

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

JOHN CHRISTOPHER HALLMAN, an individual.

and

OKLAHOMA WATCH, INC., a domestic corporation,

٧.

Plaintiffs,

Case No.

STATE OF OKLAHOMA ex rel. OKLAHOMA DEPARTMENT OF PUBLIC SAFETY,

Defendant.

CV-2025-1910 1

FILED IN DISTRICT COURT

OKLAHOMA COUNTY

AUG - 4 2025

RICK WARREN

CV25 1910

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<u>PETITION FOR RELIEF FOR VIOLATIONS OF THE</u> **OKLAHOMA OPEN RECORDS ACT**

Plaintiffs John Christopher Hallman and the Oklahoma Watch, Inc. ("OK Watch"), through undersigned counsel, bring this action against the State of Oklahoma through the Oklahoma Department of Public Safety for violations of the Open Records Act (the "ORA"), Okla. Stat. Ann. tit. 51, §§ 24A.1 et seq. In support of their Petition, Plaintiffs respectfully show the Court the following:

PARTIES

1. Plaintiff John Christopher Hallman is a journalist at OK Watch, a nonprofit media company headquartered in Oklahoma. His reporting focuses on general assignment issues and other statewide matters. Mr. Hallman resides in Tulsa County.

- 2. Plaintiff Oklahoma Watch, Inc. is a nonprofit, 501(c)(3) corporation headquartered in Oklahoma. OK Watch makes its content freely available to the public through various media, including its website (oklahomawatch.org), social media (@oklahomawatch), and more.
- 3. Defendant Oklahoma Department of Public Safety ("Defendant" or "Department" or "DPS") is an executive branch state government agency headquartered in Oklahoma City and led by the Commissioner of Public Safety. Okla. Stat. Ann. tit. 47, § 2-101. The Department is a "public body" subject to the ORA, within the meaning of Okla. Stat. Ann. tit. 51, § 24A.3(2).

JURISDICTION AND VENUE

- 4. Jurisdiction is proper in this Court as a court of general jurisdiction pursuant to Okla. Const. art. VII, § 7.
 - 5. Venue is proper in Oklahoma County pursuant to Okla. Stat. Ann. tit. 12, § 133.

THE OPEN RECORDS LAW

- 6. 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. Ann. tit. 51, § 24A.2.
- 7. The ORA defines "records" as "all documents including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property," Okla. Stat. Ann. tit. 51, § 24A.3(1).

- 8. "Unless a record falls within a statutorily prescribed exemption in the [ORA], the record must be made available for public inspection." Citizens Against Taxpayer Abuse, Inc. v. City of Oklahoma City, 2003 OK 65, ¶ 12.
- 9. "The public body urging an exemption [to disclosure] has the burden to establish the applicability of such exemption." *Id.*
- 10. "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.
- 11. Under the ORA, a "law enforcement agency" is "any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation." Okla. Stat. Ann. tit. 51, § 24A.3(5).
- 12. Law enforcement agencies must disclose certain categories of records enumerated in Okla. Stat. Ann. tit. 51, § 24A.8(A) and "may deny access to *law enforcement records* except where a court finds that the public interest or the interest of an individual outweighs the reason for denial." Okla. Stat. Ann. tit. 51, § 24A.8(B)(1) (emphasis added).
- 13. The discretion given to agencies in the ORA is not unlimited and agencies must balance the benefit of disclosure with the interest they are aiming to protect when given the discretion to release records. See Ross v. City of Owasso, 2020 OK CIV APP 66, ¶ 9-13.

STATEMENT OF FACTS

- 14. On August 5, 2023, a fatal car accident occurred in Texas County in the Oklahoma panhandle involving a vehicle owned and operated by the Texas County District Attorney's office as part of its District 1 Drug Task Force.
- 15. The District 1 Drug Task Force vehicle collided with a vehicle carrying two adults and an 8-year-old child. One of the adults and the 8-year-old child were killed in the accident.
- 16. Oklahoma Highway Patrol ("OHP") responded to the accident scene and investigated the cause of the accident.
- 17. At the time of the accident, District 1 Drug Task Force officer Eldon Halliburton was driving the District Attorney's vehicle, according to the OHP Report of Investigation ("Report"), which the Department produced to Mr. Hallman after receiving a litigation notice pursuant to Okla. Stat. tit. 51, § 24A.17(C).
- 18. According to the Report, OHP recovered the District 1 Drug Task Force vehicle's Event Data Recorder ("EDR") data, which is sometimes referred to as "black box data." ¹
- 19. OK Watch and Mr. Hallman regularly investigate and report on the actions of law enforcement officers in the state, often utilizing the ORA to collect records and verify information.
- 20. On March 21, 2025, Mr. Hallman submitted an ORA request ("the Request") pursuant to Okla. Stat. tit. 51, § 24A.1 et seq, to the Department for the CAD report relating to the accident that occurred on August 5, 2023 in Texas County. A true and correct copy of the Request is attached as Exhibit A.

¹ For the purposes of this Petition, we use the term "black box data" to encompass any reference in communications between the Parties to "Event Data Recorder" or "EDR" data, "Electronic Control Module" or "ECM" data, and "Crash Data Retrieval" or "CDR" data, though in practice these kinds of data may differ, for our purposes we seek any and all of the referenced records.

- 21. On March 25, 2025, Landon Payne, an administrative assistant at the DPS Open Records department, sent Mr. Hallman an email informing him that DPS "found no records pertaining to this incident" and asked for more specific information about the crash, such as the names of the officers involved. A true and correct copy of the communications between Mr. Hallman and the Department records custodian is attached as Exhibit B.
- 22. On March 27, 2025, Mr. Hallman replied by email to specify that he was also seeking "Crash Data Retrieval data [black box data] for the vehicles involved in the incident" and provided the officers' names and badge numbers, a more specific time of the crash, and the names of the adult individuals involved in the crash. See Exhibit B.
- 23. On April 28, 2025, Christa Alderman emailed Mr. Hallman that it is Department policy to "not release any law enforcement investigative materials that are not specifically listed as those we are required to release." A true and correct copy of Ms. Alderman's April 28, 2025 email is attached as Exhibit C.
- 24. Mr. Hallman and Ms. Alderman exchanged more emails on April 28 and 29, 2025, wherein Mr. Hallman asked more specifics about the Department's policies and the specific statutory section that the Department relied on for denying his request.
- 25. On April 29, 2025, Ms. Alderman stated that the Department's "firm stance is that [it] only release[s] what [it is] specifically required to" and that there was "no chance" that the Department would release the black box data. A true and correct copy of Ms. Alderman's April 29, 2025 email is attached as Exhibit C.
- 26. In these exchanges with Mr. Hallman, neither Ms. Alderman nor any Department employee asserted or documented any consideration of the public interest in the release of the black box data. Instead, Ms. Alderman stated that it was the Department's policy to deny every

discretionary release of records., stating "DPS's firm stance is that we only release what we are specifically required to." Exhibit C.

- 27. The public has an overriding interest in understanding fatal car accidents in which a law enforcement officer was involved. This interest outweighs any justification for keeping the records private as it reflects the public safety of entire communities and the conduct of those hired to protect them.
- 28. On June 17, 2025, undersigned counsel provided the Department a notice of intent to litigate the denial of the Request as required by Okla. Stat. Ann. tit. 51, § 24A.17(C).
- 29. This action was filed at least ten business days after the date on which notice was provided to Defendant.

CAUSE OF ACTION

Violations of the Open Records Act, Okla. Stat. Ann. tit 51, §§ 24A.1 et seq.

- 30. Plaintiffs re-allege and incorporate by reference the preceding paragraphs of the Petition.
- 31. The records sought by Plaintiffs are records of public bodies or public officials as defined by the ORA. Okla. Stat. Ann. tit. 51, § 24A.3.
- 32. Defendant possesses records responsive to Plaintiff's open records request—specifically, the black box data from the District I Drug Task Force vehicle involved in the August 5, 2023 accident.
- 33. Defendant's denial of Plaintiffs' open records request seeking black box data from an officer-involved car accident is unlawful and violates the ORA.
- 34. Defendant failed to weigh the public interest in the records with the *de minimis* interest in keeping the record private, in violation of its discretionary duty.

- 35. Even if the Court finds that the Defendant acted properly in withholding the records, it should find that the "public interest . . . outweighs the reason for denial" and order the records be released. Okla. Stat. tit. 51, § 24A.8(B)(1).
- 36. The reason for denial articulated by Defendant is simply that as a matter of policy, the Department will not release any information that it is not specifically required to disclose.
- 37. This justification is at odds with the plain language and stated purposes of the ORA, which was enacted based on a "strong public policy" in favor of access. Okla. Stat. tit. 51, § 24A.2; Oklahoma Ass'n. of Broadcasters v. City of Norman, Norman Police Dep't, 2016 OK 119, ¶ 15 (there is a "strong public policy allowing public access" and that the ORA must be construed to "allow access unless an exemption clearly applies").
- 38. It is also an abuse of the Department's discretion. See Ross v. City of Owasso, 2020 OK CIV APP 66, ¶ 11-15.
- 39. Accordingly, Plaintiffs seek declaratory and injunctive relief under the ORA to require Defendant to release the black box data to Plaintiffs.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request from this Court:

- (1) A declaratory judgment that the records and information requested by Plaintiffs are public records as defined by Okla. Stat. Ann. tit. 51, § 24A.3;
- (2) An injunction or writ commanding Defendant to produce the black box data in its custody and control pursuant to Okla. Stat. Ann. tit. 51, § 24A.5;
- (3) An award of reasonable attorney fees pursuant to Okla. Stat. Ann. tit. 51, § 24A.17(A)(2);
- (4) Costs of suit pursuant to Okla. Stat. Ann. tit. 12, § 927; and

(5) Such other and further relief as the Court deems just and proper.

Dated: August 4, 2025

Respectfully submitted,

Leslie Briggs, OBA 33845

Les 413-

Staff Attorney

REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS

P.O. Box 471094

Tulsa, OK 74147

P: (918) 850-8792

E: <u>lbriggs@rcfp.org</u>

Attorney for Plaintiffs

Exhibit A



Department of Public Safety Open Records Request Form

Company/Agency Name: J.C. Hallman/Oklahoma Walch
Address: 20 E Archer St. #404
Phone: 434-826-0166 Email: JCHallman@gmail.com
If you wish to receive your records via email (if possible), check here X
Date of Incident. August 5, 2023 Time of Incident, approx 11PM County, Texas County
Location of Incident: US 412, near mile 33, 3 miles east of Guymon
Trooper Name: Unknown Badge # Troop:
Individuals involved:
Document(s) Requested:
Arrest Report (date of arrest:
CAD Report Event Detail (dispatch report)
Other.
The following documents require a subpoens: Photographs, witness statements, third-party video, EDR ACM downloads, diagrams, and any other investigative documents
*Dash cam video and audio recordings must be requested from the Dash Cam Unit. Go to www oklaborat gov dps and select "Forms" to find the Dash Cam Request Form.
*ALL collision report requests need to be sent to Service Oklahoma. See www.oklahoma.gov/service for the collision request form.
*ALL driver license information, including Motor Vehicle Records, Notices of Revocation, Officer's Affidavits, and driving history, must be requested from Service Oklahoma.
Printed document fees: \$0.25 per page (certification of a document is \$3.00 extra). If documents are burned to a disc, the cost is \$5.00 per disc.
Forms may be encoled to subscorporated as the cikeness or mailed to Densetment of Public Safets. Attn: Clines Records.

JCHallman.com

AnarchaArchive.com

Youtube.com/@AnarchaArchive

JCHallman.com

AnarchaArchive.com

Youtube.com/@AnarchaArchive

Exhibit B

Hey there,

I'm sorry to be a bother about this, but could you please indicate what statute of Oklahoma law you are relying on when you say that Crash Data Retrieval Data must be requested through subpoena?

Many thanks, J.C. Hallman

On Fri, Mar 28, 2025 at 8:13 AM DPSOpenRecords < DPSOpenRecords@dps.ok.gov> wrote:
Good morning,

Crash Data Retrieval Data is not considered open record and must be requested via subpoena.

Subpoenas can be submitted to the address below.

Subpoenas: Department of Public Safety Legal Division-Subpoenas PO Box 53004 Oklahoma City, OK 73152

Please submit all inquiries regarding subpoenas to the DPS Legal Division at dps.ok.gov.

Your CAD Report request is being processed.

Thank you, DPS Open Records

From: J.C. Hallman < ichallman@gmail.com Sent: Thursday, March 27, 2025 4:39 PM

To: DPSOpenRecords < <u>DPSOpenRecords@dps.ok.gov</u>> **Subject:** Re: [EXTERNAL] Open Records Request

Hello.

I already have the collision report, which I am attaching to this email. It does not contain either the CAD information, which I originally requested (and which Service OK sent me to you to retrieve), or the CDR material, which a collision report expert in the police force sent me to you for.

Furthermore, I came into DPS in Oklahoma City, and was specifically instructed by personnel there to pursue this information in this way.

J.C. Hallman

On Thu, Mar 27, 2025 at 4:30 PM DPSOpenRecords < <u>DPSOpenRecords@dps.ok.gov</u>> wrote: Hello.

The additional information you have requested can be obtained by requesting a Collision Report from Service Oklahoma using the attached form.

Thank you, DPS Open Records

From: J.C. Hallman < <u>ichallman@gmail.com</u>> Sent: Thursday, March 27, 2025 12:18 PM

To: DPSOpenRecords < <u>DPSOpenRecords@dps.ok.gov</u>> Subject: Re: [EXTERNAL] Open Records Request

PS -- I've been advised that I should specifically ask if you have any Crash Data Retrieval data for the vehicles involved in this incident.

Many thanks!

On Tue, Mar 25, 2025 at 4:54 PM J.C. Hallman < <u>ichallman@gmail.com</u>> wrote: Dear Mr. Payne,

I do have the accident report (obtained after I submitted my request), and it indicates that the OHP officers who handled the incident were Austin Lozano (badge 818), and Grant Arnold (badge 140). The date of the collision is 8-5-23, and the report is dated 8-7-23. Crash happened at 20:40.

The names are redacted from the collision reports, but media reports from the time indicate that the three adults involved were Juan Garcia (deceased) and Daniela Manea, in one car, and Eldon Halliburton, in another car. An eight year-old girl, unnamed, was in the first car, and was also deceased.

I hope that helps.

Best, J.C. Hallman

On Tue, Mar 25, 2025 at 4:31 PM DPSOpenRecords < <u>DPSOpenRecords@dps.ok.gov</u>> wrote: Hello,

We found no records pertaining to this incident. If you have more specific information such as the names of the indivual(s) involved and the name and badge number the responding trooper, we can conduct another search.

Thank you, DPS Open Records

Landon Payne

Administrative Assistant I PIO/Open Records <u>DPSOpenRecords@dps.ok.gov</u> (405) 425-2103

Department of Public Safety

3600 N Martin Luther King Ave Oklahoma City, OK 73111

From: J.C. Hailman < ichallman@gmail.com Sent: Friday, March 21, 2025 11:45 AM

To: DPSOpenRecords < DPSOpenRecords@dps.ok.gov>

Subject: [EXTERNAL] Open Records Request

Hello,

Attached please find an open records request for a CAD report for a crash that happened outside Guymon in Texas County in August, 2023.

Many thanks, J.C. Hallman Oklahoma Watch

Exhibit C

----- Forwarded message -----

From: Christa Alderman < Christa.Alderman@dps.ok.gov>

Date: Tue, Apr 29, 2025 at 4:06 PM

Subject: RE: [EXTERNAL] Open Records Request

To: J.C. Hallman < jchallman@gmail.com>

You're welcome.

Christa D. Alderman Assistant General Counsel Department of Public Safety PO Box 53004 Oklahoma City, OK 73152 (405) 425-2763 – office (405) 465-7055 - cell

CONFIDENTIALITY NOTICE: The information contained in this e-mail is, or may be, attorney privileged and confidential information intended only for the use of the individual, or entity, named above. If the reader of this message is not the intended recipient, or the employer or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited.

From: J.C. Hallman < ichallman@gmail.com>
Sent: Tuesday, April 29, 2025 4:06 PM

To: Christa Alderman < Christa Alderman@dps.ok.gov Subject: Re: [EXTERNAL] Open Records Request

Understood. Thanks for clarifying -- and thanks for being patient with me.

On Tue, Apr 29, 2025 at 4:01 PM Christa Alderman < Christa.Alderman@dps.ok.gov wrote:

There is no specific provision of 51 O.S. § 24A.8 that describes ECM downloads. 24A.8(A)(1) through (10) references what we SHALL release. Everything else which we "may" withhold is covered by 24A.8(B)(1) with regards to law enforcement records.

Christa D. Alderman Assistant General Counsel Department of Public Safety PO Box 53004 Oklahoma City, OK 73152 (405) 425-2763 – office (405) 465-7055 - cell

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From: J.C. Hallman < ichallman@gmail.com > Sent: Tuesday, April 29, 2025 3:57 PM

To: Christa Alderman < Christa Alderman@dps.ok.gov Subject: Re: [EXTERNAL] Open Records Request

I understand, and thanks for explaining. At the risk of being a pest, I'll ask one more question...if 51 O.S. § 24A.8(A)(9) is not the portion that applies to ECM downloads, then what part of 51 O.S. § 24A.8 does apply?

On Tue, Apr 29, 2025 at 3:41 PM Christa Alderman < Christa.Alderman@dps.ok.gov wrote:

A vehicle's ECM download is not the same thing as audio/video recordings as referenced in 51 O.S. § 24A.8(A)(9). There's also no difference between "may withhold" and "may share". DPS's firm stance is that we only release what we are specifically required to. We "may" release more than that if we want to, but we don't. So no, there is no chance that DPS would be making an exception to release investigative materials without a subpoena.

Christa D. Alderman Assistant General Counsel Department of Public Safety PO Box 53004 Oklahoma City, OK 73152 (405) 425-2763 – office (405) 465-7055 - cell

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From: J.C. Hallman < <u>ichallman@gmail.com</u>>
Sent: Tuesday, April 29, 2025 3:34 PM

To: Christa Alderman < Christa. Alderman@dps.ok.gov>

Subject: Re: [EXTERNAL] Open Records Request

Hi Christa,

Thanks for this -- and I hear you on the distinction between shall and "may be withheld." I'm wondering if it's ever possible to move from a may withhold to a may share.

Specifically, I'm thinking of the portion of the statute I mentioned, 24.A8A9, which appears to be the closest thing the statute has Crash Data Retrieval (though mostly it seems to be thinking about bodycam kind of stuff). The weird Catch-22 of it would seem to be that, in order to obtain a subpoena that seeks to investigate whether an officer had

effected a death -- which seems to trigger when documents must be made available (shall) -- you might need to gain access to material that "may be withheld." So I'm wondering whether it's possible, short of a subpoena, to make an appeal or offer evidence that might move DPS from a "may withhold" to a "may share."

Any chance of that?

J.C. Hallman

On Mon, Apr 28, 2025 at 8:27 PM Christa Alderman < Christa.Alderman@dps.ok.gov wrote:

24A.8 lists the things a law enforcement agency "shall" release. Those items not specifically required to be released "may" be withheld, and that is the option DPS has chosen.

Christa

Get Outlook for iOS

From: J.C. Hallman < <u>ichallman@gmail.com</u>>
Sent: Monday, April 28, 2025 8:01:54 PM

To: Christa Alderman < Christa. Alderman@dps.ok.gov>

Subject: Re: [EXTERNAL] Open Records Request

Do you mean 24.A8A9?

I think the suggestion, per 24.A8A9a, is that you don't release information if a death was effected by a law enforcement officer? Is that correct? If not, can you be more specific as to what portion of 24A.8 you mean?

Many thanks, J.C. Hallman

On Mon, Apr 28, 2025 at 7:41 PM Christa Alderman < Christa.Alderman@dps.ok.gov wrote:

Pursuant to 51 O.S. 24A.8, we do not release any law enforcement investigative materials that are not specifically listed as those we are required to release.

Christa Alderman Assistant General Counsel

Get Outlook for iOS

From: J.C. Hallman < ichallman@gmail.com > Sent: Monday, April 28, 2025 7:28 PM

To: DPSOpenRecords < <u>DPSOpenRecords@dps.ok.gov</u>> **Subject:** Re: [EXTERNAL] Open Records Request

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Thank you,

DPS Open Records

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Thank you
Thank you,
DPS Open Records
Landon Payne
Administrative Assistant I
PIO/Open Records
DPSOpenRecords@dps.ok.gov

Department of Public Safety

3600 N Martin Luther King Ave

Oklahoma City, OK 73111

(405) 425-2103

From: J.C. Hallman < <u>ichallman@gmail.com</u>> Sent: Friday, March 21, 2025 11:45 AM

To: DPSOpenRecords < DPSOpenRecords@dps.ok.gov>

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J.C. Hallman

Oklahoma Watch