

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

KATRINA AHRENS,

Plaintiff,

v.

CITY OF DALLAS AND DALLAS
COUNTY,

Defendants.

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Civil Action No. _____

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Katrina Ahrens is the widow of the late Senior Corporal Lorne Ahrens ("Sr. Cpl. Ahrens") of the Dallas Police Department ("DPD"), who was murdered in the sniper attack in downtown Dallas on July 7, 2016. Plaintiff requested the City of Dallas (the "City") and Dallas County (the "County") not disclose the graphic video and other records depicting the last moments of her late husband's life to the public. They refused. So, by this action, Plaintiff seeks orders from the Court declaring she has privacy rights under the U.S. Constitution, the Texas Constitution, common law, and the Texas Public Information Act ("PIA") that allow her to prevent depictions of her late husband's death from being publicly exploited.

After Sr. Cpl. Ahrens' death, many generous and thoughtful individuals and entities sent mail directed to Plaintiff at the DPD. But without her consent, the City intercepted, opened, read, and seized Plaintiff's mail. These actions violated Plaintiff's rights under the Fourth Amendment, Article I of the Texas Constitution, and common law. Through this action, Plaintiff also seeks to stop the City's unauthorized interception, opening, reading, and seizure of her private mail.

PARTIES

1. Plaintiff is an individual residing in Burleson, Texas.
2. The City is a municipal agency with its principal place of business at 1500 Marilla St., Dallas, Texas 75201 in Dallas County.
3. The County is a municipal agency with its principal place of business at 1201 Elm St., Dallas, Texas 75270 in Dallas County.

JURISDICTION AND VENUE

4. This Court has subject-matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1343, 1367, 2201, and 2202.
5. This Court has venue over this action under 28 U.S.C. §§ 1391(b)(1), and (2).

FACTS

A. The murder of Plaintiff's husband, Sr. Cpl. Ahrens.

6. Plaintiff is a detective in the Crimes Against Persons Division of the DPD, and the widow of Sr. Cpl. Ahrens, also of the DPD. Plaintiff and Sr. Cpl. Ahrens married in 2004.
7. After over 14 years of service with the DPD, on July 7, 2016, Sr. Cpl. Ahrens was shot in the line of duty during an ambush on a peaceful protest in downtown Dallas. He passed away the following morning, leaving behind his wife, Plaintiff, and their two minor children.
8. Four other officers (three DPD officers and one Dallas Area Rapid Transit officer) were killed during the shooting, and nine officers and two civilians were injured.
9. The July 7, 2016 Dallas ambush was the deadliest incident for law enforcement officers in the U.S. since the September 11, 2011 attacks. It occurred just days after the killing of two African American men by police officers in Louisiana and Minnesota, and during a protest

organized in response to those killings. Unsurprisingly, the Dallas shooting garnered extensive media attention, both nationally and abroad.

B. Defendants possess confidential records depicting the attack on Sr. Cpl. Ahrens and its aftermath.

10. The City and County possess extensive records related to the July 7 attack and its aftermath. The DPD, for example, retains digital video recordings (squad car dash cam video) and body worn camera footage from the July 7 attack showing up-close, graphic digital video footage of officers being shot, attempting to save and rescue the injured, and using tactical maneuvers and procedures to apprehend the suspect. Defendants' records include images, autopsy photos, videos, audio recordings, transcripts, statements, notes, and other materials depicting or recording the shooting, injuries, suffering, and death of the late Sr. Cpl. Ahrens (hereinafter "Sensitive Death Records").

11. On information and belief, the City has shared non-public records of the attack with County attorneys, who have been and continue to use that evidence as part of a criminal investigation of the July 7 attack. Among the evidence the County attorneys are using are Sensitive Death Records.

12. On information and belief, media entities have requested disclosure of information from Defendants that specifically relates to the fatal injuries, wounds, and death of Sr. Cpl. Ahrens. The media entities' requests encompass Sensitive Death Records.

13. Defendants' official policies purport to allow wide discretion regarding disclosure of various types of records. For this reason, Plaintiff requested that Defendants not make public any Sensitive Death Records, but the City has refused her request. The City has stated it has not, to its knowledge, released any information related to its criminal investigation of the July 7 attack, but that it intends to produce materials including Sensitive Death Records once its investigation is

closed. A copy of correspondence from the City confirming its intent to produce Sensitive Death Records is attached as Exhibit A and is incorporated by reference.

14. On information and belief, closure of Defendants' criminal investigation of the July 7 attack is imminent.

C. Plaintiff faces an imminent risk of grave, irreparable harm.

15. If released, Sr. Cpl. Ahrens' Sensitive Death Records will undoubtedly become the subject of sensational stories, articles, and headlines published by the media in print and on the Internet.

16. Plaintiff herself was granted access to Sr. Cpl. Ahrens' Sensitive Death Records. She viewed, for instance, detailed digital video footage of her husband being shot roughly thirteen times in various parts of his body, suffering through the slow process of dying, and then speaking his last words before her eyes. As any reasonable person would expect, viewing these records was extremely painful and upsetting, gut wrenching, and devastating to her. Even watching the videos in seclusion caused her severe mental and emotional distress.

17. If released, it is virtually certain that Plaintiff's minor children, eight and eleven, will be exposed to Sensitive Death Records. Plaintiff and Sr. Cpl. Ahrens' young son, for example, regularly "Googles" Sr. Cpl. Ahrens' name to view the latest images and articles relating to his father.

18. Due to the grave harm to Plaintiff threatened by the disclosure of these Sensitive Death Records, Plaintiff wishes to maintain privacy with respect to these records and shield her children from material that would undoubtedly permanently and negatively impact the memories they have of their father.

19. If the records kept by Defendants that relate to Sr. Cpl. Ahrens' death are made public, the effect on Plaintiff and her kids would be life altering. It would be significantly more traumatic to see these depictions over and over again on television, the Internet, or social media, and it would be truly devastating and horrifying to know the public would have access to see, hear, or witness any part of her husband's death.

20. The effects of releasing the records on Plaintiff's young children would be even worse, for it is virtually certain they would eventually see their father's murder in up-close and graphic detail no matter the precautions taken by Plaintiff. Knowing what happened to him and seeing it occur in graphic detail are two very different things.

21. Releasing any photos, videos, audio recordings, or other materials in the investigative file depicting the shooting, injuries, suffering, or death of Sr. Cpl. Ahrens would constitute a painful and unwarranted invasion of Plaintiff's personal privacy. This is detailed in Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction, which is attached as Exhibit B and is incorporated by reference.

D. The City's interception, opening, reading, and seizure of Plaintiff's mail.

22. Making matters worse, following Sr. Cpl. Ahrens' death, many generous and thoughtful individuals and entities sent mail directed to Plaintiff at the DPD, and the DPD—without Plaintiff's consent—opened her mail and its contents, which often contained personal, sincere, and sensitive messages from the sender, read it, then stored it. The City sometimes delayed for months before delivering the illegally opened mail to Plaintiff.

23. In some instances, Plaintiff's mail was diverted to former Chief of Police Brown's office. Plaintiff has been told mail sometimes sat unattended in his office for so long that charitably donated checks could no longer be cashed due to the passage of time.

24. As an example of the harm caused by the City's unconstitutional treatment of Plaintiff's mail, the City handed Plaintiff an open letter (not even in an envelope) on February 22, 2017 from the Martin Luther King Jr. Community Center. The letter was dated December 22, 2016. It requested Plaintiff's presence at an awards gala on January 14, 2017 honoring Sr. Cpl. Ahrens. It also invited Plaintiff to attend the MLK Parade on January 16, 2017. But because Plaintiff received the letter two months after it was dated, she was—by no fault of her own—unaware of the gala honoring her late husband. And since she was unaware of it, she did not attend. This, of course, reflects negatively on Plaintiff, who would have gladly attended the gala and parade had she been aware of it. The responsible party, the City, not only failed to inform Plaintiff of the gala, but failed to inform the community center Plaintiff was not in possession of the letter.

25. Plaintiff has a legitimate and reasonable expectation of privacy in the contents of letters and sealed packages sent to her in the mail at her government employer.

26. The City's intrusion into Plaintiff's private mail is highly offensive.

27. The City has no actual or apparent authority to open Plaintiff's mail.

28. The City's warrantless search and seizure of Plaintiff's workplace mail violates her constitutional rights.

COUNT ONE

Substantive Due Process Right to Privacy—U.S. Const. Amend. XIV (City of Dallas and Dallas County)

29. Plaintiff incorporates by reference the allegations contained in the proceeding paragraphs.

30. Plaintiff has due process rights to the privacy and control over the Sensitive Death Records.

31. Through this claim, Plaintiff seeks a declaratory judgment recognizing Plaintiff's right to privacy in the Sensitive Death Records, and that this right prohibits Defendants' disclosure of Sensitive Death Records or similar material that relates to Sr. Cpl. Ahrens to any third party.

32. An actual, substantial, and justiciable controversy exists regarding Plaintiff's right to privacy over the Sensitive Death Records, as Defendants' prospective release of these records to the media and/or other third parties is imminent.

33. The hardship Plaintiff and her minor children will suffer if the Sensitive Death Records are released is significant.

34. Plaintiff also seeks a preliminary and permanent injunction prohibiting Defendants' disclosure of Sensitive Death Records and similar materials in Defendants' possession that relate to Sr. Cpl. Ahrens to any third party.

COUNT TWO

Right to Privacy—Tex. Const. Art. 1 (City of Dallas and Dallas County)

35. Plaintiff incorporates by reference the allegations contained in the proceeding paragraphs.

36. Plaintiff has a right to privacy in the Sensitive Death Records.

37. Through this claim, Plaintiff seeks a declaratory judgment recognizing Plaintiff's right to privacy in the Sensitive Death Records, and that this right prohibits Defendants' disclosure of Sensitive Death Records and other material that relates to Sr. Cpl. Ahrens to any third party.

38. An actual, substantial, and justiciable controversy exists regarding Plaintiff's right to privacy over the Sensitive Death Records, as Defendants' prospective release of these records to the media and/or other third parties is imminent.

39. The hardship Plaintiff and her minor children will suffer if the Sensitive Death Records are released is significant.

40. Plaintiff also seeks a preliminary and permanent injunction prohibiting Defendants' disclosure of Sensitive Death Records and similar materials in Defendants' possession that relate to Sr. Cpl. Ahrens to any third party.

COUNT THREE

Right to Privacy—Common Law (City of Dallas and Dallas County)

41. Plaintiff incorporates by reference the allegations contained in the proceeding paragraphs.

42. Plaintiff has a common law right to privacy in the Sensitive Death Records.

43. Through this claim, Plaintiff seeks a declaratory judgment recognizing Plaintiff's right to privacy in the Sensitive Death Records, and that this right prohibits Defendants' disclosure of Sensitive Death Records and other material that relates to Sr. Cpl. Ahrens to any third party.

44. An actual, substantial, and justiciable controversy exists regarding Plaintiff's right to privacy over the Sensitive Death Records, as Defendants' prospective release of these records to the media and/or other third parties is imminent.

45. The hardship Plaintiff and her minor children will suffer if the Sensitive Death Records are released is significant.

46. Plaintiff also seeks a preliminary and permanent injunction prohibiting Defendants' disclosure of Sensitive Death Records and similar materials in Defendants' possession that relate to Sr. Cpl. Ahrens to any third party.

COUNT FOUR

**Right to Prohibit Disclosure of Confidential Information—Tex. Gov't Code § 552.101,
(City of Dallas and Dallas County)**

47. Plaintiff incorporates by reference the allegations contained in the proceeding paragraphs.

48. Texas Government Code § 552.101 exempts from disclosure under the PIA, any information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

49. The Sensitive Death Records are confidential under Texas Government Code § 552.101.

50. Through this claim, Plaintiff seeks to prohibit disclosure of the Sensitive Death Records by Defendants.

51. An actual, substantial, and justiciable controversy exists regarding Plaintiff's right to prevent disclosure of the Sensitive Death Records, as Defendants' prospective release of these records to the media and/or other third parties is imminent.

52. The hardship Plaintiff and her minor children will suffer if the Sensitive Death Records are released is significant.

53. Plaintiff also seeks a preliminary and permanent injunction prohibiting Defendants' disclosure of the Sensitive Death Records and similar materials in Defendants' possession that relate to Sr. Cpl. Ahrens.

COUNT FIVE

**Right to be Secure from Unreasonable Searches and Seizures—U.S. Const. Amend. IV
(City of Dallas)**

54. Plaintiff incorporates by reference the allegations contained in the proceeding paragraphs.

55. The City's warrantless interception, opening, reading, and seizure of mail directed to Plaintiff violates Plaintiff's Fourth Amendment right to a legitimate and reasonable expectation of privacy in the contents of letters and sealed packages sent to her.

56. Through this claim, Plaintiff seeks a declaratory judgment that the City's actions as described above are unconstitutional in violation of Plaintiff's rights under the Fourth Amendment to the United States Constitution.

57. Plaintiff seeks a preliminary injunction requiring the City to provide Plaintiff all mail in its possession, custody, or control that is or was directed to Plaintiff and her family.

58. Plaintiff also seeks a permanent injunction enjoining the City from any future interception, opening, reading, or seizure of Plaintiff's mail.

COUNT SIX

Right to be Secure from Searches and Seizures— Tex. Const. Art. 1, § 9 (City of Dallas)

59. Plaintiff incorporates by reference the allegations contained in the proceeding paragraphs.

60. The City's warrantless interception, opening, reading, and seizure of mail directed to Plaintiff violates Plaintiff's right under Article I, § 9 of the Texas Constitution to a legitimate and reasonable expectation of privacy in the contents of letters and sealed packages sent to her.

61. Through this claim, Plaintiff seeks a declaratory judgment that the City's actions as described above are unconstitutional in violation of Plaintiff's rights under the Texas Constitution.

62. Plaintiff also seeks a preliminary injunction requiring the City to provide Plaintiff all mail in its possession, custody, or control that is or was directed to Plaintiff and her family.

63. Plaintiff also seeks a permanent injunction enjoining the City from any future interception, opening, reading, or seizure of Plaintiff's mail.

COUNT SEVEN

**Invasion of Privacy through Intrusion on Seclusion—Texas Common Law
(City of Dallas)**

64. Plaintiff incorporates by reference the allegations contained in the proceeding paragraphs.

65. The City's interception, opening, reading, and seizure of mail directed to Plaintiff constitutes intentional intrusion on Plaintiff's solitude, seclusion, and private affairs.

66. The City's intrusion is highly offensive to a reasonable person.

67. Plaintiff suffered an injury as a result of the City's intrusion.

JURY DEMAND

68. Plaintiff demands a trial by jury on all issues triable to a jury.

PRAYER FOR RELIEF

Plaintiff respectfully requests the following relief:

- A. A declaration that Plaintiff has privacy rights under the U.S. Constitution, Texas Constitution, and/or common law that prohibit Defendants' disclosure of Sensitive Death Records in their possession;
- B. A preliminary injunction prohibiting Defendants from disclosing Sensitive Death Records and similar materials in their possession that relate to Sr. Cpl. Ahrens;
- C. An order permanently enjoining Defendants from disclosing Sensitive Death Records and similar materials in their possession that relate to Sr. Cpl. Ahrens;
- D. All relief to which Plaintiff is entitled under TEX. GOV'T CODE § 552.001 *et seq.*;
- E. A declaration that the City's interception, opening, reading, and seizing of Plaintiff's mail violates Plaintiff's rights under the Fourth Amendment to the U.S. Constitution and Article 1 of the Texas Constitution;
- F. A preliminary injunction requiring the City to provide Plaintiff all mail in its possession, custody, or control that is or was directed to Plaintiff or her family;

- G. An order permanently enjoining the City from intercepting, opening, reading, or seizing Plaintiff's mail; and
- H. All other and further relief to which Plaintiff is entitled and the Court deems just and appropriate.

Dated: May 30, 2017

Respectfully submitted,

**GRIFFITH BATES CHAMPION
& HARPER LLP**

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