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IN THE SUPREME COURT OF THE STATE OF OKLAHOMA JUN 18 2025

GRAY MEDIA GROUP, INC. d/b/a
KSWO-TV and SETH MARSICANO,

Plaintiffs/Appellants

v.

COMANCHE COUNTY FACILITIES
AUTHORITY and DAVID WEBBER in
his official capacity as INTERIM
ADMINISTRATOR OF COMANCHE
COUNTY DETENTION CENTER,

Defendants/Appellees

JOHN D. HADDEN
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Case No. 122685 (companion with
Case No. 122806, James
Lawson v. LeFlore County
Detention Center Public Trust)

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Honorable J. Emmit Tayloe, Trial Judge
District Court of Comanche County, Oklahoma
District Court Case No. CV-24-145

**AMICI CURIAE BRIEF OF THE REPORTERS COMMITTEE FOR FREEDOM
OF THE PRESS, OKLAHOMA ASSOCIATION OF BROADCASTERS,
ASSOCIATED PRESS, E.W. SCRIPPS CO., GANNETT CO., NEWS/MEDIA
ALLIANCE, THE BLACK WALL STREET TIMES, AND THE FRONTIER.**

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INDEX AND AUTHORITIES

INTEREST OF AMICI CURIAE	1
Okla. Stat. Ann. tit. 51, §§ 24A.1–24A.33.....	1
Amici Curiae Br. of Reporters Comm. for Freedom of the Press & 11 Media Orgs., <i>Sapulpa v. Gannett Co.</i> , No. 122044 (Okla. Sept. 11, 2024).....	1
Amici Curiae Br. of Reporters Comm. for Freedom of the Press & 5 Media Orgs., <i>Okla. Pub. Emps. Ass’n v. State ex rel. Okla. Off. of Pers. Mgmt.</i> , 2011 OK 68, 267 P.3d 838 (Nos. 108839, 108841)	1, 2
Mem. Op., <i>Frontier Media Grp., Inc. v. Pottawatomie Cnty. Pub. Safety Ctr. Tr.</i> , No. DF-119952 (Okla. Civ. App. Dec. 14, 2022), https://perma.cc/C7NP-S3NU (unpublished)	2
INTRODUCTION AND SUMMARY OF ARGUMENT	4
<i>Okla. Ass’n of Broads., Inc. v. City of Norman</i> , 2016 OK 119, 390 P.3d 689	4
Okla. Stat. Ann. tit. 51, §§ 24A.1–24A.33.....	4
Okla. Stat. Ann. tit. 51, § 24A.2	4, 5
ARGUMENT AND AUTHORITY	6
I. Jail trusts are not law enforcement agencies under the ORA, and to hold otherwise would subvert the intent of the ORA to preserve the public’s right to know about its government.	6
A. The ORA was enacted to facilitate access.	6
<i>Citizens Against Taxpayer Abuse, Inc. v. City of Oklahoma City</i> , 2003 OK 65, 73 P.3d 871	6
<i>City of Lawton v. Moore</i> , 1993 OK 168, 868 P.2d 690	6
<i>Fabian & Assocs., P.C. v. State ex rel. Dep’t of Pub. Safety</i> , 2004 OK 67, 100 P.3d 703	6
<i>Okla. Ass’n of Broads., Inc. v. City of Norman</i> , 2016 OK 119, 390 P.3d 689	6

<i>Okla. Publ'g Co. v. City of Moore</i> , 1984 OK 40, 682 P.2d 754	6, 7
<i>Shadid v. Hammond</i> , 2013 OK 103, 315 P.3d 1008, as corrected (Dec. 11, 2013).....	6
Okla. Stat. Ann. tit. 51, § 24A.3	7
Okla. Stat. Ann. tit. 51, § 24A.5	6
John Greiner, <i>Senate Passes Bill Ordering Upkeep of Records</i> , The Oklahoman (Mar. 5, 1985), https://perma.cc/YC3E-4FDE	7
<i>Newspapers' lawsuit challenges secrecy of Moore police records</i> , The Oklahoman (Nov. 3, 1982), https://perma.cc/32JU-8FGQ	7
B. Neither Oklahoma statutes nor the government's prior interpretations of them support classifying jails as law enforcement agencies and exempting them from the general disclosure rule, and to do so now would imperil public access.	8
<i>Okla. Ass'n of Broads., Inc. v. City of Norman</i> , 2016 OK 119, 390 P.3d 689	9
<i>Transp. Info. Servs., Inc. v. State ex rel. Okla. Dep't of Corr.</i> , 1998 OK 108, 970 P.2d 166	11
Okla. Stat. Ann. tit. 19, § 513.2	8
Okla. Stat. Ann. tit. 19, § 904.2	9
Okla. Stat. Ann. tit. 19, § 904.3	9
Okla. Stat. Ann. tit. 19, § 904.5	9
Okla. Stat. Ann. tit. 19, § 904.7	9
Okla. Stat. Ann. tit. 19, § 904.9	9
Okla. Stat. Ann. tit. 51, § 24A.3	8, 9
Brianna Bailey, <i>A man's death in jail was ruled a homicide. Family and friends are still waiting for someone to be charged</i> , The Frontier (Apr. 24, 2023), https://www.readfrontier.org/stories/a-mans-death-in-jail-was-ruled-a-homicide- family-and-friends-are-still-waiting-for-someone-to-be-charged/	10

Defendants' Motion to Dismiss & Brief in Support, <i>Frontier Media Group, Inc. v. Pottawatomie County Public Safety Center, Inc.</i> , No. CV-2021-93 (Pottawatomie County District Court, June 29, 2021), https://perma.cc/88RV-52WB	10
Memorandum Opinion, <i>Frontier Media Group, Inc. v. Pottawatomie County Public Safety Center, Inc.</i> , No. DF-119952 (Oklahoma Civil Appellate Division, Dec. 14, 2022), https://perma.cc/C7NP-S3NU (unpublished)	9, 11
II. Access to jail records allows for oversight and is in the public interest.....	12
<i>Fabian & Associates, P.C. v. State ex rel. Department of Public Safety</i> , 2004 OK 67, 100 P.3d 703	14
<i>McVarish v. New Horizons Community Counseling & Mental Health Services, Inc.</i> , 1995 OK CIV APP 145, 909 P.2d 155	13
<i>Oklahoma Public Employees Association v. State ex rel. Oklahoma Office of Personnel Management</i> , 2011 OK 68, 267 P.3d 838	13
<i>Trentadue v. Integrity Commission</i> , 501 F.3d 1215 (10th Circuit, 2007)	12
<i>United States Department of Justice v. Reporters Committee for Freedom of Press</i> , 489 U.S. 749 (1989).....	12, 13
5 U.S.C. § 552.....	13
Oklahoma Statutes Annotated, title 51, § 24A.2	13
Oklahoma Statutes Annotated, title 51, § 24A.5	14
Oklahoma Statutes Annotated, title 51, § 24A.8	12, 15
Colleen Wilson, <i>Oklahoma county judge sets daily jail cost at \$66.49, state pays only \$27 for DOC inmates</i> , KOKH 25 (Apr. 11, 2024), https://okcfox.com/news/local/oklahoma-county-judge-sets-daily-jail-cost-at-6649-state-pays-only-27-for-doc-inmates	15
David Dishman, <i>The Oklahoma County Jail under the Jail Trust. A timeline of trouble</i> , The Oklahoman (May 14, 2023), https://perma.cc/M68U-AFZW	15
Jordan Gerard, <i>Oklahoma sees increase in number of inmates dying in state prisons</i> , The Oklahoman (Jan. 19, 2025), https://perma.cc/3TEH-8M3V	15

Keaton Ross, <i>Oklahoma's Jail Mortality Rate Ranks Second in Nation</i> , Okla. Watch (Feb. 9, 2021), https://oklahomawatch.org/2021/02/09/oklahomas-jail-mortality-rate-ranks-second-in-nation/	15
Keaton Ross, <i>Oklahoma Maintains Nation's Fourth-Highest Imprisonment Rate</i> , Okla. Watch (Jan. 15, 2025), https://oklahomawatch.org/2025/01/13/oklahoma-maintains-nations-fourth-highest-imprisonment-rate/	14
Mem. Op., <i>Frontier Media Grp., Inc. v. Pottawatomie Cnty. Pub. Safety Ctr. Tr.</i> , No. DF-119952 (Okla. Civ. App. Dec. 14, 2022), https://perma.cc/C7NP-S3NU (unpublished)	14
Nolan Clay, <i>'They got an officer. They got his keys.' An inside look into a deadly hostage ordeal at troubled jail</i> , The Oklahoman (Aug. 15, 2021), https://perma.cc/NAQ4-68YB	16
Nolan Clay, <i>"Baby Shark" kid's song used to bully jail inmates, DA says</i> , The Oklahoman (Oct. 6, 2020), https://perma.cc/MN8Y-J6DQ	16
<i>Oklahoma Profile</i> , Prison Pol'y Initiative (June 2024), https://www.prisonpolicy.org/profiles/OK.html	14
Shelby Montgomery, <i>Oklahoma County commissioners consider new ways to pay for jail</i> , KOCO 5 (Jan. 29, 2025), https://www.koco.com/article/oklahoma-county-jail-commissioners-consider-how-to-pay-behavioral-health-center-groundbreaking/63600753	15
Tres Savage & Bennett Brinkman, <i>DOJ report threatens lawsuit for Oklahoma, OKC mental health system 'deficiencies'</i> , NonDoc (Jan. 3, 2025), https://nondoc.com/2025/01/03/doj-report-threatens-to-sue-oklahoma-okc-for-unnecessary-institutionalization-of-mentally-ill/	15
CONCLUSION.....	17

Pursuant to Oklahoma Supreme Court Rule 1.12(b)(1) and this Court's May 13, 2025 Order, the Reporters Committee for Freedom of the Press ("Reporters Committee"), joined by seven news and media organizations based or working in Oklahoma (together, "amici"), respectfully submit this amicus curiae brief.

INTEREST OF AMICI CURIAE

This appeal presents issues of significant importance to journalists, media organizations, and the public. Public records laws like the Oklahoma Open Records Act ("ORA"), Okla. Stat. Ann. tit. 51, §§ 24A.1–24A.33, are frequently relied on and used by members of the news media to gather information so they may inform the public about how the government is conducting the people's business. As news organizations and organizations that defend the First Amendment and newsgathering rights of the press, amici have a strong interest in ensuring that the ORA is interpreted and applied in a manner that facilitates public access to government information.

Lead amicus the Reporters Committee is an unincorporated nonprofit association founded by journalists and media lawyers in 1970, when the nation's press faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists. The Reporters Committee employs an Oklahoma-based attorney to provide direct legal services to journalists and news organizations in the state, and it has been permitted by this Court to appear as amicus in other appeals. *See* Amici Curiae Br. of Reporters Comm. for Freedom of the Press & 11 Media Orgs., *Sapulpa v. Gannett Co.*, No. 122044 (Okla. Sept. 11, 2024) (briefing issue of constitutional actual malice); Amici Curiae Br. of Reporters Comm.

for Freedom of the Press & 5 Media Orgs., *Okla. Pub. Emps. Ass'n v. State ex rel. Okla. Off. of Pers. Mgmt.*, 2011 OK 68, 267 P.3d 838 (Nos. 108839, 108841) (briefing ORA question); *see also* Mem. Op., *Frontier Media Grp., Inc. v. Pottawatomie Cnty. Pub. Safety Ctr. Tr.*, No. DF-119952 (Okla. Civ. App. Dec. 14, 2022), <https://perma.cc/C7NP-S3NU> (unpublished) (representing media plaintiff and obtaining access under ORA to prison surveillance video).

The other organizations signing onto this brief are:

The Associated Press (“AP”) is a not-for-profit news cooperative. Its members and subscribers include the nation’s newspapers, magazines, broadcasters, cable news services and Internet content providers. The AP operates from 280 locations, including Oklahoma, in more than 100 countries. On any given day, AP’s content can reach more than half of the world’s population.

The E.W. Scripps Company is the nation’s fourth-largest local TV broadcaster, operating a portfolio of 61 stations in 41 markets. KJRH News 2 Oklahoma in Tulsa is among its stations. Scripps owns Scripps Networks, which reaches nearly every American through the national news outlets Court TV and Newsy and popular entertainment brands ION, Bounce, Grit, Laff and Court TV Mystery. The company also runs an award-winning investigative reporting newsroom in Washington, D.C., and is the longtime steward of the Scripps National Spelling Bee.

The Frontier was launched in 2015 to produce fearless, independent journalism that holds those in power accountable and tells stories that matter to, and give voice to, Oklahomans. Recognized with many awards for its journalism, The Frontier strives to produce fair, accurate reporting governed by its code of ethics. Its newsroom is managed by The Frontier Media Group Inc., a 501(c)(3) nonprofit corporation overseen by an independent

board of directors. It is a member of The Institute for Nonprofit News and The Oklahoma Media Center.

Gannett Co. Inc. is the largest local newspaper company in the United States. Its more than 200 local daily brands in 43 states — together with the iconic USA TODAY — reach an estimated digital audience of 140 million each month. *The Oklahoman* and the *Examiner-Enterprise* (Bartlesville, OK) are owned by Gannett subsidiary companies.

The Oklahoma Association of Broadcasters (“OAB”) is a non-profit organization of commercial radio and television stations organized to serve the public interest and promote the cooperation and prosperity of its members. Today, OAB’s members include 152 radio stations, 29 television stations, 20 non-commercial/educational stations, and 28 associate members.

The News/Media Alliance represents over 2,200 diverse publishers in the U.S. and internationally, ranging from the largest news and magazine publishers to hyperlocal newspapers, and from digital-only outlets to papers who have printed news since before the Constitutional Convention. Its membership creates quality journalistic content that accounts for nearly 90 percent of daily newspaper circulation in the U.S., over 500 individual magazine brands, and dozens of digital-only properties. The Alliance diligently advocates for newspapers, magazine, and digital publishers, on issues that affect them today. Its membership includes Oklahoma’s leading newsrooms as well as smaller Oklahoman mastheads

The Black Wall Street Times is located in the historic Greenwood District of Tulsa, Oklahoma, and is a premier source for local and national news with a focus on amplifying Black voices and experiences. Named in homage to the vibrant economic hub that was Black Wall Street, its mission is rooted in honoring the resilience, creativity, and contributions of Black communities across the nation. Just as the original Black Wall Street thrived as a beacon

of Black excellence in the early 20th century, this publication seeks to shine a light on the stories, issues, and achievements that too often go unheard or overlooked. The publication commits to providing comprehensive coverage of national news, politics, education, health, arts & culture, and social and environmental justice through a lens that prioritizes equity, representation, and truth.

INTRODUCTION AND SUMMARY OF ARGUMENT

Oklahoma has long recognized that democracy requires public access to government records. Forty years ago, the Legislature determined that its then-public records law did not sufficiently afford such access and enacted the Oklahoma Open Records Act (“ORA”), Okla. Stat. Ann. tit. 51, §§ 24A.1–24A.33, to expressly “vest the people of Oklahoma ‘with the inherent right to know and be fully informed about their government.’” *Okla. Ass’n of Broads., Inc. v. City of Norman*, 2016 OK 119, ¶ 15, 390 P.3d 689, 694 (quoting Okla. Stat. Ann. tit. 51, § 24A.2). The ORA affords a right of access that prevents government from operating in secret and enables public oversight of the actions taken by covered agencies and officials.

This case arises out of the denial of KSWO’s request to review jail surveillance video of an altercation at the Comanche County Detention Center (“CCDC” or “the jail”) that resulted in an inmate’s death. The death was one in a series of similar incidents in Oklahoma detention facilities—and at the CCDC specifically—that have triggered concern among the public and been the subject of news reporting. The CCDC is operated by the Comanche County Facilities Authority, one of Oklahoma’s jail trusts created by statute in 2019. In this case, the trial court accepted the government’s novel arguments—neither supported by the statutory text nor consistent with the law’s intent—that the jail trust is a “law enforcement agency” under the ORA and that the surveillance video is not a “record” it is required to release.

Amici write in support of KSWO to provide information on the potentially far-reaching and profound negative consequences for the ability of the press to report on carceral facilities if this Court were to accept the holding below, and to provide the history of the statute, which undercuts the government's argument that the Legislature intended to treat jails as law enforcement agencies.

Amici also write to address the trial court's cursory rejection of the public interest in and right to see the requested surveillance video. The court's decision discounted the importance of access to the video, and other jail records, for the press's ability to understand and report on these incidents, which in turn ensures the public receives that information. Without reliable information about what the government is doing (or failing to do) in the execution of the public's business, the public is unable to conduct oversight and ensure accountability, including, here, from the trusts operating Oklahoma jails. The knowledge gleaned from public records can be a catalyst for public debate and, where needed, reform. Transparency bolsters trust in and the legitimacy of public institutions. As the Legislature explained in the ORA itself, the purpose of the law 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.

The government's arguments here, if accepted, would threaten the ability of the press and public to inform Oklahomans about important matters relating to incarceration facilities. Such a result would run counter to the ORA's purpose. For the reasons herein, amici respectfully urge the Court to reverse the decision below and hold that the CCDC is not a law enforcement agency under the ORA. Alternatively, the Court should hold that the release of

the records is nevertheless required under the statute because disclosure is strongly in the public interest.

ARGUMENT AND AUTHORITY

I. Jail trusts are not law enforcement agencies under the ORA, and to hold otherwise would subvert the intent of the ORA to preserve the “public’s right to know” about its government.

A. The ORA was enacted to facilitate access.

The ORA provides that “[a]ll records of public bodies and public officials shall be open to any person for inspection [or] copying,” unless specifically excluded by the law. Okla. Stat. Ann. tit. 51, § 24A.5. When an agency seeks to deny access to a particular record, “the burden is on [that] agency . . . to show [it] should not be made available.” *Okla. Ass’n of Broads., Inc.*, 2016 OK 119, ¶ 15, 390 P.3d at 694 (citing *Citizens Against Taxpayer Abuse, Inc. v. City of Oklahoma City*, 2003 OK 65, ¶ 12, 73 P.3d 871, 875) (noting ORA’s presumption in favor of access). Exceptions to disclosure in the law should be construed narrowly. *Id.*; see also *Fabian & Assocs., P.C. v. State ex rel. Dep’t of Pub. Safety*, 2004 OK 67, ¶¶ 11–12, 100 P.3d 703, 705–06; *City of Lawton v. Moore*, 1993 OK 168, ¶¶ 5–6, 868 P.2d 690, 691–92. Together, these principles demonstrate the Legislature’s “emphatic message,” *Okla. Ass’n of Broads., Inc.*, 2016 OK 119, ¶ 15, 390 P.3d at 694, that “[p]ublic records should remain public except in the most compelling of circumstances,” *Shadid v. Hammond*, 2013 OK 103, ¶ 5, 315 P.3d 1008, 1009, *as corrected* (Dec. 11, 2013).

The history of the ORA provides further guidance on how courts should interpret its provisions. The ORA was enacted in response to a city’s attempt to withhold police records relating to arrests. A newspaper sought records concerning a county commission candidate who had allegedly been arrested on at least two prior occasions. The city denied the request, citing privacy concerns of the arrestee, and the trial court dismissed the newspaper’s challenge

of the denial. *Okla. Publ'g Co. v. City of Moore*, 1984 OK 40, 682 P.2d 754; *see also id.* ¶¶ 16–18, 682 P.2d at 756–57; *Newspapers' lawsuit challenges secrecy of Moore police records*, *The Oklahoman* (Nov. 3, 1982), <https://perma.cc/32JU-8FGQ>. While the Oklahoma Supreme Court reversed, finding that the city charter required it to release the police records, it also found that the precursor law to the ORA that was then in effect did not “require [the government] to maintain records of arrests and incarcerations” and conferred no authority to order disclosure. *Okla. Publ'g Co.*, 1984 OK 40, ¶ 18, 682 P.2d at 757. The Legislature took note. In 1985, on the heels of *Oklahoma Publishing Co.* and another court decision that likewise observed the state’s lack of comprehensive statutory obligations with respect to public records, the Legislature enacted S.B. 276, now the ORA. The ORA required that government maintain and release records and defined them as “all documents including, but not limited to, . . . sound recording, film recording, video record or other material . . . 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); *see* John Greiner, *Senate Passes Bill Ordering Upkeep of Records*, *The Oklahoman* (Mar. 5, 1985), <https://perma.cc/YC3E-4FDE> (“The bill says it is the state’s public policy that the people have the right to know and be fully informed about their government . . . [and] stems from a court case between The Oklahoman and the city of Moore over police records.”).

This history confirms the Legislature’s transparency aims, which resulted in a statutory scheme that makes most public records subject to disclosure and narrowly construes exceptions, like those for law enforcement records, to accomplish the law’s stated goals.

B. Neither Oklahoma statutes nor the government's prior interpretations of them support classifying jails as law enforcement agencies and exempting them from the general disclosure rule, and to do so now would imperil public access.

The trial court erred in concluding that a jail trust and its records are exempt from disclosure under the ORA's law enforcement exception because the jail is not and does not carry out the functions of a "law enforcement agency." Section 24A.3 defines a "law enforcement agency" narrowly as only those public bodies "charged with enforcing state or local criminal laws *and* initiating criminal prosecutions." Okla. Stat. Ann. tit. 51, § 24A.3(5) (emphasis added). But as a practical matter, jail trusts do not possess either of these powers. Moreover, jail trusts are expressly denied law enforcement powers under the statutes allowing their existence. Okla. Stat. Ann. tit. 19, § 513.2(D) ("Nothing in this section shall be construed to confer or grant any peace-officer status or peace-officer power to any public trust or private owner or management entity that by contract operates or manages any jail facility, holding facility or detention center, except as may be specifically provided in another provision of law.").

Stepping back, under the ORA, a general presumption of disclosure applies to "public officials, public bodies or their representatives." Okla. Stat. Ann. tit. 51, § 24A.3(1). A "public body" includes, *inter alia*, any "department, board, bureau, commission, agency, trusteeship, authority, ... *trust or any entity created by a trust*, county, [or] city, . . . supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property." *Id.* § 24A.3(2) (emphasis added). By statute, the CCDC trust is a "trust ... supported in whole or in part by public funds or entrusted with the expenditure of

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public funds or administering or operating public property.” *Id.*¹ KSWO argued, and amici agree, that the CCDC is a public body under the plain language of Section 24A.3(2).

Moreover, contrary to the trial court’s holding, the CCDC does not fall within the ORA’s definition of “law enforcement agency.” As noted above, the ORA defines law enforcement agencies as public bodies “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.” *Id.* § 24A.3(5). Law enforcement agencies are automatically required to disclose those categories of records set forth in Section 24A.8, while maintaining discretion to release records otherwise available under the general disclosure provision. *See Okla. Ass’n of Broads., Inc.*, 2016 OK 119, ¶¶ 26–30, 390 P.3d at 696–97 (applying the general provision found in Section 24A.5 to a law enforcement exception concerning the ability to copy records); *Mem. Op.* at 4 n.2, *Frontier Media Grp., Inc. v. Pottawatomie Cnty. Pub. Safety Ctr. Tr.*, No. DF-119952 (Okla. Civ. App. Dec. 14, 2022), <https://perma.cc/C7NP-S3NU> (unpublished) (discussing whether Section 24A.5’s general provision applies to law enforcement exceptions).² If this Court determines that jail trusts (the

¹ The trust’s duties and obligations are further delineated by statute and do not include law enforcement duties. *See Okla. Stat. Ann. tit. 19, § 904.2* (discussing board of directors, requirement of treasurer, and bond for “faithful accounting for all money pertaining to the Authority and coming into the hands of the treasurer”); *id.* § 904.3 (discussing duties and powers of the board including expenditures of public funds and administering and operating public property); *id.* § 904.5 (granting authority to sue and be sued on behalf of county); *id.* § 904.6 (requiring plan of operating, including costs of operation); *id.* § 904.7 (requiring controls by the board in payment of claims); *id.* § 904.9 (requiring annual audit).

² When evaluating an ORA request to law enforcement, a court considers whether the record sought falls under any of the enumerated categories for disclosures set forth in Section 24A.8. If it does not, a law enforcement agency may withhold, redact, or release the record at

jail facilities and their administrative bodies) are law enforcement agencies, a potentially large subset of government materials created or possessed by the trusts that oversee Oklahoma jails may no longer be available to the public. This could have a profound impact on the public's ability to receive information it should have about the operation and safety of these taxpayer-funded facilities, such as records that might reveal circumstances surrounding mistreatment of an inmate, an inmate's injury or death, injuries to correctional officers, or inmate escapes.

Only recently have some corrections entities taken the position that they are law enforcement agencies under the 40-year-old ORA. In fact, in litigation against the Pottawatomie County Public Safety Center ("PCPSC") Trust brought by Frontier Media Group in 2021, counsel for the PCPSC jail trust expressly argued the *opposite*. See Defs.' Mot. to Dismiss & Br. in Supp., *Frontier Media Grp., Inc. v. Pottawatomie Cnty. Pub. Safety Ctr. Tr.*, No. CV-2021-93 (Pottawatomie Cnty. Dist. Ct. June 29, 2021), <https://perma.cc/88RV-52WB>. In that case, the Trust argued before the trial court that it was *not* a law enforcement agency and therefore did not have to release video or other records relating to Ronald Gene Given's incarceration and treatment inside the PCPSC. *Id.* at 4–8 ("[T]he PCPSC Trust is NOT a law enforcement agency under the ORA." (emphasis in original)).³ On appeal, the PCPSC Trust

its discretion. If such a record is withheld or redacted, a reviewing court should determine whether the law enforcement agency abused this discretion. If none of the enumerated categories of required disclosures applies, the court must still consider whether disclosure is in the public interest and whether that interest outweighs the reason for denial, in which case, the record must be released. See Section II, *infra*.

³ Mr. Given was in the midst of a mental health crisis at the time he was arrested and detained in the PCPSC. Brianna Bailey, *A man's death in jail was ruled a homicide. Family and friends are still waiting for someone to be charged*, The Frontier (Apr. 24, 2023), <https://www.readfrontier.org/stories/a-mans-death-in-jail-was-ruled-a-homicide-family-and-friends-are-still-waiting-for-someone-to-be-charged/>. Inside the PCPSC, Mr. Given was tackled, tased, and restrained in a prone position on his stomach. *Id.* The ability of The Frontier to report on his death and the events leading up to it through access to jail records illustrates

abruptly changed course and argued it *was* in fact a law enforcement agency, to evade disclosure of other records detailing the treatment and death of Mr. Given inside the jail. *See supra*, Mem. Op. at 4–6. The Court of Appeals appeared to express some skepticism over the Trust’s argument that it was a law enforcement entity, *id.* at 4 n.1, but ultimately found that the Trust had waived that argument and therefore did not resolve the underlying question, *id.* at 4–6, 11. Given that the jail surveillance video was clearly a record under the ORA subject to the general rule on disclosure, the government’s effort to prevent release of the surveillance video in the *Frontier Media* case was ultimately unsuccessful. *Id.* at 6–9.

The PCPSC Trust’s initial position in *Frontier Media* was not the first time that an Oklahoma government entity had represented in a judicial proceeding that correctional facilities and departments are not law enforcement agencies. In *Transportation Information Services, Inc. v. State ex rel. Oklahoma Department of Corrections*, Department of Corrections counsel asserted that, under the ORA, “We’re not a law enforcement agency.” 1998 OK 108, ¶ 7 n.2, 970 P.2d 166, 169 n.2. For its part, the Court implicitly rejected that DOC records were law enforcement records; specifically, it observed that “[t]he same information [sought by plaintiff] *would have been available . . . if requested from a law enforcement agency* pursuant to § 24A.8 of the Oklahoma Open Records Act, which deals specifically with information required to be made available by law enforcement agencies.” *Id.* ¶ 7, 970 P.2d at 169 (emphasis added). Oklahoma jails and prisons have not traditionally argued that they are law enforcement agencies engaged in law enforcement functions, and the law offers no basis for expanding the definition of a law enforcement agency to include jails and prisons now.

the need to continue treating jails as the public bodies they have repeatedly affirmed they are—not as law enforcement agencies.

The ORA's language and its historical background—both the Legislature's intent to overhaul the prior law to increase transparency and prevailing interpretations since passage—warrant rejection of the government's argument here that Oklahoma jail trusts are law enforcement agencies and that their records are thus subject to law enforcement exceptions rather than the general statutory provisions.

II. Access to jail records allows for oversight and is in the public interest.

Even if a jail trust constituted a “law enforcement agency” under the ORA (which it does not), disclosure is firmly in the public interest and would therefore still be compulsory under Okla. Stat. Ann. tit. 51, § 24A.8(B). Apart from the mandatory disclosures in Section 24A.8(A), “law enforcement agencies *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.*” *Id.* § 24A.8(B) (emphasis added). Accordingly, outside Section 24A.8(A) law enforcement agencies “may” deny access to records—the “may” means that it is generally discretionary—but when the public interest outweighs the reason for the denial, as here, the statute is clear: disclosure becomes *mandatory*.

Although this Court has not directly addressed the precise contours of the public interest exception in Section 24A.8(B), courts analyzing the same language found in the federal Freedom of Information Act have held that disclosure is in the public interest when it is “likely to contribute significantly to public understanding of the operations or activities of the government.” *Trentadue v. Integrity Comm.*, 501 F.3d 1215, 1236 (10th Cir. 2007) (citing *U.S. Dep’t of Just. v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 775 (1989)).⁴ Such a

⁴ This Court routinely cites as persuasive authority interpretations of analogous provisions of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, in analyzing other provisions of the ORA. *See, e.g., Okla. Pub. Emps. Ass’n v. State ex rel. Okla. Off. of Pers.*

standard is consistent with the ORA's admonition that it be used to further the public's ability to "be fully informed about their government" and "efficiently and intelligently exercise their inherent political power." Okla. Stat. Ann. tit. 51, § 24A.2. Whether a matter is in the public interest is a question of fact, "to be determined in light of the circumstances of the case." *McVarish v. New Horizons Cmty. Counseling & Mental Health Servs., Inc.*, 1995 OK CIV APP 145, ¶ 3, 909 P.2d 155, 156.

The administration of Oklahoma jails touches on matters of profound public interest and concern. In addition to being operated with public dollars, citizens have a vital interest in knowing how jail facilities are operated since incarceration involves the state-sanctioned deprivation of freedom.⁵ Access to records from county jails is crucial to the public's interest

Mgmt., 2011 OK 68, ¶ 3, 267 P.3d 838, 842 ("Our decision is supported by the reasoning of: the United States Supreme Court and other federal courts considering virtually identical language found in the Federal Freedom of Information Act[.]").

⁵ As the appeals court in *Frontier Media*, drawing on analysis from this Court, observed when discussing the meaning of "public interest":

The [Oklahoma Supreme] Court noted that "the outcome of whether one arrested for driving under the influence of alcohol will be permitted to continue to drive on public roads is the business of all the people of the state," and that the stated purpose of the act was "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." We see no reason why individual state interaction with an arrestee allegedly contributing to his death is not similarly a matter affecting the people of this state and part of the information they need to "intelligently exercise their inherent political power." The trust's narrow reading of § 24A.3, however, would exclude numerous state-created records that may demonstrate behavior by public bodies and their officers and employees that is closely connected to the public's exercise of its political power, even if not strictly connected to "business, money or property."

Mem. Op., *supra*, at 9 n.6 (quoting *Fabian & Assocs., P.C.*, 2004 OK 67, ¶¶ 10–12, 100 P.3d at 705–06).

in oversight. In most cases, it is the press who stands in the shoes of the public and undertakes the work to obtain records and, where appropriate, inform the community. The Legislature's awareness of, and protection for, the role of the news media is evident in the statute. *See, e.g.,* Okla. Stat. Ann. tit. 51, § 24A.5(4) ("In no case shall a search fee be charged when the release of records is in the public interest, including, but not limited to, release to the news media ... seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.").

There is an undeniable public interest in understanding operations and conditions in carceral facilities, in this state and nationally. As both journalists and observers have reported, Oklahoma has an incarceration rate that far exceeds that of many developed nations, including the United States itself; it currently incarcerates 550 people per 100,000 residents—the fourth highest rate in the nation. *See, e.g.,* Keaton Ross, *Oklahoma Maintains Nation's Fourth-Highest Imprisonment Rate*, Okla. Watch (Jan. 15, 2025), <https://oklahomawatch.org/2025/01/13/oklahoma-maintains-nations-fourth-highest-imprisonment-rate/> (reporting that "Oklahoma had the nation's highest imprisonment rate as recently as 2018 when more than 27,000 people were housed in state prisons or awaiting transfer from county jails. At the height of the population boom, more than 1% of the state's male population was serving a prison sentence and the overall system capacity exceeded 105%."); *see also* *Oklahoma Profile*, Prison Pol'y Initiative (June 2024), <https://www.prisonpolicy.org/profiles/OK.html>.

Oklahoma's county jails and state prisons can be dangerous for inmates and staff alike. In 2021, the state ranked second in the nation for the mortality rate of jail detainees and in 2024, Oklahoma prisons saw 140 inmate deaths. Keaton Ross, *Oklahoma's Jail Mortality Rate*

Ranks Second in Nation, Okla. Watch (Feb. 9, 2021), <https://oklahomawatch.org/2021/02/09/oklahomas-jail-mortality-rate-ranks-second-in-nation/>; see also Jordan Gerard, *Oklahoma sees increase in number of inmates dying in state prisons*, The Oklahoman (Jan. 19, 2025), <https://perma.cc/3TEH-8M3V> (“According to records obtained from corrections officials through an open records request, 140 inmates died in 2024, outpacing 2023 when 126 inmates died. Natural causes were listed as the top reason for inmate deaths. The number of inmate suicides increased from six in 2023 to nine in 2024.”). Oklahoma tax dollars finance the building of jails and prisons and the housing of inmates. Shelby Montgomery, *Oklahoma County commissioners consider new ways to pay for jail*, KOCO 5 (Jan. 29, 2025), <https://www.koco.com/article/oklahoma-county-jail-commissioners-consider-how-to-pay-behavioral-health-center-groundbreaking/63600753>; Colleen Wilson, *Oklahoma county judge sets daily jail cost at \$66.49, state pays only \$27 for DOC inmates*, KOKH 25 (Apr. 11, 2024), <https://okcfox.com/news/local/oklahoma-county-judge-sets-daily-jail-cost-at-6649-state-pays-only-27-for-doc-inmates>.

Oklahoma journalists and news outlets such as KSWO help the public understand how these institutions operate, often leading to community-driven reform or oversight by federal agencies. See, e.g., David Dishman, *The Oklahoma County Jail under the Jail Trust. A timeline of trouble*, The Oklahoman (May 14, 2023), <https://perma.cc/M68U-AFZW> (detailing investigations of the Oklahoma County Jail by the United States Department of Justice since 2008 regarding incidents of violence, understaffing, and other conditions of confinement crises); Tres Savage & Bennett Brinkman, *DOJ report threatens lawsuit for Oklahoma, OKC mental health system ‘deficiencies’*, NonDoc (Jan. 3, 2025), <https://nondoc.com/2025/01/03/doj-report-threatens-to-sue-oklahoma-okc-for-unnecessary->

institutionalization-of-mentally-ill/ (covering the DOJ release of a 45-page report detailing a “pattern or practice of conduct that discriminates against people with behavioral health disabilities” by the Oklahoma City Police Department leading to unnecessary incarceration or institutionalization); Nolan Clay, *‘They got an officer. They got his keys.’ An inside look into a deadly hostage ordeal at troubled jail*, The Oklahoman (Aug. 15, 2021), <https://perma.cc/NAQ4-68YB> (reporting on video and 911 audio showing that detention officer was handcuffed, stabbed, kicked, and pepper sprayed by inmates during the hour-long standoff); Nolan Clay, *“Baby Shark” kid’s song used to bully jail inmates, DA says*, The Oklahoman (Oct. 6, 2020), <https://perma.cc/MN8Y-J6DQ> (detailing how “inmates were subjected to the ‘inhuman’ discipline in an attorney visitation room”).

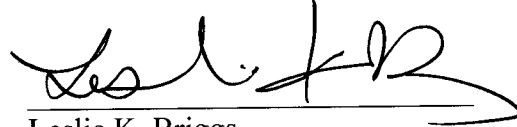
In crafting the ORA, the Oklahoma legislature understood that coverage like this benefits the public interest and provides citizens a clear view of carceral facilities in distress and in need of reform. The public has a right to read, see, and hear these details because the severity of the conditions in jails and prisons implicates not only the constitutional rights of inmates, but the public safety of entire communities—including jail employees who are at risk of serious violence or death if issues like those in the Comanche County jail are permitted to fester unimpeded by public knowledge or outcry. Access to jail records, including video of incidents, is of profound importance to the public’s knowledge of the inner workings of its government in circumstances that are quite literally life and death.

CONCLUSION

For the reasons set forth above, amici respectfully urge this Court to reverse the order of the trial court and hold that the jail trusts are not law enforcement agencies under the ORA and that the records at issue are subject to disclosure under the ORA.

Dated: June 13, 2025

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 13, 2025, a true and correct copy of the accompanying brief of amici curiae along with this certificate were sent via First Class Mail, with proper postage thereon, to the following counsel of record.

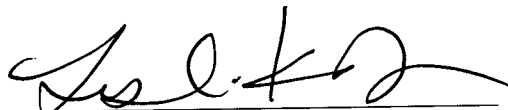
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