

PROBABLE CAUSE

On Monday, January 10, 2011 at approximately 3:20 a.m., Cherokee Indian Police received a report from Swain County 911 to be on the lookout (BOLO) for a white in color Toyota pick-up truck that was traveling towards Cherokee, North Carolina from the area of Swain County, North Carolina. The truck's emergency flashers were operating and a baby that was not breathing was reported to be in the truck. Cherokee Indian Police located the vehicle traveling toward Cherokee Indian Hospital located at 188 Hospital Road, Cherokee, North Carolina and the officers followed the vehicle to Cherokee Indian Hospital.

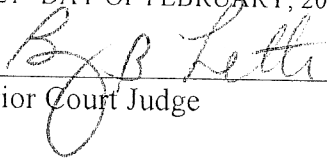
Cherokee Indian Police Officers found Jami Poe, James Murphy, LadyBird Powell, and Marlena Toineeta in the vehicle with a child. The child was identified as: Aubrey Kina-Marie Littlejohn, I/F/DOB: 10-05-2009. The child was pronounced deceased at Cherokee Indian Hospital located at 188 Hospital Road, Cherokee, North Carolina on Monday, January 10, 2011 at approximately 3:56 a.m.

The child's caregivers were identified as LadyBird Powell and James Murphy and they resided at 187 Kenneth Cooper Road, Bryson City, North Carolina within Swain County, North Carolina. LadyBird Powell and James Murphy are married.

Cherokee Indian Police notified Swain County Sheriff's Office regarding Aubrey's death. Detective C.R. Posey responded to Cherokee Indian Hospital on Monday, January 10, 2011 at approximately 4:30 a.m., to initiate an investigation into Aubrey's death. Later on the day of Monday, January 10, 2011, Detective Posey contacted Swain County Department of Social Services and advised the agency of her pending investigation. During the investigation, Detective Posey discovered Swain County Department of Social Services had had at least two reports of neglect and/or abuse regarding Aubrey.

Detective Posey orally requested copies of Swain County Department of Social Services' documentation regarding those reports from Swain County Department of Social Services beginning the week of January 10. Detective Posey arranged a meeting with Social Services Department Program Manager T.L. Jones on January 26, 2011 to formally request the documents. In attendance were T.L. Jones; DSS Director Tammy Cagle; Supervisors Angela Biggs and Candace Lassiter; DSS Attorney Justin Green and ADA Sybil Mann. Detective Posey received some documentation regarding Aubrey Littlejohn approximately 2 weeks after January 26, 2011. Posey was informed that the delay in receiving the documents was due to Social Worker Misty Tabor having some of the narratives at her home on a "thumb drive" and that it was a common practice for social workers to carry Departmental documents home on "thumb drives" to work on them.

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS 21<sup>st</sup> DAY OF FEBRUARY, 2010.

  
Superior Court Judge

  
Signature of Applicant