/or administrators reviewed those documents, and what actions, if any, were taken following the Barrick incident.

### **CAUSE OF ACTION**

#### ***Violation of the ORA for Unlawfully Withholding Records Responsive to Plaintiffs' First, Second, and Third Requests***

**(All Defendants)**

25. Plaintiffs repeat, reallege, and incorporate the allegations set forth in paragraphs 1 through 24 as though fully set forth herein.

26. The purpose of the ORA is “to ensure and facilitate the public’s right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power.” Okla. Stat. tit. 51, § 24A.2.

27. Accordingly, the ORA provides that “[a]ll records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours.” *Id.* § 24A.5.

28. “The public body urging an exemption [to disclosure] has the burden to establish the applicability of such exemption.” *Id.*

29. “Because of the strong public policy allowing public access to governmental records,” the ORA’s provisions must be construed “to allow access unless an exception clearly applies . . . .” *Okla. Ass’n of Broads., Inc. v. City of Norman*, 2016 OK 119, ¶15, 390 P.3d 689, 694.

30. Law enforcement agencies are required to “make available for public inspection and copying” certain records including, but not limited to, “a chronological list of all incidents, including offense report information showing the offense, date, time, general location, officer, and a brief summary of what occurred,” “facts concerning the arrest, including the cause of the arrest and the name of the arresting officer,” and body-worn camera footage. Okla. Stat. tit. 51, § 24A.8(A).

31. Law enforcement agencies must also make publicly available records that are made open by other state or local laws and may not rely on Okla. Stat. tit. 51, § 24A.8 to deny access to records that were previously made available to the public as provided in the ORA or otherwise provided by law. Okla. Stat. tit. 51, § 24A.8(B)(1).

32. Additionally, law enforcement agencies cannot deny access to records where a court finds that the public interest or the interest of an individual outweighs the law enforcement agency's reason for denial. *Id.*

33. Each category of records sought by Plaintiffs' Request are records of public bodies, public officials, and/or law enforcement agencies as defined by the ORA. Okla. Stat. tit. 51, § 24A.3.

34. Defendants possess records responsive to each category sought by Plaintiffs' Requests.

35. There is no legal basis for Defendants' failure or refusal to disclose the requested records.

36. Disclosure of the requested records is intended to, and reasonably likely to, enable Plaintiffs, who are members of the news media, to evaluate whether those entrusted with the affairs of the government (*i.e.*, law enforcement) are honestly, faithfully, and competently performing their duties as public servants. Among other things, disclosure of the requested records will enable members of the press and the public to learn more about the circumstances of Bobby Barrick's death at the hands of law enforcement.

37. The public interest in the requested records outweighs any reason for denial.

38. Defendants have violated the ORA for each category of undisclosed records by unlawfully withholding the records requested by Plaintiffs. Defendants will continue to be in violation of the ORA absent relief from this Court.

### **REQUESTED RELIEF**

Therefore, Plaintiffs respectfully request the Court enter an order:

A. Declaring the records sought by Plaintiffs open records available to the public for

inspection and copying in accordance with the Oklahoma Open Records Act;

B. Declaring disclosure of the requested records is in the public interest and that the public interest outweighs any reason for denial;

C. Declaring Defendants' refusal and failure to provide the requested records an unlawful violation of the Oklahoma Open Records Act;

D. Enjoining Defendants from continuing to deny access to the public records requested by Plaintiffs;

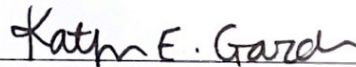
E. Requiring the prompt production of all requested records that have been improperly withheld by Defendants pursuant to Okla. Stat. tit. 12, §§ 1451–1462;

F. Awarding Plaintiffs reasonable attorney fees and the costs of this action; and

G. Granting such other and further relief as the Court deems just and proper.

**DATED: March 10, 2023**

Respectfully submitted,



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McCurtain Gazette and Willingham

# **EXHIBIT A**



Friday's forecast:

Partly sunny, with a high near 59. Northwest wind 15 to 20 mph, with gusts as high as 30 mph

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Periodicals Postage Paid at Idabel, Oklahoma

# McCurtain Gazette

Proudly serving McCurtain County since 1905

March 17, 2022

THURSDAY

Volume 117, Number 44

## Thieves steal \$33K in medical marijuana

Idabel police are investigating the theft of at least \$33,000 in medical marijuana from a local dispensary. The owner of Green Smile Cannabis called police Tuesday morning after he awoke and found his grow room had been burglarized. The man said he awoke at 6 a.m. and the alarm to his grow room was going off.

He said 33 pounds of marijuana was missing from the room and it appeared the thief "knew what they were doing" as they went directly for the dried weed.

Burglary tools including a pry bar and a hammer were found outside.

Detectives are investigating. In other law enforcement activity, a combative woman at Hochatown Saloon spit and urinated on deputies while fighting them Saturday.

Officers were called to the saloon because the woman was screaming and trying and fight people and also appeared to be having a seizure.

The suspect would not come out from under the

table when officers arrived, so they dragged her out. She fought officers and then went completely limp and refused to move. As deputy Matt Kasbaum was putting the suspect into a patrol vehicle the woman urinated through her pants and down the officer's arm and leg. She also spit on multiple officers.

Finally, officers got her into a patrol vehicle and took her to jail. However, on the way to jail, the suspect began kicking the metal cage in the vehicle and made gurgling sounds, as if she was choking. Deputy Quentin Lee pulled over to check on her and she began kicking him with both feet. Lee pepper-sprayed the woman and took her to jail.

She faces multiple charges, including assault and battery on a police officer.

In another combative suspect call, deputies responded to a report of a man jumping in front of passing cars in Garvin Friday. The suspect ran when deputies and a state

trooper arrived and was told to stop.

Deputy Quentin Lee chased the suspect and hit him in the leg with a baton, causing him to fall, but he pulled Lee down in the process and began fighting him. The suspect's nose was bleeding from the fall and he started spitting blood from his nose into deputy Lee's face.

He was finally arrested. Idabel Domestic Violence Detective Jaime Mills is seeking charges on a 21-year-old woman after the suspect gave birth to her third child that tested positive for meth.

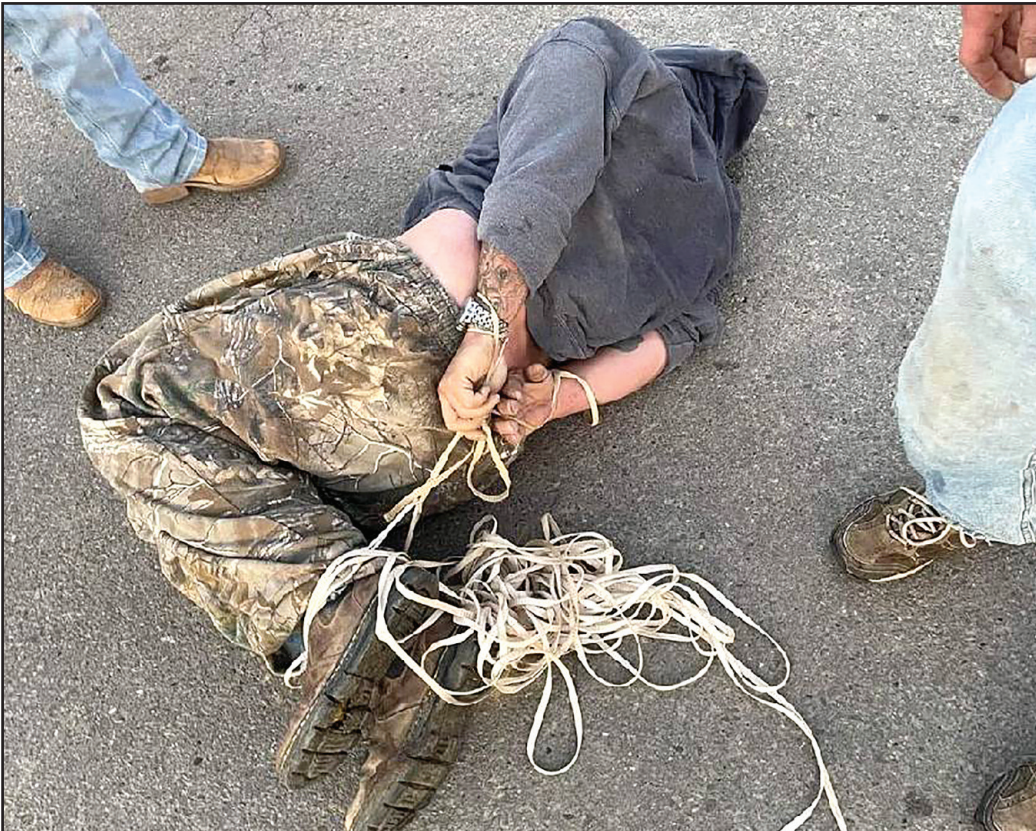
The Idabel woman's baby was in NICU after being born and testing positive for meth. Mills said the woman's previous two babies also tested positive for meth at birth. Charges of child endangerment (third offense) and failure to protect child (third offense) are being sought against the woman.

The woman told Mills she had no prenatal care at all while she was pregnant.

Deputies arrested a Tom man who broke into Tom store to call police.

The man was sitting outside the store, which had a broken window when officers arrived. He said he couldn't get anyone to help him, so he broke into the store and called deputies. He also ate a snack cake from the store while he waited on officers. He was arrested.

Sheriff's officers probed the of a generator, plumbing fixtures and door knobs from a Boss Road home and also took a report of two juvenile runaways from Kiamichi Youth Services.



Eagletown residents took the law into their own hands after catching a thief recently. The man was allegedly caught burglarizing Lori's Corner Store and ran when he was caught. After a short chase, some local residents caught and hog-tied him and waited for deputies to arrive. "This is why we can't have nice things in Eagletown," the owner of Lori's Corner Store said on a Facebook post about the incident.

## Attendance hits new highs as spring breakers flock to county

By Bob West

Visitors from four states (and beyond) are enjoying recreation and good weather during the second week of school spring breaks.

Visitors at the Forest Heritage Center and at Beavers Bend State Park reported they were having a lot of family and combined-family groups visiting their venues. Visitation numbers at the museums (and others in the area) range from hundreds a day to thousands during the first half of March.

And that is only a fraction of the visitors coming in droves to one of the hottest tourism spots in Oklahoma and the Four States area.

This week's warmer weather has definitely helped encourage hiking and other outdoor activities, said Brianna Teel on the Forest Heritage Center staff.

But whether warm or cool the weather, business people welcoming the crowds headed for Hochatown cabins, and state park and lake areas are enjoying the ring of the cash registers and the revenues generated during back-to-back waves of visitors this month.

Both the FHC museum adjoining the park rental front desk and the Museum of the Red River on Lincoln Road with its pyramid architecture that attracts drive-by visitors, report they are having their biggest visitation number of the year.

"We're seeing many combined families with younger kids, dressed in hiking clothes and asking which are the better trails," said Teel.

They are making self-guided tours of the new attractions in the courtyard, visiting the People of the Forest photographic display in the Traveling Timber Towns and CCC room, which takes them back to early 20<sup>th</sup> century cultural history.

Some visit the Echinata Wood Art Gallery and today through Saturday the Woodworking Artists of the

Year exhibit is open for public viewing.

Full occupancy of cabins, both park and private, and lodges were reported throughout the Beavers Bend-Hochatown area. At mid-week, it appeared to be at least as many visitors if not more this week, with the good weather definite a factor.

Also, a couple dozen school buses have brought baseball teams to two tournaments in the county. One began Monday at Broken Bow, Idabel and Valliant, and another was under way at Wright City.

Teams are staying in the Hochatown or Corps of Engineers and state park public areas at Broken Bow and Pine Creek lakes.

Warmer temperatures was revving up the tempo outdoors with activities that range from taking hikes to snapping photos, boating and fishing, touring museums, and taking part in Beavers Bend Nature Center activities.

The Museum of the Red River guest book was showing its biggest surge in a month that has already had a couple of thousand visitors this month stopping at the venue on the route many take when headed north to Hochatown.

This month, around 2,000 have stopped to see what the museum offers visitors. Most are from Oklahoma, Texas, Louisiana and Arkansas but others have come this month

from as far away as Wisconsin, Maine and Colorado.

Tuesday alone saw 121 visitors, the biggest day so far other than the 600 attending the recent Acrofest.

The museum is known for its ethnographic displays and the Oklahoma State Dinosaur that stares or growls at them. The *Acrocanthosaurus atokensis* "pit" is next to the Don and Maryetta Herron reception room at the museum front.

Especially popular with children and grandparents is the Holland and Sallie Webb Family Learning Center where kids read, make crafts and learn how to bead with looms, and just outside that room beat their own rhythm on a big drum.

Visitors are touring the recent acquisitions exhibit at the Curtis Gallery and the adjoining Founders' Gallery. Other current attractions this week will include the Brad Box photographic exhibit at The Gallery on East Main in Idabel on May 26.

Some of the county's other historic and nature attractions are the Beavers Bend Wildlife Museum, Muscles Car museum at Gasquatch on U.S. 259 north, Jefferson Gardner Mansion on U.S. 259 at the Mountain Fork River, Wheelock Academy at Millerton and the Barnes-Stevenson House at Idabel.

## 10-acre blaze halted as wild fire season slows

Broken Bow and Oklahoma Forestry Services combined to contain a fire in a pine plantation to 10 acres southeast of Broken Bow Sunday.

Also, BBFD responded at 6 a.m. Tuesday to Steel's Junction when an 18-wheeler rolled over on its side in a muddy ditch along U.S. 259 west of Broken Bow. The driver was not injured.

The Sunday afternoon blaze off Craig Road was the only wild land fire of the weekend.

One to two inches of rain has helped slow the run of wild fires burning thousands of acres so far this year in OFS's southeast forest protection area. More rain is possible in a later front this week, said a National Weather Service official.

### Extended weather forecast

Today A 20 percent chance of showers after 1pm. Sunny, with a high near 76. South wind 5 to 15 mph.

Tonight Showers and possibly a thunderstorm before 1am, then a chance of showers and thunderstorms after 1am. Low around 45. Southeast wind 10 to 15 mph becoming west after midnight. Chance of precipitation is 90%.

Friday Partly sunny, with a high near 59. Northwest wind

15 to 20 mph, with gusts as high as 30 mph.

Friday Night Mostly clear, with a low around 36.

Saturday Sunny, with a high near 69.

Saturday Night Mostly clear, with a low around 39.

Sunday Sunny, with a high near 74.

Sunday Night Partly cloudy, with a low around 48.

Monday Showers and thunderstorms. High near 70.

Chance of precipitation is 80%.

Monday Night Showers and thunderstorms. Low around 53. Chance of precipitation is 90%.

Tuesday Showers and thunderstorms likely. Mostly cloudy, with a high near 70.

Chance of precipitation is 60%.

## Jury finds defendant not guilty of assault

A McCurtain County District Court on Tuesday found a Broken Bow man not guilty of domestic assault and battery.

Justin Don Miller, 39, had been accused in an October 2020 case that was investigated by Alicia Manning of the McCurtain County Sheriff's Office.

Prosecutors alleged that Miller twisted his girlfriend's arm up behind her back and body-slammed her on the kitchen floor.

Special District Judge Walter Hamilton presided in the case, Assistant District Attorney Emily Maxwell-Herron presented the state's evidence, and Allen Malone was defense counsel.

## Board recognizes Sargent for her decade of service

VALLIANT – The Valliant School Board recently recognized Becky Sargent's service on the school board and accepted two resignations.

Superintendent Brandon Frazier presented a plaque to Sargent, who did not seek another term on the school board, recognizing her "10 years of service to the students of Valliant Public Schools."

Frazier gave an updated report on construction projects and an overview on long range plans. He also expressed concerns over the impact of rising fuel costs on the district.

The board voted 4-0 to accept resignations of Carl Abbott Jr.'s duties as senior mechanic/bus driver and Mia Morris as pre-kindergarten teacher.

Members approved the second amendment of the American Rescue Plan and OK'd school policies on acceptable use of computers and Internet safety.

Middle school Principal Aaron Beshears noted VMS students' participation in the polar plunge, curriculum contest and track and field competitions.

### Reader photo of the day



Mia Reich, Sydney Morgan and Emma Morgan of Girl Scout Troop 7121 took the Tree Promise and celebrated World Thinking Day by recycling plastic items they collected and by planting a magnolia tree at the Wright City Park. (Photo by Melissa Reich)

# **EXHIBIT B**



Wednesday's forecast:

Mostly sunny, with a high near 58. West wind 10 to 15 mph, with gusts as high as 25 mph

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Periodicals Postage Paid at Idabel, Oklahoma

# McCurtain Gazette

Proudly serving McCurtain County since 1905

March 22, 2022

TUESDAY

Volume 117, Number 45

## Hogtied suspect dies after being Tasered

A 45-year-old Broken Bow man died in a Paris hospital Friday after being taken into custody and having been hogtied when he was allegedly caught burglarizing Lori's Corner Store in Eagletown.

No report was yet available Monday afternoon from the sheriff's department, a week after the incident, but this newspaper made several formal Open Records Act requests for the reports, witness and officer statements, radio logs and officer body camera footage related to the death.

The deceased, Bobby Dale Barrick, was allegedly caught March 14 breaking into Lori's Corner Store. Local people in Eagletown reportedly grabbed Barrick and hogtied his hands and feet together with twine

and waited for officers to arrive.

This newspaper ran a picture of Barrick lying on the ground hogtied on Thursday.

When deputies arrived to arrest Barrick for burglary, he reportedly began to struggle, kick and fight officers, with several saying he was "making noises like a wild animal."

Deputy Matt Kasbaum allegedly Tasered Barrick and he stopped breathing and "flat-lined," according to an eye witness.

First responders were able to revive Barrick and he was transported to Paris Regional Medical Center, where he died Friday.

When someone is hog-tied and in a prone position, it can very easily lead to a fatal phenomenon called "position-

al asphyxiation," according to a 2019 article in *Police* magazine.

One of the most common causes of in-custody deaths is positional asphyxiation, the article said, and it says officers should remove the suspect's binds when they are hog-tied, if possible.

When someone is hog-tied, there is a greater effect on breathing restriction and lung function compared to being handcuffed, the magazine says, and that effect on breathing is compounded if drugs, alcohol or a violent struggle are involved.

This newspaper attempted to interview sheriff Kevin Clardy Monday and spoke to Sheriff's Department Public Information Officer Ian Wilkerson.

Wilkerson said Barrick's death is being investigated by Choctaw Tribal Police and the FBI, since Barrick was a tribal member.

Wilkerson said the sheriff's department turned over their reports and body cam footage to Choctaw Tribal Police. He also said deputy Kasbaum was on regular duty Monday and not on paid leave.

The newspaper contacted Choctaw Tribal Police Director Jesse Petty Monday for updates in the case.

When the newspaper's Open Records Act requests are returned by the sheriff's department, another story about the incident will follow with more detail.



Bobby Dale Barrick

## Garvin man hurt in ATV turnover

A 22-year-old Garvin man was being treated for multiple injuries at a Texas hospital Saturday night after the all-terrain vehicle he was driving overturned on a county road after hitting loose gravel.

According to Oklahoma Highway Patrolman Rocky Green's report, Joseph Tanner

Harkey, 22, was airlifted by Air Evac to Medical City Hospital, Plano, Texas, with head, legs, internal and external injuries.

Green's report stated that Harkey was southbound in a 2014 Honda on Iron Stob Road five miles south of Garvin when he lost control

after hitting loose gravel and overturned. The driver was thrown "from the back" of the ATV, the trooper said.

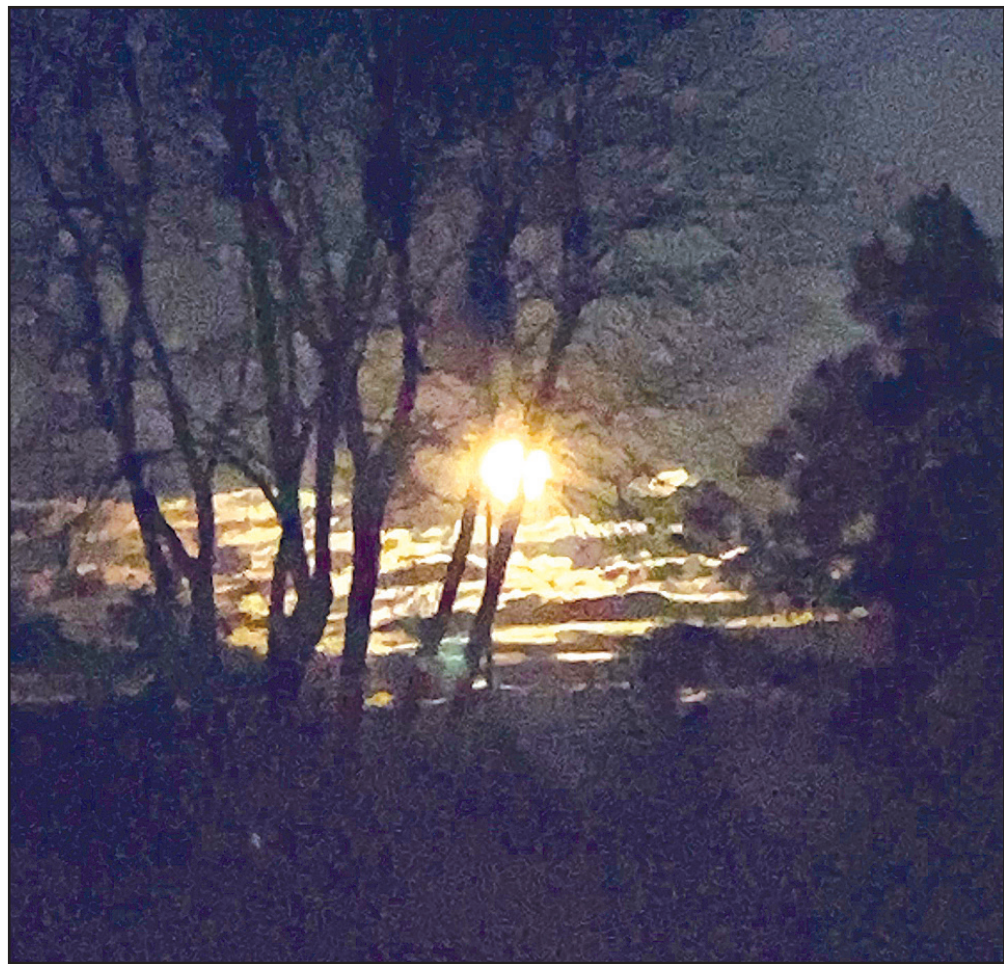
Harkey was taken by McCurtain County EMS ambulance to Garvin Volunteer Fire Department where an emergency zone was

set up to airlift him to Plano for medical treatment.

The road was dry and gravelled and conditions were clear and dry.

Green noted that the condition of the driver was "apparently normal" and that the cause of the crash was driving "too fast for conditions."

### Reader photo of the day



Susan Davis photographed the moonlight shining through the trees on Friday, March 18, east of Idabel.

## FHC to host a 'Trail Through Time' walking tour on April 2

Visitors at the Forest Heritage Center will be treated to a fascinating tour detailing the history of beautiful Beavers Bend State Park, according to museum staff on Saturday, April 2.

Beavers Bend Park Naturalist Frank Griffith will start his tour at the museum and cover topics related to the old Beavers homestead, the CCC and establishment of the park, the Choctaw people, old Hochatown, and Broken Bow Lake.

The tour will leave visitors will newfound knowledge

over the history of the area and hopefully inspire others to explore the past behind present-day Beavers Bend.

The Forest Heritage Center is recommending that visitors wear comfortable footwear and bring water due to the walking involved.

In addition, museum guests who choose not to attend the tour will have an opportunity to take part in a come-and-go event located within the museum.

This history tour is the second in the museum's series of

the monthly programs titled "First Saturday Activities."

Each month will feature a different presenter and theme, with a current lineup of basket making, wood art demonstrations, a survival class, and a Dutch oven cooking class, among others.

The history tour is free to the public and will take place April 2 from 10-11 a.m.

For more information about this event or other monthly activities, contact the Forest Heritage Center at 580-494-6497 or email [fhc@ag.ok.gov](mailto:fhc@ag.ok.gov).

## Clothes rack, tractor extinguished by IFD

Local fire departments answered several fires and reported some losses over the past weekend.

Idabel Fire Department put out a clothes rack fire Saturday afternoon outside a boutique on East Washington. And on Sunday afternoon, firefighters responded to a north Idabel residential area where a tractor was fully engulfed in flames.

Although the tractor was a total loss, the clothes fire was quickly put out with no damage to the boutique.

IFD, while still at the tractor fire, answered a fire alarm at Choctaw Plaza but found that there was no fire.

At virtually the same time, IFD crews were at 2000 SE Washington monitoring a gas leak and waiting for gas company officials to arrive.

Broken Bow Fire Department went to a dryer fire at a Laundromat at Third and North Park at 10:36 p.m. Saturday. Smoke damage was indicated. A half hour earlier, BBFD received a call that

leaves were set on fire on stairs at the Memorial Stadium football bleachers.

On Sunday, the department was called to Ogden Road east of Broken Bow when a transformer blew out and was on fire. The fire was contained to the transformer and did not spread to the surrounding grass.

One other call answered by Broken Bow early in the weekend was a downed telephone cable.

## New COVID-19 cases stay at the same level

By Larry Stovall

McCurtain County's rate of new COVID-19 cases remained roughly the same last week, with 21 new cases added from March 10-17, according to the Oklahoma State Department of Health.

The county has had 20 new cases from March 3-10 and has had an average of 42 new cases over the previous four weeks.

Updated numbers on county fatalities were not available at press time on Monday.

When last provided on March 2, McCurtain County had had 159 confirmed COVID-19 deaths; that number represented deaths that

have been confirmed as being caused by coronavirus after an investigation by the OSDH.

Overall, McCurtain County has had 8,036 cases of COVID-19.

Statewide trends have continued to show decreasing numbers of active COVID-19 cases. Oklahoma had had a seven-day new case average of 136 on March 10; the average on March 17 had dropped below 100, to 95.

Oklahoma has had a total of 1,029,634 cases of COVID-19 since the beginning of the pandemic in March 2020. As of March 17, the state had a total of 1,610 active cases.

The statewide hospitalization three-day average late last week was 262, which includes 36 pediatric cases. ICU hospitalizations statewide was 65.

Region Five, which includes McCurtain and other southeast counties, had a three-day hospitalization average of four last week, with an ICU average of two.

Idabel's ZIP code area was listed as having 14 active cases as of March 17, while Broken Bow had seven. All other county ZIP code areas had zero active cases indicated, but OSDH notes that this can reflect an active total between one and four.

## 1,873 acres burn; rains helping but haven't ended wild fire string

Twenty fires that totaled 1,873 acres burned kept the Southeast Protection Area fire crews on the move over the past weekend.

While most of the fires on Saturday and Sunday were 100 acres or less and within mainly Pushmataha, Atoka and McCurtain County, there were five large fires that ranged between 100 and 640 acres.

Several of the larger conflagrations were in the Kiamichi Mountain along the borderline of the Southeast and East

Central protection areas of the Oklahoma Forestry Services.

Two of the larger fires were just outside forestry protection areas, in Choctaw and Atoka counties.

The Pump Fire west of Mt. Herman was McCurtain County's largest fire Sunday. The most land blackened (640 acres) was in the prairies around the Western Farmers Cooperative coal-fired plant.

A 290-acre fire (Robinson Creek) wasn't wrapped up until 8 a.m. Monday around Finley. Another in Pushmataha

County blackened 183 acres north of Albion.

Frequent thunderstorms with turbulence aloft as warm and cold air clash on frontal lines potentially could end one of the busier winter-spring fire seasons in years.

Monday's front was helping, but the heaviest rains were in East Texas and Louisiana more than the Kiamichi Mountains.

### Extended weather forecast

Tuesday A slight chance of showers and thunderstorms, then a chance of showers after 7am. Cloudy, then gradually becoming mostly sunny, with a high near 69. Southeast wind 10 to 15 mph becoming southwest in the afternoon. Winds could gust as high as 25 mph. Chance of precipitation is 40%.

Tuesday Night Mostly cloudy, with a low around 41. West wind 10 to 15 mph.

Wednesday Mostly sunny, with a high near 58. West wind 10 to 15 mph, with gusts as high as 25 mph.

Wednesday Night Mostly clear, with a low around 36.

Thursday Mostly sunny, with a high near 59.

Thursday Night Mostly clear, with a low around 35.

Friday Sunny, with a high near 71.

Friday Night Mostly clear, with a low around 44.

Saturday Sunny, with a high near 70.

Saturday Night Mostly clear, with a low around 42.

Sunday Sunny, with a high near 72.

# EXHIBIT C



Friday's forecast:

Sunny, with a high near 81. West wind around 10 mph, with gusts as high as 20 mph.

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# McCurtain Gazette

Proudly serving McCurtain County since 1905

May 5, 2022

THURSDAY

Volume 117, Number 58



Kiamichi Technology Criminal Justice student Shakota Witten (right) performs a Standardized Field Sobriety Test on fellow student Logan Polsun (left) during the classes DUI Traffic stop training on the grounds of the Kiamichi Technology Center in Idabel on Tuesday. Head instructor Gabe Morse mentioned that he has 22 students enrolled in the program this year. (Staff photo)

## Corps of Engineers to revise master plan for Broken Bow Lake

By Larry Stovall

The Tulsa District U.S. Army Corps of Engineers (USACE) is revising its master plan for Broken Bow Lake and will host an open house event to showcase the changes on May 23.

That meeting will take place from 6-8 p.m. that day at Kiamichi Technology Center in Idabel.

According to Broken Bow Lake Natural Resources Specialist Adam Miller, the meeting will allow attendees the opportunity to provide public comment on how the lake should be managed over the next 25 years.

The lake's master plan is defined by the Corps as the "strategic land-use management document that guides the comprehensive management and development of all recreational, natural and cultural resources throughout the life of the water resource develop-

ment project" and defines how the resources will be managed for public use and resource conservation.

The lake's current master plan was approved in 1979 according to the USACE and "needs revision to address changes in regional land use, population, outdoor recreation trends and the USACE management policy."

"Revision of the (master plan) will not detail the technical or operational aspects of the lake related to flood risk management; the water conservation missions of the project; or the shoreline management program which specified what private uses are permitted along the shoreline," Corps officials stated.

Key topics that will be discussed in the revised master plan include revised land use classifications, new natural and recreational resource management objectives, recre-

ation facility needs and special issues such as invasive species management and threatened and endangered species habitat.

The open house on May 23 will provide attendees with information on the master plan revisions and a general schedule. USACE staff will be on hand for questions and land use classification maps will be available for viewing.

May 23 will also be the first day of a 30-day public comment period on the master plan revisions. From that date until June 23, the public can send comments, suggestions and concerns. USACE described public participation as "critical to the successful revision of the (master plan)".

Information on the revisions will also be posted to the USACE Tulsa District website starting that day.

## Idabel police follow up leads in armed robbery

Idabel police were following up on leads Wednesday in a masked, armed robbery of E-Z Mart 562 near the hospital.

In the midst of a thunderstorm at 1:11 a.m. Tuesday, an armed masked man approached E-Z Mart on foot from the west side and pointed

a gun at the clerk, who was outside on a break.

The hoodie-clad armed robber ordered the clerk inside, telling him at gunpoint to empty the register.

The robber said if the clerk hit an alarm or gave him "dummy money" he would shoot him.

The suspect, who stood about 5'3 or 5'4, was inside the store for less than a minute before running out the front door with approximately \$200 in cash.

Idabel police had security video from numerous angles of the robbery and were Wednesday following up on leads in the case.

## Officer who Tased Barrick resigns

By Chris Willingham

Sheriff's deputy Matt Kasbaum has quit the sheriff's department, a department spokesperson said Wednesday.

Kasbaum's last day was April 30.

Kasbaum was reportedly under internal investigation at the department, as well as by the FBI and OSBI following the in-custody death of Bobby Barrick, 45, of Tulsa March 13.

Lawyers representing this newspaper from the Reporter's Committee for Freedom of the Press in Washington D.C., were able to get some records in the Barrick case which the sheriff's department had initially refused to turn over to the *Gazette*.

In those partial records, Kasbaum said in his sworn

statement he delivered three 1-second dry stuns to Barrick's bare left hip bone after Barrick kicked one officer and fought several. Following the Taser, Barrick crawled under a deputy's truck, collapsed and stopped breathing, officers said.

He died four days later in a Texas hospital.

Kasbaum remained on duty following the in-custody death until his recent resignation from the sheriff's department.

The newspaper is still, through its attorneys, seeking additional records in the Barrick case, as well as other cases the sheriff's department has refused Open Records Act requests for.

According to the sheriff's department's attorney, Barrick's death is under investigation by the FBI and OSBI.

Fourteen months before Barrick's in-custody death, Kasbaum shot and killed a man on Jan. 31, 2021, while responding to a domestic call for the sheriff's department.

That man, Franklin Gray, 40, reportedly grabbed another officer's gun during the struggle and Kasbaum shot and killed him in his Glover home.

The shooting was investigated by the OSBI and was determined to be a justified officer shooting.

Afterward, both Kasbaum and his wife allegedly memorialized the shooting with matching tattoos on their forearms, the newspaper learned. The tattoos have Gray's initials and the date he was killed.

## Victim claims suspect put dead copperhead in bed

A Broken Bow woman told police on Saturday that she believed another woman had put a dead copperhead snake in her bed after the victim told the suspect to leave her home.

The woman called officers around 6:47 p.m. that day. Sgt. Eric Lewis responded to the Lukfata Street home and was told that a woman had recently moved some things into her

home, intending to stay with the victim's son.

The victim did not want the woman there, police were told, and told her she had to leave and take her things.

The day after the suspect moved out, the victim went into the son's room to change the bedding. When she pulled back the blankets, a dead,

decapitated copperhead was lying on the mattress.

The woman had her husband dispose of the deceased reptile. She said that she did not see the suspect place the snake in the bed, but told officers that the suspect was the only person who had been in that room prior to the reptile's discovery.



An intruder or intruders at Haworth Schools ruined around \$3,000 worth of plants that were being grown for a plant sale fundraiser by the school's baseball team, according to school officials. The break-in resulted in damage to the school greenhouse's humidity controls along with other distress; donation efforts are under way to help Lions baseball compensate for the fundraiser loss. For more information, call Coach Braden Barker at 306-1594 or visit the Haworth Lions Baseball Facebook page. (Contributed photo)

## Construction delays affect school projects

By Bob West

Weather delays continue on U.S. 70 at Valliant where state bulldozers contractors have been clearing trees and grading dirt alongside the roadway for expanded lanes.

The dirt work contractor has had to delay work because of the saturation of the sticky black land soil.

Idabel and Broken Bow bond projects may also have some weather delays. Contractors on Idabel's all-weather foot-

ball and track fields had been making good progress until frequent rains the last few weeks. Broken Bow is in the process of building a new vocational agriculture building with bond funding.

## Valliant schools to sell bonds

By Bob West

Valliant school board has scheduled a special meeting May 11 to sell bonds (\$3 million previously approved by voters for a number of projects).

The regular board meeting is on Monday but that could be subject to change as Valliant girls will be playing in the state softball tournament that day in Oklahoma City's Hall of Fame Softball Complex.

Money for construction could become available this

summer. Among the high priority projects are building improvements at each of the three campuses. Other projects include a new concession-restroom building at the football stadium and new dugouts at softball field.

Also slated are new bleachers for the high school gym and new curtains for the high school auditorium.

Weather postponement of state softball action (to include both Valliant and Broken Bow teams) was announced

Wednesday. State track meet and state golf tournament are slated for Friday and Saturday.

Field and class trips are occurring at county schools this week or next week. Most county schools end the 2021-2022 year next week.

Summer schools begin in late May and June at several county school campuses, in partnership with the Choctaw Nation. Graduations ceremonies are this week and next week (consult school websites for times and places).

## Kiamichi Tech school year winding up

By Bob West

The Idabel campus of Kiamichi Technology Center had approximately 60 on hand for the annual pre-engineering project presentations and awards Tuesday night, said Amy Clardy, pre-engineering instructor.

Shelley Ebert, campus director, noted students, mostly from Broken Bow, Wright City and Idabel, made outstanding presentations, and several scholarship awards were presented.

KTC students continue in class for another week but the

awards assembly is today at

8:30 a.m. today at the campus

in northeast Idabel. A picnic

for students and staff will fol-

low the assembly.

### Extended weather forecast

Today Showers and thunderstorms. High near 77. Southeast wind 10 to 15 mph becoming southwest in the afternoon. Winds could gust as high as 30 mph. Chance of precipitation is 100%.

Tonight A 40 percent chance of showers and thunderstorms before 1am. Cloudy, then gradually becoming partly cloudy, with a low around 56. West wind 5 to 10 mph, with gusts as high as 20 mph.

Friday Sunny, with a high near 81. West wind around 10 mph, with gusts as high as 20 mph.

Friday Night Mostly clear, with a low around 57.

Saturday Mostly sunny, with a high near 86.

# **EXHIBIT D**

March 21, 2022

Officer Wilkerson,

I am making a formal open records act request for the following items from the McCurtain County Sheriff's Department:

1. Any and all reports and witness statements relating to the Bobby Barrick case.
2. All officer body camera footage of the Bobby Barrick case.
3. All radio logs associated with the Bobby Barrick case (i.e. when the initial call came in, what officers responded, times they arrived and left, when EMS was contacted, etc)

I have provided a blank USB drive for digital copies of the radio logs and body camera footage. Reports can be included on the USB, emailed to [chris@mccurtain.com](mailto:chris@mccurtain.com) or faxed to (580)286-2208, whichever is more convenient.

Thank you,

Christopher Willingham  
Vice President, McCurtain County News Inc.

# **EXHIBIT E**



Wed 3/23/2022 11:41 AM

Chris Willingham <[chris@mccurtain.com](mailto:chris@mccurtain.com)>

FW: BARRICK CASE

To: [paper@mccurtain.com](mailto:paper@mccurtain.com)



TRIBAL CONTACT FOR MEDIA.jpg  
81 KB

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From: B. Standridge <[b.standridge@mccurtaincounty.org](mailto:b.standridge@mccurtaincounty.org)>

Sent: Monday, March 21, 2022 3:46 PM

To: [CHRIS@MCCURTAIN.COM](mailto:CHRIS@MCCURTAIN.COM)

Subject: BARRICK CASE

**Chris, the Barrick case is tribal, we contacted them and they advised the release of records should be sent to them. I have attached the contact information for them, if I can do anything else, please call me at the office or on my cell after 4:00 P.M. 580-245-9242**

Brandy Standridge, Secretary  
McCurtain County Sheriffs Department  
2001 Industrial Parkway  
Idabel, OK 74745  
(580)286-3331  
(580)286-7410 fax  
[b.standridge@mccurtaincounty.org](mailto:b.standridge@mccurtaincounty.org)

# **EXHIBIT F**

March 23, 2022

Officer Wilkerson,

I am making a formal open records act request for the following items from the McCurtain County Sheriff's Department:

1. All sheriff's department inventory of Taser (and/or any other less-than-lethal) equipment including gun and the cartridges.
2. All Taser (and/or less than lethal equipment) certifications that sheriff office personnel has
3. The model number and serial number of the Taser (or less than lethal device) that Matt Kasbaum had in his possession during this Bobby Barrick incident.

These items can be emailed to me at [chris@mccurtain.com](mailto:chris@mccurtain.com)

Thank you,

Christopher Willingham  
Vice President, McCurtain County News Inc.

# **EXHIBIT G**



ATTORNEYS AT LAW

JUSTIN P. ASHLOCK  
ATTORNEY

jpa@czwlaw.com

March 30, 2022

Via U.S. Priority Mail

Christopher Willingham  
McCurtain Gazette  
P.O. Box 179  
Idabel, OK 74745

RE: Open Record Request

Dear Mr. Willingham:

Officials with the McCurtain County Sheriff's Office received your Open Records Request dated March 23, 2022, and forwarded said Request to our firm for our review and response. Please direct all future correspondence regarding this request to our firm.

In your Open Records Request, you have requested:

1. All Sheriff's department inventory of TASER (and/or any other less-than-lethal) equipment including gun and cartridges.
2. All TASER (and/or less than lethal equipment) certifications that sheriff office personnel has
3. The model number and serial number of the TASER (or less than lethal device) that Mat Kasbaum had in his possession during the Bobby Barrick incident.

The McCurtain County Sheriff's Office has no documents in its possession which are responsive to these requests and available under the Oklahoma Open Records Act. *See* Okla. Stat. tit. 51, §24A.8. If you have any questions concerning this matter, please do not hesitate to contact me at the number below.

Sincerely,

Justin P. Ashlock

JPA/glp

# EXHIBIT H

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Kathryn E. Gardner  
110 S. Hartford Ave., Ste. 2524  
Tulsa, OK 74120  
Telephone: (918) 255-0060  
Email: kgardner@rcfp.org

April 5, 2022

McCurtain County Sheriff's Office

Justin P. Ashlock

Collins Zorn & Wagner, PLLC

*Delivered via email to jpa@czwlaw.com*

## Re: Oklahoma Open Records Act Requests from McCurtain Gazette

Dear Mr. Ashlock:

I represent McCurtain Gazette in connection with two requests for public records sought by the newspaper and its reporters under the Oklahoma Open Records Act ("ORA"), Okla. Stat. tit. 51, §§ 24A.1-24A.33. McCurtain Gazette has provided readers in Southeastern Oklahoma with news and more dating back to 1907.

In line with this tradition, McCurtain Gazette has provided leading coverage of an incident that took place in Eagletown on March 14, 2022, involving a 45-year-old Broken Bow man and tribal citizen, Bobby Barrick. Accordingly, McCurtain Gazette submitted an ORA request on March 21, 2022, to the McCurtain County Sheriff's Office for the following public records regarding the incident:

1. *Any and all reports and witness statements relating to the Bobby Barrick case;*
2. *All officer body camera footage of the Bobby Barrick case; and*
3. *All radio logs associated with the Bobby Barrick case (i.e., when the initial call came in, what officers responded, times they arrived and left, when EMS was contacted, etc.).*

In response to McCurtain Gazette's request for public records, the sheriff's office instructed the newspaper, "[T]he Barrick case is tribal, we contacted them and they advised the release of records should be sent to them."

As a public body, the sheriff's office has a duty under the Oklahoma Open Records Act to make records available for inspection and copying in a prompt and reasonable manner. *See* Okla. Stat. tit. 51, §§ 24A.5(6), 24A.8. If the sheriff's office chooses not to make records available, it has the burden to establish a lawful reason for its actions. *See id.* § 24A.2. This duty is

accompanied by the burden of paying attorneys' fees if it wrongly decides not to disclose records. *See id.* § 24A.17. The ORA entrusts these duties to the sheriff's office as a public body and not to a third-party, such as the FBI or tribal authorities. *See, e.g., Golden v. New Jersey Inst. of Tech.*, 934 F.3d 302 (2019) (awarding attorneys' fees to requester after public university, the record custodian, withheld records pursuant to FBI's orders).

Additionally, on March 23, 2022, McCurtain Gazette submitted another ORA request to the McCurtain County Sheriff's Office for the following public records:

1. *All sheriff's department inventory of Taser (and/or any other less-than-lethal) equipment including gun and the cartridges.*
2. *All Taser (and/or less than lethal equipment) certifications that sheriff office personnel has; and*
3. *The model number and serial number of the Taser (or less than lethal device) that Matt Kasbaum had in his possession during this Bobby Barrick incident.*

You instructed the newspaper the sheriff's office has "no documents in its possession which are responsive to these requests and available under the Oklahoma Open Records Act."

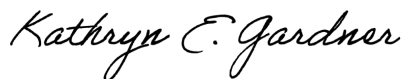
If responsive records do not exist, please provide a written response outlining which records specifically do not exist. To the extent that you withhold records based upon an exemption or exception to the ORA, please detail your reason for denial so that we may balance it against the interests of the public and/or relevant individuals.

Please comply with the duties entrusted to the sheriff's office by the ORA and fulfill McCurtain Gazette's requests no later than Friday, April 8, 2022. If a response will require more time, please respond in writing indicating why a longer response time is required, as well as the anticipated response date for the requested records.

If we do not receive relevant records or a written response from you by April 8, 2022, we will accept this as a willful decision to withhold the requested records. McCurtain Gazette and its reporters reserve all rights in relation to this matter.

Please do not hesitate to contact me with any questions. Thank you for your time and attention to this matter.

Respectfully,



Kathryn E. Gardner  
Attorney | Local Legal Initiative Oklahoma  
Reporters Committee for Freedom of the Press

# EXHIBIT I

April 6, 2022

To whom this may concern,

I am making a formal open records act request under the Oklahoma Open Records Act for the following items from the McCurtain County Sheriff's Department:

1. The McCurtain County Sheriff's Department most recent policy and procedure on use of force from the department handbook.
2. Any and all use of force reports and/or forms that were completed or should have been following the Bobby Barrick incident of March 14, 2022. Also, what supervisors and/or administrators reviewed those use of force forms and what, if any, actions were taken following the incident.

These items can be emailed to me at [chris@mccurtain.com](mailto:chris@mccurtain.com)

Thank you,

Christopher Willingham  
Vice President, McCurtain County News Inc.

CC: Kathryn E. Gardner  
Attorney, Local Legal Initiative Oklahoma  
Reporters Committee for Freedom of the Press

# EXHIBIT J



ATTORNEYS AT LAW

JUSTIN P. ASHLOCK  
ATTORNEY

jpa@czwlaw.com

April 20, 2022

**Via Electronic Mail to [kgardner@rcfp.org](mailto:kgardner@rcfp.org)**

Kathryn E. Gardner  
110 S. Hartford Ave., Ste. 2524  
Tulsa, OK 74120

RE: Open Record Act Request(s) from McCurtain Gazette

Dear Ms. Gardner:

Thank you for your April 5, 2022 letter regarding the Open Records Act Requests to the McCurtain County Sheriff's Office ("MCSO") from the McCurtain Gazette. I have looked into the issues raised in your letter and submit the following responses and supplemental responses to your client's Open Records Requests.

The MCSO has received three Open Records Requests from your client, the McCurtain Gazette. First, the MCSO received an Open Records Requests dated March 21, 2022, requesting reports, witness statements, body camera video, and radio logs "associated with the Bobby Barrick case." Second, the MCSO received an Open Records Request dated March 23, 2022, requesting an inventory of law enforcement equipment, training certifications, and the model and serial number of a TASER in the possession of an officer at the time of the incident involving Bobby Barrick. Then, on April 6, 2022, after this office received your letter, the MCSO received a third Open Records Request (also dated March 23, 2022) via hand delivery from Christopher Willingham. This request sought MCSO Policies regarding use of force and any use of force forms generated as a result of the Bobby Barrick incident.

As you know, not all law enforcement records are available under the Oklahoma Open Records Act. Okla. Stat. tit. 51 § 24A.8(A)(1-10) provides an inclusive list of the documents that Law Enforcement agencies are required to make publicly available, as well as certain exceptions which may limit the disclosure of those documents. However, under Okla. Stat. tit. 51 § 24A.8(B), law enforcement agencies may deny access to law enforcement records that are not specifically enumerated in subsection A, unless a court finds that the public interest or the interest of an individual outweighs the reason for denial. See *Ward & Lee, P.L.C. v. City of Claremore*, 2014 OK CIV APP 1, ¶ 11, 316 P.3d 225, 227; *Wade v. City of Haileyville*, No. 14-CV-294-JHP, 2015 WL 4759389, at \*5 (E.D. Okla. Aug. 12, 2015).

Presumably, all of the above-referenced Open Records Requests are at least tangentially, if not directly, related to the March 13, 2022 incident involving Bobby Barrick. Currently, that

Office: 405.524.2070  
Fax: 405.524.2078

429 N.E. 50th Street, 2nd Floor  
Oklahoma City, OK 73105-1815

Toll Free: 800.916.0676  
[www.CZWLAW.com](http://www.CZWLAW.com)

incident is the subject of an ongoing internal investigation, as well as an investigation by the OSBI and/or the FBI. Due to the pending investigations, the MCSO declines to release any records not specifically required to be released under the Oklahoma Open Records Act.

In specific response to each of the requests, the MCSO states the following:

**Open Records Request dated March 21, 2022**

1. Any and all reports and witness statements relating to the Bobby Barrick case;

**Response:** See attached written reports of Deputies Matt Kasbaum (ORR 001-002), Quentin Lee (ORR 003), and Kevin Storey (ORR 004). Witness statements regarding an ongoing investigation are not documents which are required to be produced under the Oklahoma Open Records Act. Okla. Stat. tit. 51 § 24A.8(A)(1-10).

2. All officer body camera footage of the Bobby Barrick case;

**Response:** Pursuant to Okla. Stat. tit. 51 § 24A.8(A)(10)(b)(12), audio or video recordings from recording equipment attached to the person of a law enforcement officer may be withheld where the materials include information that would materially compromise an ongoing investigation or ongoing criminal prosecution. Currently this matter is the subject of an ongoing investigation. This video will be made available upon the conclusion of the investigation or as mandated pursuant to Okla. Stat. tit. 51 § 24A.8(A)(10)(b)(12)((a))-((b)).

3. All radio logs associated with the Bobby Barrick case (i.e., when the initial call came in, what officers responded, times they arrived and left, when EMS was contacted, etc.)

**Response:** See attached Radio Log (ORR 005-006) associated with the Bobby Barrick case.

**Open Records Request dated March 23, 2022**

1. All Sheriff's department inventory of TASER (and/or any other less-than-lethal) equipment including gun and cartridges.

**Response:** Sheriff's department inventories of TASERS (and/or any other less-than-lethal) equipment including gun and cartridges are not records which are required to be produced under the Oklahoma Open Records Act. Okla. Stat. tit. 51 § 24A.8(A)(1-10).

2. All TASER (and/or less than lethal equipment) certifications that sheriff office personnel has;

**Response:** TASER training certifications of Sheriff's office personnel are not records which are required to be produced under the Oklahoma Open Records Act. Okla. Stat. tit. 51 § 24A.8(A)(1-10).

3. The model number and serial number of the TASER (or less than lethal device) that Mat Kasbaum had in his possession during the Bobby Barrick incident.

**Response:** TASER model numbers and serial numbers of TASERS are not records which a law enforcement agency are required to produce under the Oklahoma Open Records Act. Okla. Stat. tit. 51 § 24A.8(A)(1-10).

**Open Records Request dated March 23, 2022 (but received April 6, 2022)**

1. The McCurtain County Sheriff's Department (*sic.*) most recent policy and procedure on use of force from the department handbook.

**Response:** The Policies and Procedures of the MCSO are not records which are publicly available under the Oklahoma Open Records Act. Okla. Stat. tit. 51 § 24A.8(A)(1-10).

2. Any and all use of force reports and/or forms that were completed or should have been following the Bobby Barrick incident of March 14, 2022. Also, what supervisors and/or administrators reviewed those use of force forms and what, if any, actions were taken following the incident.

**Response:** No incident involving Bobby Barrick and any employee of the MCSO occurred on March 14, 2022. Regardless, use of force reports are not documents which a law enforcement agency is required to produce under the Oklahoma Open Records Act. Okla. Stat. tit. 51 § 24A.8(A)(1-10).

Should you have any additional questions regarding these matters, please do not hesitate to contact me.

Sincerely,



Justin P. Ashlock

<b>McCurtain County S.O.</b> 200 North Central Avenue Idabel, OK 74745 (580) 286-3331	<h1>RADIO LOG</h1>	<b>Log ID</b> 30530
		<b>Log Time</b> 03/13/2022 19:10

CALLER DETAIL		
<b>Agency</b> McCurtain County S.O.	<b>Call Disposition</b> 10-8	<b>Priority</b> 0
<b>Initial Call Type</b> DOMESTIC	<b>Final Call Type</b>	<b>Vehicle Tag</b>
<b>Incident Location</b> LORI CORNER STORE		
<b>Incident Report</b> NO	<b>Accident Report</b> NO	
<b>Caller Name</b> ,	<b>Caller Phone</b> ( ) -	
<b>Caller Location</b> , OK		
<b>Note / Comment</b> MALE THOUGH THE BACK DOOR OF STORE AND THE RP IS A CONTRACTOR WORKING ON THE STORE AND THE MALE STOLE HIS TOOLS. NOW IS IN A SEMI TRUCK HOLDING PEOPLE UP. ON FOOT EAST BOUND ON HWY 70. ANOTHER CALLER STATED HE WAS IN A GILLEY SUIT AND JUMPED OUT AT A FEMALE IN THE MIDDLE OF TRAFFIC.		

OFFICER ASSIGNED					
Officer / Unit	Badge	Call Time	Arrive Time	Completed Time	Note
KASBAUM, MATTHEW	4510	03/13/2022 19:11	03/13/2022 19:27	03/13/2022 21:13	
LEE, QUENTIN	4507	03/13/2022 19:12	03/13/2022 19:27	03/13/2022 21:11	
STOREY, KEVIN	4523	03/13/2022 19:44		03/13/2022 21:14	
WILLIAMSON, RICHARD	4504	03/13/2022 20:14		03/13/2022 21:49	
HANNAH, MARK	315	03/13/2022 20:15		03/13/2022 20:29	
MUSE, JAMES	1150	03/13/2022 20:15		03/13/2022 21:49	
CLARDY, KEVIN	4500	03/13/2022 21:12		03/13/2022 21:49	
MANNING, ALICIA	4502	03/13/2022 21:12		03/13/2022 21:49	

OFFICER REQUESTED				
Officer / Unit	Badge	Request	Request Time	Note
KASBAUM, MATTHEW	4510	10-15	03/13/2022 19:30	X1 IN CUSTODY
LEE, QUENTIN	4507	OTHER (SPECIFY IN NOTES)	03/13/2022 20:04	EMS IS WORKING ON MALE IN BACK BUS
STOREY, KEVIN	4523	OTHER (SPECIFY IN NOTES)	03/13/2022 20:18	4507 IS RIDING IN THE BACK AND 4523 IS FOLLOWIN IN UNIT
KASBAUM, MATTHEW	4510	10-8 ENROUTE TO NEW LOCATION SAME CALL	03/13/2022 20:35	MUSE IS FINISHING UP IN ROUTE TO ER
STOREY, KEVIN	4523	10-97	03/13/2022 20:38	
HANNAH, MARK	315	10-97	03/13/2022 20:51	AT ER
KASBAUM, MATTHEW	4510	10-97	03/13/2022 20:53	AT ER
MANNING, ALICIA	4502	10-97	03/13/2022 21:17	AT ER

LOG HISTORY			
Module	Activity	Activity Date	By
Radio Log - Call Detail	Add	3/13/2022 7:11:20 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Add	3/13/2022 7:11:43 PM	MOONEY, LACEY

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Radio Log - Officer Assigned	Add	3/13/2022 7:12:01 PM	MOONEY, LACEY
Radio Log - Call Detail	Update	3/13/2022 7:16:22 PM	MOONEY, LACEY
Radio Log - Call Detail	Update	3/13/2022 7:18:16 PM	MOONEY, LACEY
Radio Log - Call Detail	Update	3/13/2022 7:20:42 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Update	3/13/2022 7:26:58 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Update	3/13/2022 7:27:05 PM	MOONEY, LACEY
Radio Log - Officer Requested	Add	3/13/2022 7:30:22 PM	MOONEY, LACEY
Radio Log - Officer Requested	Add	3/13/2022 8:04:45 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Add	3/13/2022 8:14:56 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Add	3/13/2022 8:15:21 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Add	3/13/2022 8:15:29 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Add	3/13/2022 8:15:38 PM	MOONEY, LACEY
Radio Log - Officer Requested	Add	3/13/2022 8:18:24 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Update	3/13/2022 8:29:08 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Update	3/13/2022 8:35:22 PM	MOONEY, LACEY
Radio Log - Officer Requested	Add	3/13/2022 8:35:44 PM	MOONEY, LACEY
Radio Log - Officer Requested	Update	3/13/2022 8:37:19 PM	MOONEY, LACEY
Radio Log - Officer Requested	Add	3/13/2022 8:38:37 PM	MOONEY, LACEY
Radio Log - Officer Requested	Add	3/13/2022 8:51:36 PM	MOONEY, LACEY
Radio Log - Officer Requested	Add	3/13/2022 8:53:57 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Add	3/13/2022 9:12:04 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Add	3/13/2022 9:12:23 PM	MOONEY, LACEY
Radio Log - Officer Requested	Add	3/13/2022 9:17:32 PM	MOONEY, LACEY
Radio Log - Call Detail	Update	3/13/2022 9:49:11 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Update	3/13/2022 9:49:24 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Update	3/13/2022 9:49:32 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Update	3/13/2022 9:49:37 PM	MOONEY, LACEY
Radio Log - Officer Assigned	Update	3/13/2022 9:49:44 PM	MOONEY, LACEY

ORR 006



## MCCURTAIN COUNTY SHERIFF'S DEPARTMENT

### Statement

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**03/13/2022**

On the Evening of 03/13/2022 at approx. 1910 Hrs. I, Deputy Kasbaum with the McCurtain County Sheriff's Office was sent on a call to Lori's Store in the Eagletown Community. As I headed to this call, we were receiving updates that this man had run through the back door of the store while contractors were working on the closed business and that the suspect had broken the glass out and had run into the highway attempting to stop a semi-tractor trailer in the road. Another update stated that he was now in the semi trying to take off from the scene. I continued to the area when I heard another update that the suspect was wearing a ghillie suit and had now jumped onto a woman's car and had been drug by the woman. Right before I arrived on scene my dispatcher stated that the contractors and the suspect had began fighting and that they now had him tied up in the parking lot.

I arrived on scene to find a male subject laying face down on the pavement completely "Hog tied" and a large crowd of people standing around the area. I immediately stepped out of my unit and made a comment "Well this is interesting" and immediately went to the male subject and handcuffed him to detain for investigation and began trying to get the strapping used off his wrist and feet as his hands were turning purple from the tightness of the straps. As soon as Deputy Lee arrived just seconds behind me, he assisted me in removing the strapping and helped me get the now identified male's pockets cleared with a pat down search and up and to his patrol unit. While attempting to untie and identify the male comments were being made towards the male regarding taking his money and kicking him in his head by the store owner Lori. For his protection at that point, I wanted to get him into the unit as quickly as possible to de-escalate the anger towards him from the large crowd around us.

The Male was identified as Bobby Barrick. At first, I thought Bobby had said his name was Bobby Derrick but as I was patting him down for our safety, I found a State ID with the name Bobby Dale Barrick DOB 01/12/1977 in his front left pocket along with his Choctaw Nation Membership card. I asked our dispatcher to send a Tribal Unit to our location as soon as possible. I also asked our dispatcher to have EMS headed to our location to check on the subject's injuries and to clear him for transport. I advised dispatch to have the EMS Unit call my Cell phone so I could explain what we had occurring.

Mr. Barrick was walked over and placed into the back seat of Deputy Lee's Caged unit and secured only by handcuffs at that point. After Closing the door of the unit and beginning to gather statements and information as to what all had occurred, I could hear Mr. Barrick screaming inside the truck and when I looked up, I could see the truck rocking violently from his actions. As soon as EMS arrived on scene I stepped over and explained to them that we just needed him cleared for transport and advised them that we would stand between them as we opened the door.

As I opened the door Mr. Barrick spun his feet around and attempted to kick out of the door. I was able to trap his feet using the door and my leg and began giving Mr. Barrick commands to turn his feet back around and let the EMS check him out. Mr. Barrick continued to get more and more violent

ORR 001

MCSO 008

and was now standing on both feet on the pavement pushing into the door. I used his own momentum to allow the door to pop open and pressed my upper body into his causing him to go sideways into the floor of the truck. I now had Mr. Barrick trapped in the door jam of the back seat and was trying to gain control of Mr. Barrick with everything I could muster. At one point Mr. Barrick kicked past me and kicked Oklahoma State Game Warden Mark Hanna in the face injuring Warden Hanna. During this struggle someone from behind me reached into the truck with an ASP baton and inadvertently hit me across the face causing me to yell out to get the baton out of here. During this time a drive stun was attempted by another officer without any effect. I hollered for the taser to be passed to me and deliver 2-3 1 second drive stun touches to the bare skin of Mr. Barrick at his Left Hip bone that was exposed in an attempt to get him to release his grip on the trucks wall. As I and other officer attempted to get Mr. Barrick back under control Mr. Barrick eventually fell to the ground and attempted to crawl under the truck. At this point we had no choice but to drag Mr. Barrick back out from under the truck and kept him face down on the pavement.

Warden Hanna and I were attempting to get Mr. Barrick's feet under control and into leg restraints when all the sudden I heard Deputy Lee holler out in pain that Mr. Barrick was biting him. Shortly thereafter Mr. Barrick went limp and stopped fighting. I looked up and immediately told Deputy Lee on Barrick's left side and Deputy Storey on Barrick's right side to back out. EMS was checking on Mr. Barrick and I could not see any breaths coming from his chest. I yelled at Deputy Storey to get me NARCAN from my unit and instantly reached up and began removing the handcuffs from Mr. Barrick. I offered EMS my NARCAN on multiple occasions and was told not yet each time. After getting Mr. Barrick on the Stretcher and getting him into the Ambulance I removed the Leg restraints from his ankles. I still could not see any breath movement and EMS was trying to get breathing restored when I closed the door. Deputy Lee rode with EMS to McCurtain Memorial Hospital at that time.

I contacted Lt. Richard Williamson and explained what had occurred. Tribal Officer James Muse arrived on scene and took over the occurrence at that point as well. I left the scene and went to the McCurtain Memorial hospital to check on the status of Mr. Barrick and to speak with Lt. Williamson.

After checking on Mr. Barrick I left and returned to my normal Duties for the shift.



Sergeant Matthew Kasbaum #4510  
McCurtain County Sheriff's Office

Deputy Statement  
Deputy Quentin lee

On 03/13/2022 I, Deputy Quentin Lee of the McCurtain County Sheriff's Office was dispatched to Lorie store in Eagle town , County McCurtain, State of Oklahoma on a complaint that a man had busted out windows and was trying to get into peoples cars. While heading to the call I called for EMS to be on stand by.

Myself and Deputy Matt Kasbaum arrived at the location we found a white male lying on the ground with his hands and feet tied behind his back (HOG Tied). Deputy Kasbaum began to place hand cuffs on the white male (we later identified as Bobby Barrick ). After getting the hand cuffs in place Deputy Kasbaum pull out his knife and began cutting the rope off of Bobby . Bobby's hands wear turning a blue color when the ropes were cut off .

Deputy Kasbaum went to my unit to unlock the door so we could move Bobby to my cage. I stayed with bobby and he started to became very restless and saying "help me , Don't let them kill me " . We picked Bobby up and walked him to my truck and placed him in the truck . Bobby continued to yell and scream for someone to help him and rocking my truck back and forth.

I went to get statements from people and about that time EMS arrived on the location. We asked EMS to check Bobby out due to Injures on his face that were bleeding. When we opened the door we had EMS standing away from the door at this time we had the help from wildlife officer Mark Hanna. We opened the door Bobby would not listen to our commands and began kicking his feet out of the door and would not put them back. Bobby kept fighting and Deputy Kasbaum and I, with Hanna tried to gain control of bobby and get him back in the cage. Kasbaum was using his body and strength in an attempt to control Bobby in the cage and myself and Hanna were trying to control his feet and get him back in the car. At some point during this Deputy Storey came on location and offered me a taser. I used the drive stun option with the taser on what I believe would have been Bobby's left hip on the jeans with about 1 to 2 second stuns with little to no effect.

Bobby kept kicking officers and had his hand somehow lock unto the seat and would not let go . Kasbaum asked for the taser and delivered a drive stun to bobby with little to no effect.

Bobby let go of the seat and went to the ground and began trying to get under the truck. I got on the ground and half way on Bobby's left side acting as a wedge between Bobby and under the truck . I was down on Bobby's body wear my head was about eye level with Bobby shoulders. I was also trying to help control Bobby's feet by wrapping my legs around his. Kasbaum told me to move my legs so they could get his feet I moved my legs and part of my body to the left and off of Bobby. Bobby head and upper body was moving and trying to get free and I put my right arm up to control bobby's head . Bobby bit my left arm causing me to yell out that he had bit me. At that point I asked some one to get me the pepper spray out of my door. I heard Hanna say that he just kicked me in the face. Storey handed me some pepper spray from his belt and I told Bobby to quite fighting me or I would have to use it. I few seconds later bobby quit moving and I could not see that he was breathing. I told everyone to move off of him and roll him to his side and asked the EMS to come look at him . EMS told us to get a stretcher and the put him in the ambulance and began giving medical treatment. I told Kasbaum to contact the chain of command and let them know what going on. I road with EMS to the Hospital while they were giving Bobby medical treatment.

 4507



## MCCURTAIN COUNTY SHERIFF'S DEPARTMENT

### Statement

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03/13/2022

On this date I was South of Tom Oklahoma at South Midway and HWY 87 when I observed on the in-car CAD a call of a domestic disturbance at the Lori Corner Store in Eagletown. At this time, I started to that location to back up other officers that were responding.

On my arrival to the location in Eagletown at sometime around 1950 hours I observed Deputies Kasbaum, Lee and Wildlife officer Mark Hannah struggling with a male subject in the back passenger side of Lees unit. The male subject was screaming, yelling, and flailing wildly while officers tried to place him in the unit. I noticed that the male subjects face appeared to be swollen with a small amount of blood on it and he was sweating profusely. I began to try and assist the other officers with the subject by grabbing one of his feet he was kicking wildly with and at around this point I heard Wildlife officer Hanna yell that he had been kicked in the head. At one point in the struggle Deputy Lee got my Taser and drive stunned the combative subject on the lower left hip area through his jeans with it, with little to no affect that I noticed. After a short time, the subject came out of the unit and fell to the ground and tried to get underneath the unit, but officers were able to pull him away from the unit. The subject was at this point laying on the ground still combative and kicking wildly while Kasbaum and Hannah tried to put leg restraints on his legs and Deputy Lee was on his left side of his back and I held his right arm down. While officers were struggling with the subject on the ground a heard Deputy Lee yell "he's biting me" and yell in pain. The subject continued to be combative and was still yelling and kicking when he suddenly became still and at this point Deputy Kasbaum told the other officer to make sure he was breathing. At this time, I looked at the subject's face and it appeared to me that the subject was breathing shallow, and I stepped back, and Deputy Kasbaum told me to go get his NARCAN out of his unit. I retrieved the NARCAN and brought it to Kasbaum at about the time the subject was being placed on an EMS gurney, but EMS did not use the NARCAN. The male subject was placed inside the McCurtain County EMS unit and once stabilized he was transported to the McCurtain Memorial Hospital in Idabel Oklahoma.

Deputy Kevin Storey 4523

ORR 004

MCSO 037