

Manuel Rodriguez

DC-18-03264  
NO. \_\_\_\_\_

**SUSAN EHLKE, FRANK KROL,  
HEIDI SMITH, KRISTY  
VILLASENOR, & EMILY  
CRAWFORD**  
Plaintiffs,

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**IN THE DISTRICT COURT OF**  
  
**DALLAS COUNTY, TEXAS**  
  
  
  
  
  
  
  
**\_\_\_\_\_ JUDICIAL DISTRICT**

V.

**CITY OF DALLAS,**  
Defendant.

**PLAINTIFFS' ORIGINAL PETITION AND APPLICATION  
FOR TEMPORARY INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

Susan Ehlke, Frank Krol, Heidi Smith, Kristy Villasenor, and Emily Crawford, Plaintiffs, file this Plaintiffs' Original Petition and Application for Temporary Injunction against Defendant City of Dallas, and for cause of action, would respectfully show the Court as follows:

**I. DISCOVERY CONTROL PLAN**

1. Pursuant to Rule 190 of the Texas Rules of Civil Procedure, Plaintiff alleges that discovery is to be conducted under Level 2.

**II. PARTIES**

2. Plaintiff Susan Ehlke is fallen officer Michael Krol's mother, and is an individual residing in New Hudson, Michigan.

3. Plaintiff Frank Krol is fallen officer Michael Krol's father, and is an individual residing in Norton Shores, Michigan.

4. Plaintiff Heidi Smith is fallen officer Michael J. Smith's wife, and is an individual residing in Carrollton, Texas.

5. Kristy Villasenor is fallen officer Patrick Zamarripa's wife, and is an individual residing in Fort Worth, Texas.

6. Emily Crawford is fallen officer Brent Thompson's wife, and is an individual residing in Royse City, Texas.

7. Defendant City of Dallas ("Defendant" or "the City") is a municipal agency under the laws of the State of Texas with its principal place of business in Dallas, Texas, and may be served by serving the City Secretary, Bilierae Johnson, at Dallas City Hall, 1500 Marilla Street, Room 5 D South, Dallas, Texas 75201.

### **III. VENUE**

8. Venue is proper in Dallas County pursuant to Texas Civil Practice and Remedies Code Section 15.002.

### **IV. FACTUAL BACKGROUND**

9. Plaintiffs are close family members of four police officers ("the fallen officers") who were shot in the line of duty during a sniper ambush in downtown Dallas on July 7, 2016. All four officers, along with one other officer, died as a result of the ambush.

10. The City possesses extensive records related to the July 7 attack and its aftermath. The Dallas Police Department ("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. The City's records include videos, audio recordings, statements, notes, and other records depicting or otherwise documenting the shooting of the fallen officers and their injuries and suffering leading to their deaths (hereinafter "Sensitive Death Records").

11. Multiple requests pursuant to the Texas Public Information Act have been made by

the public, including media entities, to compel disclosure of information from the City that specifically relates to the fatal injuries, wounds, and deaths of the fallen officers. These requests encompass Sensitive Death Records.

12. The City's official policies purport to allow wide discretion regarding disclosure of various types of records. For this reason, Plaintiffs are requesting that the City not make public any Sensitive Death Records. The City has stated it has not yet, to its knowledge, released any information related to its criminal investigation of the July 7 attack.

13. The investigation into the July 7 attack is now closed, and the media and others have already taken actions to compel the City to produce fallen officers' Sensitive Death Records.

14. If released, the fallen officers' Sensitive Death Records will undoubtedly become the subject of sensational stories, articles, and headlines published by the media in print, on television, and on the internet.

15. If released, it is virtually certain that Plaintiffs and the fallen officers' children will be exposed to Sensitive Death Records. Due to the grave harm to Plaintiffs threatened by the disclosure of these Sensitive Death Records, Plaintiffs wish to maintain privacy with respect to these records and shield themselves and the fallen officers' children from material that would undoubtedly permanently and negatively impact the memories they have of the fallen officers.

16. If the records kept by the City that relate to the fallen officers' deaths are made public, the effect on Plaintiffs and the fallen officers' children 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 their loved ones' deaths.

17. The effects of releasing the records on Plaintiffs and the fallen officers' children would be devastating, for it is virtually certain they would eventually see their loved one's murder up-close and in graphic detail no matter the precautions taken by Plaintiffs.

18. Releasing any photos, videos, audio recordings, or other materials in the

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investigative file depicting the shootings, injuries, suffering, and/or deaths of the fallen officers would constitute a painful and unwarranted invasion of Plaintiffs' personal privacy.

#### **COUNT ONE**

##### **Right to Privacy in Sensitive Death Records Under Tex. Const. Art. 1**

19. Plaintiffs incorporate by reference the preceding paragraphs as if set forth herein.

20. Plaintiffs have a right to privacy in the Sensitive Death Records.

21. Through this claim, Plaintiffs seek a declaratory judgment recognizing Plaintiffs' constitutional right to privacy in the Sensitive Death Records, and that this right prohibits the City's use or disclosure to any third party of Sensitive Death Records and other material that relates to the fallen officers.

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

23. The hardship Plaintiffs will suffer if the Sensitive Death Records are released is significant.

24. Plaintiffs also seek a temporary injunction and a permanent injunction prohibiting the City's use or disclosure to any third party of Sensitive Death Records and similar materials in the City's possession that relate to the fallen officers.

#### **COUNT TWO**

##### **Common Law Right to Privacy in Sensitive Death Records**

25. Plaintiffs incorporate by reference the preceding paragraphs as if set forth herein.

26. Plaintiffs have a common law right to privacy in the Sensitive Death Records.

27. Through this claim, Plaintiffs seek a declaratory judgment recognizing Plaintiffs' right to privacy in the Sensitive Death Records, and that this right prohibits the City's disclosure of Sensitive Death Records and other material that relates to the fallen officers to any third party.

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

29. The hardship Plaintiffs will suffer if the Sensitive Death Records are released is significant.

30. Plaintiffs seek a temporary injunction and a permanent injunction prohibiting the City's use or disclosure to any third party of Sensitive Death Records and similar materials in the City's possession that relate to the fallen officers.

### **COUNT THREE**

#### **Right to Prohibit Disclosure of Confidential Information Pursuant to TEX. GOV'T CODE §§ 552.101 and 552.1085**

31. Plaintiffs incorporate by reference the preceding paragraphs as if set forth herein.

32. TEX. GOV'T CODE § 552.101 exempts from disclosure under the Texas PIA, any information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

33. The Sensitive Death Records are confidential under TEX. GOV'T CODE §§ 552.101 and 552.1085.

34. Through this claim, Plaintiffs seek to prohibit disclosure of the Sensitive Death Records by the City.

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

36. The hardship Plaintiffs will suffer if the Sensitive Death Records are released is significant.

37. Plaintiffs also seek a temporary injunction and a permanent injunction prohibiting the City's disclosure of the Sensitive Death Records and similar materials in the City's possession that relate to the fallen officers.

#### **APPLICATION FOR INJUNCTIVE RELIEF**

38. Plaintiffs incorporate by reference all allegations in the preceding paragraphs.

39. As set forth in detail above, Plaintiffs have established a probable right to the relief they seek upon final trial of this case, including their claims arising out of their privacy rights in the Sensitive Death Records under Tex. Const. Art. I, TEX. GOV'T. CODE §§ 552.101 and 552.1085, and common law.

40. If released, the Sensitive Death Records will undoubtedly become the subject of sensational stories, articles, and headlines published by the media in print, on television, and on the internet. If released, it is virtually certain Plaintiffs and the fallen officers' children will be exposed to Sensitive Death Records. Due to the grave harm to Plaintiffs threatened by the disclosure of these Sensitive Death Records, Plaintiffs wish to maintain privacy with respect to these records and shield themselves and the fallen officers' children from material that would undoubtedly permanently and negatively impact the memories they have of the fallen officers. If the records kept by the City that relate to the fallen officers' deaths are made public, the effect on Plaintiffs and the fallen officers' children 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 the fallen officers' deaths. Releasing any photos, videos, audio recordings, or other materials in the investigative file depicting the shooting, injuries, suffering, or deaths of the fallen officers would constitute a painful and unwarranted invasion of Plaintiffs' personal privacy. Plaintiffs request the Court preserve the status quo by entering an injunction temporarily enjoining the City from disclosing the Sensitive Death Records.

41. Plaintiffs move the Court for orders temporarily and permanently enjoining the City from engaging in the conduct described above.

#### **ATTORNEYS' FEES**

42. Plaintiffs incorporate by reference the preceding paragraphs as if set forth herein.

43. Plaintiffs retained counsel to represent them in this action and agreed to pay the firm reasonable and necessary attorneys' fees. Plaintiffs are entitled to recover their attorneys' fees from Defendant under TEX. CIV. PRAC. & REM. CODE § 37.009.

#### **DEMAND FOR JURY TRIAL**

44. Plaintiffs demand a trial by jury.

#### **PRAYER FOR RELIEF**

Plaintiffs pray that the Court enter judgment awarding them the following relief:

1. Temporary and permanent injunctions as described above;
2. A declaratory judgment that Plaintiffs have the right to control the Sensitive Death Records of the fallen officers, that disclosure and use of the Sensitive Death Records

would deprive Plaintiffs of privacy rights under Article I of the Texas Constitution and common law, and that the Sensitive Death Records are confidential under TEX. GOV'T. CODE Sections 552.101 and 552.1085, and exempt from disclosure under the Texas Public Information Act.

3. All relief to which Plaintiffs are entitled under TEX. GOV'T. CODE § 552.001 *et seq.*;

4. Attorneys' fees and expenses;

5. Costs;

6. Pre-and post-judgment interest; and

7. All other relief to which Plaintiffs are entitled.

Respectfully submitted,

***LYON, GORSKY & GILBERT, L.L.P.***

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**ATTORNEYS FOR PLAINTIFFS**