Dear Judges,

“7/7: The Heroes Perspective” is the product of a five-year battle using the Texas Public Information Act to get records from the city of Dallas documenting the deadliest attack on law enforcement since 9/11.

Investigative reporter Tanya Eiserer and investigative producer Jason Trahan relied on their decades of combined experience covering law enforcement in North Texas to overcome stonewalling by city officials and force them to comply with the TPIA. It eventually took a formal complaint with the Texas Attorney General, but in the end, public records documenting the attack were indeed made public, and a critical story was told.

Background

On July 7, 2016, thousands of demonstrators took to the streets of Dallas to protest a rash of police killings around the country.

Around 9 p.m., as the peaceful demonstration ended, a lone gunman, Micah Johnson, opened fire on police supervising the protest, killing four before fleeing into a downtown community college building. He killed a fifth officer on the street by shooting from a second-floor window. He barricaded himself at the end of a hallway inside the college, and for hours continued to fire at officers with a semiautomatic assault rifle.

The standoff ended when then-Dallas Police Chief David Brown ordered that a robot fitted with explosives be used. It remains the only time that a robot has been used to kill a suspect in the United States.

Our special report, "7/7: The Heroes’ Perspective,” documents the tragedy using never-before-seen images, including video from eyewitnesses, police body-worn and patrol car dashboard cameras, crime scene photos, and audio recordings of the suspect. We also got exclusive interviews with officers who lived through the tragedy.

Open records battle

In the aftermath of the deadly ambush, WFAA and other members of the media filed open records requests seeking the Dallas Police Department’s investigation into the events of that night. All of our requests were denied, initially because of the ongoing criminal investigation. Later, when a grand jury, as expected, cleared SWAT officers in the gunman’s death, the department again refused to release the materials because of a quirk in Texas public information law that allows records related to a criminal investigation be withheld when no one is prosecuted.

It appeared the public would never have access to the department’s investigative records or video from that night.
We decided that could not stand.

Even though we had no reason to believe officers had done anything wrong, we knew there was a story to tell – that must be told – if for no other reason than to honor the sacrifices of five men who gave their lives protecting those there to protest them. Plus, it did not seem right that there not be a full accounting of the decision to take the extraordinary step of using a police robot to kill a man.

Through their years of covering police agencies, Eiserer and Trahan knew that while law enforcement was entitled to withhold records of criminal investigations, they are not permitted to withhold records of internal investigations. Eiserer learned from her sources that most, if not all, of the material gathered in the criminal investigation had been turned over to internal investigators.

On Oct. 4, 2018, we filed a request for the internal investigation. Again, the department sought to withhold the material. But, the Texas Attorney General’s office sided with us and on March 5, 2019, ordered the police department to release the material to WFAA. The department dragged its feet for more than a year, at times using the pandemic as its excuse for the delays.

With the fifth anniversary of the tragedy approaching, Trahan filed a complaint on Feb. 11, 2021, with the Attorney General’s office, arguing that the police department was in violation of the AG’s order to release the video. Within weeks, the department began releasing a mountain of video – in no particular order. The last of the material arrived in mid-May, just a few weeks before the fifth anniversary of the tragedy.

Eiserer spent those weeks wading through hours of video, pulling out the most compelling material. She painstakingly identified specific officers on the body cam and dash cam videos, and began reaching out to them.

Buried in the video, we found moments of heroism, unthinkable violence and glimpses of the personalities of those officers who died.

- Dash cam video showed that Officer Patricio Zamarripa was listening to a Texas Rangers baseball game in his patrol car when he heard gunfire. He immediately ran toward it. Moments later, he was shot dead in the street as bystanders fled.

- The moment when officers finally found Johnson’s hideout on the second floor of a community college, body cam captured the chaos and deafening roar as officers and the gunman exchanged rifle fire in a small hallway. The moment gave viewers a sense of what officers experienced, and the immense danger they were in the entire time.

- Body cam video also captured critical police conversations as they came up with the plan to use a robot to end the standoff.
We also obtained an audio recording of conversations between the gunman and a Dallas SWAT negotiator. Micah Johnson gives insight into his motives, the recordings also document the pleas of police to end the standoff peacefully. The recording, which had never been heard publicly, made it clear that Johnson had no intention of surrendering.

We believe our efforts our worthy of the prestigious Headliner's Showcase Award for Enterprise and Innovation, and we thank you for considering our work.
WFAA’s 7/7: The Heroes’ Perspective was only possible because of open records laws, and the tenacity of an investigative team that knew how to use them.

Here is a timeline of events that led to the making of this story:

2016

- July 7, 2016 – Ex-Army soldier Micah Johnson shot and killed four Dallas police officers and one Dallas Area Rapid Transit officer near the end of a protest over police killings nationwide. Nine others were injured in the attack. SWAT officers killed Johnson at the end of a standoff inside a community college by setting off explosives wired to a police robot. WFAA and other media outlets filed requests for documents and videos related to the case. All were denied while the investigation into what happened was pending.

2017

- June 26, 2017 – Katrina Ahrens, widow of Dallas Sr. Cpl. Lorne Ahrens, one of the five slain officers, filed a lawsuit to keep her husband’s name and image from being released publicly.

2018

- Jan. 31, 2018 – A grand jury determined that no crime was committed by any officers in the killing of Micah Johnson, officially ending the criminal investigation of the incident.
- Feb. 1, 2018 – WFAA filed an open records request for all videos and documents related to the shooting.
- April 20, 2018 – The Texas Attorney General, which interprets state laws determining what records governmental entities can release, denied WFAA’s request. The AG noted
that the “information at issue relates to a closed case that did not result in conviction or deferred adjudication,” and by Texas law [Section 552.108(a)(2)], the materials can be withheld. The intent of this part of the open records law was to protect wrongly accused private citizens from being labeled as criminals; it was now being used to keep police documents in an historic shooting secret.

- Oct. 4, 2018 – WFAA filed an open records request for the Internal Affairs Division files. The Texas law enabling entities to withhold investigative materials if they don’t result in a conviction does not apply to Internal Affairs Division materials. This is because an IAD investigation seeks to determine if department rules were violated, not whether a crime was committed.

2019

- March 5, 2019 – The Texas AG ruled in WFAA’s favor and mandated the release of documents and video.
- April 11, 2019 – After WFAA pressed the city to comply with the AG’s order, Dallas City Attorney Chris Caso said a judge’s order in lawsuit filed by the widow of slain Dallas Sr. Cpl. Lorne Ahrens prohibited the city from releasing any records or videos with Ahrens’ name or image on them. The city said it would have to scrub every document and frame of video for any reference to Ahrens.
- April 18, 2019 – A week later, the police department began releasing documents, but no video or pictures.

2020

- March 13, 2020 – Nearly a year and a half after WFAA first filed the request for IAD materials, the police department released the first video in the investigation. It consisted of an hour of video of an empty interrogation room. Over the next few weeks, the department released actual interrogation video, but no video of the shooting.
- Dec. 19, 2020 – More than two years after the 2018 IAD request, the first dash cam videos were released.

2021

- Feb. 11, 2021 – After several months passed with no relevant video released, WFAA filed a formal complaint with the Texas AG’s office, alleging the police department was in violation of the Texas Public Information Act by withholding public records in the shooting.
- March 11, 2021 – A month after the AG complaint, and two and a half years after the 2018 IAD request was filed, the police department released the first body cam video images.
- May 17, 2021 – Less than two months shy of the 5th anniversary of the shooting, the police department released the final piece of video in the investigation.
- July 7, 2021 – WFAA aired 7/7: The Heroes’ Perspective.
Under the Texas Public Information Act, I request access to, or a copy of, the following:

+ Any and all emails, texts, instant messages, and/or social media messages to and from Dallas Mayor Mike Rawlings related to the Black Lives Matter protest and subsequent shooting incident involving Micah Xavier Johnson from 7/7/16 through 7/15/2016.

As provided by law, I expect your response as soon as possible.

I request all information responsive to this request be provided in digital format.

If you choose to seek an Attorney General’s decision on the release of the requested information, please quickly provide all segregable portions of otherwise exempt material.

Please send me information as it becomes available, rather than wait to compile all the information before sending.

I am not requesting any material that the courts have previously determined to be private. For instance, I am not interested in bank account or credit card numbers.

As a news media representative acting on behalf of the public, I ask that all fees associated with this request be waived as this information is sought in the public interest.

If fees to produce these records are, for any reason, not waived, notify me in advance of the copying or labor costs if you believe they will be more than $40.

In the interest of expediency, I prefer to be contacted by phone (214-773-2052) or email (jptrahan@wfaa.com).

Thanks,

**Jason Trahan**
Investigative Producer
WFAA-TV | Dallas, Tx.
214-773-2052
jptrahan@wfaa.com
www.wfaa.com/local/investigates
@wfaaiteam
facebook.com/News8Investigates
# Register of Actions

**Case No.** DC-C201700365

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## Related Case Information

**Related Cases**
DC-C201800704 (Companion Case)

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## Party Information

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<td>Defendant</td>
<td>City of Dallas</td>
<td>Charles A. Estee</td>
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<td>214-670-3519(W)</td>
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<td>Dallas Police Association</td>
<td>Jennifer W. Johnson</td>
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<td>Devine, Brenda S</td>
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<td>DPA's Assist the Officer Foundation, Inc.</td>
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<td>Lyon, Gorsky &amp; Gilbert, LLP</td>
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<td>Mata, Michael</td>
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<td>ZAK Products II, LLC</td>
<td>Jordan A. Mayfield</td>
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<td>Plaintiff</td>
<td>Ahrens, Katrina</td>
<td>Casey Griffith</td>
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## Events & Orders of the Court

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<td>06/29/2017</td>
<td>ZAK Products II, LLC</td>
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City of Dallas                              Returned                        07/05/2017
                                      Served                        06/28/2017
City of Dallas                              Returned                        08/30/2017

06/27/2017 Citation Issued
          to City of Dallas

06/27/2017 Citation Issued
          to Dallas Police Association

06/27/2017 Citation Issued
          to DPA’s Assist the Officer Foundation, Inc

06/27/2017 Citation Issued
          to Frederick Frazier

06/27/2017 Citation Issued
          to ZAK Products II, Inc

06/27/2017 Letter
          to Mr. Griffith RE: Distribution of funds from DPA’s Assist the Officer Foundation, Inc.

06/27/2017 Temporary Restraining Order
          ally picked up
          Dallas Police Association
          Frazier, Frederick
          Served                        06/27/2017
          Returned                        07/05/2017

06/27/2017 Notice
          Notice of Appearance of Additional Counsel for Plaintiff

06/27/2017 Citation Returned
          Served                        06/27/2017

06/29/2017 Citation Returned
          Served                        06/27/2017

06/30/2017 Citation Returned
          Citation Executed on 06/27/17 Frederick Frazier

06/30/2017 Citation Returned
          Citation Returned Executed on 06/28/17-City of Dallas

07/03/2017 Subpoena
          SUBPOENA TO APPEAR AND GIVE TESTIMONY AT A HEARING-Michael Mata

07/03/2017 Subpoena
          SUBPOENA TO APPEAR AND GIVE TESTIMONY AT A HEARING-Frederick Frazier

07/05/2017 Citation Returned
          Served                        06/29/2017

07/05/2017 Service
          Return of Service Executed on 06/30/17-PLAINTIFF’S NOTICE OF INTENT TO TAKE THE ORAL AND VIDEOTAPE DEPOSITION OF
          MICHAEL MATA

07/05/2017 Service
          Return of Service Executed on 06/30/17-PLAINTIFF’S NOTICE OF INTENT TO TAKE THE ORAL AND VIDEOTAPE DEPOSITION OF
          FREDERICK FRAZIER

07/05/2017 Temporary Restraining Order Returned
          TRO Returned Executed on 06/27/17 Frederick Frazier

07/05/2017 Letter Confirming Hearing
          Hearing Rescheduled to August 23, 2017

07/10/2017 CANCELED Temporary Restraining Order
          (1:30 PM) (Judicial Officer Bridewell, Wayne)

07/19/2017 Motion
          Plaintiffs Unopposed Motion to Extend Temporary Restraining Order

07/19/2017 Order Extending Temporary Restraining Order

07/24/2017 Answer
          Defendant ZAK Products, IL, LLC’s Motion to Transfer Venue and Subject Thereto, Original Answer

07/24/2017 Motion to Transfer
          Defendant Dallas Police Association’s Motion to Transfer Venue and, Subject Thereto, Original Answer

07/24/2017 Motion to Transfer
          Motion to Transfer Venue and Subject Thereto Original Answer of Defendant City of Dallas

08/14/2017 Motion
          Dfns DPA and Frederick Frazier’s Motion to Quash Plaintiffs Deposition Notices of K. Mayfield and F. Frazier Subject to Motion to Transfer Venue

08/14/2017 Proposed Order
          Proposed Order to Dfns DPA and F. Frazier’s Motion to Quash Plt’s Depo Notices of K. Mayfield and F. Frazier-rel unsigned

08/15/2017 Notice of Hearing
          on Motion to Quash

08/16/2017 CANCELED Motion to Quash
          (4:00 PM) (Judicial Officer Bridewell, Wayne)

08/16/2017 Notice
          Agreement on Motion to Quash

08/17/2017 Letter
          Letter to Counsel of Record

08/17/2017 Notice
          Amended Notice of Hearing on Plaintiff's Application for Temporary Injunction
Notice of Hearing on Motion to Quash

Notice of Hearing on City's Motion to Transfer Venue

Notice of Hearing

Motion to Quash (9:00 AM) (Judicial Officer Bridewell, Wayne)

Plaintiffs hearing on Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's Motion to Quash Plaintiff's Deposition Notices of Kimberly Mayfield and Frederick Frazier

Result: Held

Letter

Notice of Depos of Mayfield & Frazier on Sept. 20, 2017

Subpoena Return

RETURN OF SERVICE for Subpoena to Thomas Stephen & Co, LLP served 09/11/2017

Motion

Non-Party Thomas Stephen & Company, LLP's Objections to and Motion to Quash Plaintiff's Subpoena Duces Tecum

Motion

Defendant Dallas Police Association's Objections, Motion to Quash and Motion for protective Order Regarding Plaintiff's Notice of Intention to Take Deposition by Written Questions and Subpoena to Non-Party Thomas Stephen & Company, LLP

Answer

Plaintiffs Omnibus Response to Defendant's Motions to Transfer Venue

Motion

Emergency Motion for Protective Order

Notice of Hearing

Appearance of Counsel

Hearing (4:00 PM) (Judicial Officer Bridewell, Wayne)

EMERGENCY MOTION FOR PROTECTIVE ORDER - DPA's Assist the Officer Foundation, Inc. (ATO), and Frederick Frazier

10/02/2017 Reset by Court to 10/03/2017

10/03/2017 Reset by Court to 10/02/2017

Result: Held

Appearance of Counsel

First Amended Appearance of Counsel

Order

Granting Emergency Motion for Protective Order

Motion

Opposed Motion for Entry of Protective Order

Amended Petition

Plaintiffs Verified First Amended Petition and Application for Temporary Injunction

Motion

Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's Motion to Show Cause

Notice

Notice of Hearing on Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's Motion to Show Cause

Notice

Notice of Hearing on Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's Motion to Transfer Venue

Letter

Letter to All Counsel of Record - Hearing Reset

Notice of Hearing

Amended Notice of Hearing on The City's Motion to Transfer Venue

Notice of Hearing

Notice of Hearing on Zak Products II, LLC's Motion to Transfer Venue

Notice

Notice of Withdrawal of Defendant Zak Products II, LLC's Motion to Transfer Venue

Notice

NOTICE OF CANCELLATION OF HEARING ON PLAINTIFF'S APPLICATION FOR TEMPORARY INJECTION

Notice

Notice of Appeal

Amended Petition

Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's First Amended Answer Subject to Defendants' Motion to Transfer Venue

CANCELED

Hearing (1:30 PM) (Judicial Officer Bridewell, Wayne)

Other

Plaintiffs Application for Temporary Injunction

08/23/2017 Reset by Court to 10/16/2017

CANCELED

Motion to Transfer (1:30 PM) (Judicial Officer Bridewell, Wayne)

Other

ZAK Products Motion to Transfer Venue. Request from attorney's legal assistant 3pm 10/12/17 to move Mo. to Transfer hearing to December 18. Pl. counsel had already set their hearing on Zak's Mo to Transfer. Advised counsel for ZAK to file Motion for Continuance of their Motion to Transfer Venue.

CANCELED

Hearing (1:30 PM) (Judicial Officer Bridewell, Wayne)

Other

DEFENDANTS DPA S ASSIST THE OFFICER FOUNDATION, INC. AND FREDERICK FRAZIER S MOTION TO SHOW CAUSE

CANCELED

Motion to Transfer (1:30 PM) (Judicial Officer Bridewell, Wayne)

Other

Katrina Ahrans hearing on Zak's Motion to Transfer

Notice

Notice of CANCELLED Hearing on ATO-Frazier Mtn Show Cause

Answer

Defendant Dallas Police Association's Supplemental Answer Subject To Its Motion To Transfer Venue

Letter

from 10th Court of Appeals - Notice of Appeal has been filed

Request

Request for Reporter's Records-gave to Tina

Request
Request for Clerk's Records - gave to Tina

10/25/2017
Letter

from 10th Court of Appeals - Case is subject to dismissal

10/27/2017
Docket Sheet

11/6/2017
Motion

Defendants Dallas Police Association, DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's Joint Motion to Compel Plaintiff to Add Indispensable Parties for Just Adjudication

11/7/2017
Notice of Hearing

on Motion for Protective Order

11/8/2017
Letter

to 10th Court of Appeals - Asking for a 30 extension to finish appeal due to unexpected work load.

11/15/2017
Letter

from 10th Court of Appeals - Request for extension time has been granted

11/15/2017
Reporters Certification

Reporters Certification Deposition of Frederick Frazier September 20, 2017

11/16/2017
Order

from 10th Court of Appeals - an Order has been entered

11/20/2017
Reporters Certification

Reporters Certification Deposition of Kimberly Mayfield 09/20/2017

11/20/2017
Reporters Certification

Reporters Certification Deposition of Frederick Frazier September 20, 2017

12/4/2017
Notice

Notice of RESET Hearing - Sent to Court

12/4/2017
Letter Confirming Hearing

Tames Trace Number

SENT APPEAL THRU TAMES #5918

12/7/2017
Letter

from 10th Court of Appeals - Clerk's record has been filed

12/7/2017
Motion

Plaintiffs Opposed Motion for Appointment of Auditor

12/12/2017
Notice of Hearing

on Motion for Appointment of Auditor

12/18/2017
Motion to Transfer (1:30 PM) (Judicial Officer Bridewell, Wayne)

(Fletcher Farley for DPA's Assist the Officer Foundation)

10/16/2017 Resubmitted to Court to 12/19/2017

Result: Other

12/18/2017
Motion to Transfer (1:30 PM) (Judicial Officer Bridewell, Wayne)

(Jennifer Johnson for Dallas Police Association)

10/16/2017 Resubmitted to Court to 12/19/2017

Result: Other

12/18/2017
Motion to Transfer (1:30 PM) (Judicial Officer Bridewell, Wayne)

City of Dallas by Attorney James Pinson Motion to Transfer Venue

10/16/2017 Resubmitted to Court to 12/19/2017

Result: Other

12/18/2017
Hearing (1:30 PM) (Judicial Officer Bridewell, Wayne)

Plaintiffs Opposed Motion for Entry of Protective Order

Result: Held

12/18/2017
Motion to Show Cause (1:30 PM) (Judicial Officer Bridewell, Wayne)

DEFENDANTS DPA'S ASSIST THE OFFICER FOUNDATION, INC. AND FREDERICK FRAZIER'S MOTION TO SHOW CAUSE

Result: Held

12/18/2017
Hearing (1:30 PM) (Judicial Officer Bridewell, Wayne)

DEFENDANTS DALLAS POLICE ASSOCIATION, DPA'S ASSIST THE OFFICER FOUNDATION, INC. AND FREDERICK FRAZIER'S JOINT MOTION TO COMPEL PLAINTIFF TO ADD INDISPENSIBLE PARTIES FOR JUST ADJUDICATION

Result: Held

12/18/2017
Hearing (1:30 PM) (Judicial Officer Bridewell, Wayne)

Plaintiffs Opposed Motion for Appointment of Auditor

Result: Held

12/18/2017
Answer

Plaintiffs Omnibus Response to Defendants' Motion to Compel and Motion to Show Cause

12/18/2017
Answer

Response of Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier to Plaintiff's Motion for Audit

12/18/2017
Proposed Order

Order Denying Plaintiff's Opposed Motion for Appointment of Audit-ref unsigned

12/18/2017
Agreed Order

Agreed Protective Order

01/05/2018
Letter

Brief

01/12/2018
Response

Plaintiffs Response to Defendant's Supplemental Briefing on Defendants' Motion to Compel Plaintiff to Add Indispensable Parties and to Show Cause - sent to court via que

01/12/2018
Proposed Order

Order-ref unsigned

01/19/2018
Letter

To The Honorable Wayne Bridewell

Change of Address

Notice of Change of Firm Affiliation and Address

02/08/2018
Amended Petition

Plaintiffs Second Amended Petition and Application for Temporary Injunction - sent to court via que

02/12/2018
Application

Plaintiffs Supplemental Application for Temporary Injunction and Brief in Support

02/12/2018
Proposed Order
<table>
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<th>Description</th>
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<tr>
<td>02/12/2018</td>
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<td>02/12/2018</td>
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<td>Temporary Restraining Order</td>
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<td>to City of Dallas - atty pd bond and picked up TRO</td>
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<td>02/13/2018</td>
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<td>02/23/2018</td>
<td>(2:30 PM) (Judicial Officer Bridwell, Wayne)</td>
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<tr>
<td>02/23/2018</td>
<td>Result: Held</td>
</tr>
<tr>
<td>02/23/2018</td>
<td>Hearing (2:30 PM) (Judicial Officer Bridwell, Wayne)</td>
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<td>02/23/2018</td>
<td>City of Dallas Plea to the Jurisdiction</td>
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<td>Result: Held</td>
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<td>02/23/2018</td>
<td>Motion</td>
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<td>02/23/2018</td>
<td>Plaintiffs Response to the City's Plea to the Jurisdiction</td>
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<td>02/23/2018</td>
<td>Order</td>
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<td>on City's Plea to the Jurisdiction of Counts 14 Through 16 (Sensitive Death Records) in Plaintiff's Second Amended Petition</td>
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<td>Temporary Injunction</td>
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<td>03/20/2018</td>
<td>Motion to Compel</td>
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<td>03/20/2018</td>
<td>Production of Documents and Request for Hearing on Objections with Exhibits</td>
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<td>04/11/2018</td>
<td>Motion for Withdrawal of Counsel</td>
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<td>04/11/2018</td>
<td>Defendant City of Dallas' Motion for Withdrawal of Counsel</td>
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<td>Motion for Motion for Withdrawal of Counsel</td>
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<td>Order on Defendant City of Dallas' Motion for Withdrawal of Counsel</td>
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<td>05/08/2018</td>
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<td>Amended Petition</td>
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<td>Plaintiffs Third Amended Petition and Request for Disclosure</td>
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<td>05/18/2018</td>
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<td>05/18/2018</td>
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<td>05/18/2018</td>
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<td>Re: Recusal</td>
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<td>Order of Transfer Due to Recusal - emailed</td>
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<td>06/07/2018</td>
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06/18/2018 Answer
Defendant Michael Mata's Original Answer

06/20/2018 Citation Returned
Citation Returned Executed on 06/16/18 Ronald C. Devine

06/25/2018 Answer
Motion to Transfer Venue and Subject to That, Original Answer of Defendants Bob Gorsky and Lyon, Gorsky & Gilbert, LLP

06/26/2018 Report
Defendant's DPA's Assist the Officer Foundation, Inc's and Frederick Frazier's Status Report

06/27/2018 Status Conference Hearing (1:30 PM) (Judicial Officer Neill, John E.)
Result: Held

06/28/2018 Letter from Court

06/28/2018 Agreed Scheduling Order

06/29/2018 Letter from Court

07/02/2018 Letter
Parties have not agreed on an independent auditor

07/06/2018 Letter from Court

07/09/2018 Appearance
Defendant's Special Appearance

07/16/2018 Letter
Letter to Judge-Sent to Court-ref

07/17/2018 Letter
Def. Ahrens’ Letter to Court regarding Appointment of Auditor/Order-Sent to Court

07/17/2018 Letter
To the Judge re filing Auditor Recommendation-Sent to Court

07/19/2018 Letter
To the Judge RE:Def ATO Supplemental Ltr to Ctr re Appointment of Auditor - sent to court via que

07/30/2018 Order
Order Granting Def's Motion to Show Cause, joint M/Compl to add parties - sent

08/01/2018 Letter
Letter to Judge Neill Regarding Appointment of an Auditor - sent to court via que

08/01/2018 Letter
from 10th Court of Appeals, Order Rendered

08/10/2018 Order
from 10th Court of Appeals

08/10/2018 Original Answer
Original Answer of Attorney Ad Litem

08/14/2018 Amended Petition
Plaintiffs' Fourth Amended Petition

08/22/2018 Letter
Letter from 10th Court of Appeals - Order Issued (Abatement)

08/22/2018 Order
Abatement Order

08/28/2018 Letter from Court

08/29/2018 Motion
Agreed Motion to Vacate Order Granting Emergency Motion for Protective Order

09/11/2018 Motion
Agreed Motion to Continue Hearing on Special Appearance to Conduct Jurisdictional Discovery

09/14/2018 Answer
Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's Brief in Response to Plaintiff's Motion to Compel Production of Documents

09/14/2018 Docket Entry
Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's PA GE/Line Designations of the Deposition of Frederick Frazier

09/14/2018 Docket Entry
Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's PA GE/Line Designations of the Deposition of Kimberly Mayfield

09/14/2018 Response
Defendants DPA's Assist the Officer Foundation, Inc. and Frederick Frazier's Brief in Response to Plaintiff's Motion to Compel Production of Documents, Pursuant to the Abatement Order of the Tenth Court of Appeals

09/17/2018 Hearing (9:30 AM) (Judicial Officer Neill, John E.)
Result Held

09/17/2018 Order
"9-29-18 HRG*

09/17/2018 Order
"9-11-18 HRG*

09/20/2018 Order
Order Granting Severance

09/24/2018 Letter
Letter to Hon. John Neill - Sent to Court

09/25/2018 Proposed Order
Letter to Court - Proposed Order on Motion to Reconsider

09/28/2018 Letter
To Judge - sent to court via que

09/28/2018 Proposed Order
Order - sent to court via que

10/09/2018 Vacation Letter
R. Brian Shields-Sent to Court

10/17/2018 Notice of Appearance
Ryan Funderburg

10/17/2018 Letter
Letter from 10th Court of Appeals - Order Issued

10/17/2018 Order
Abatement Order

10/19/2018 Motion
Defendant City of Dallas's Motion for Withdrawal of Counsel - sent to court via que-ref

10/22/2018 Order on Motion for Withdrawal of Counsel
<table>
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<tr>
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<tr>
<td>10/25/2018</td>
<td>Letter from Court</td>
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<td>10/25/2018</td>
<td>Letter from Court, corrected - emailed</td>
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<td>11/06/2018</td>
<td>Motion to Strike</td>
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<td>Defendant DPA's Assist the Officer Foundation, Inc's Motion to Strike Plaintiff's Objections to Defendant's Discovery and Motion to Compel Plaintiffs Responses to Same</td>
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<td>11/06/2018</td>
<td>Vacation Letter</td>
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<td>- James W. Grau - sent to court via que-ret</td>
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<tr>
<td>11/07/2018</td>
<td>Letter</td>
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<td>- Letter from 10th Court of Appeals - Judgment and Opinion Issued</td>
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<td>11/07/2018</td>
<td>Memorandum Opinion</td>
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<td>11/08/2018</td>
<td>Notice of Hearing</td>
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<td>11/15/2018 - sent to court via que-ret</td>
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<td>11/15/2018</td>
<td>Motion to Compel (2:30 PM) (Judicial Officer Neil, John E.)</td>
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<td>11/16/2018</td>
<td>Cover Letter</td>
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<td>- Granting Deft DPA's M/Strike pltf obj to deft discovery &amp; M/Compel pltf resp - emailed</td>
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<td>- Vacation Letter Justin H. Roy - Sent to Court-ret</td>
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<td>11/29/2018</td>
<td>Petition</td>
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<td>- in Intervention - Justin Dart</td>
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<td>12/10/2018</td>
<td>Amended Petition</td>
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<td>Plaintiffs' Fifth Amended Petition</td>
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<td>12/10/2018</td>
<td>Motion</td>
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<td>- Defendant City of Dallas's Motion to Quash DPA's Assist the Officer Foundation, Inc., and Frederick Frazer's Second Amended Notice of Oral and Videotaped Deposition of Plaintiff Katrina Ahrens, Alternatively, Motion for Protective Order</td>
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<td>12/19/2018</td>
<td>CANCELED Hearing (9:00 AM) (Judicial Officer Bridewell, Wayne)</td>
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<td>Hearing on Application for Permanent Injunction</td>
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<td>- Cal Estee, City of Dallas-Sent to Court-RET</td>
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<td>12/22/2018</td>
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<td>- Plaintiff Katrina Ahrens' General Answer to and Motion to Strike Intervenor Justin Dart's Petition in Intervention</td>
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<td>12/28/2018</td>
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<td>- Defendant City of Dallas's Answer to Plaintiffs' Fifth Amended Petition</td>
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<td>02/01/2019</td>
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<td>- Notice of Filing Rule 11 Agreement - sent to court via que RET</td>
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<td>02/08/2019</td>
<td>Motion to Dismiss</td>
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<td>- Defendant City of Dallas’s Motion to Dismiss</td>
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<td>02/22/2019</td>
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<td>- Notice of Hearing (of City of Dallas’s Motion to Dismiss)</td>
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<td>- Plaintiff Katrina Ahrens' Objections to the Affidavit of Jeramy Mills</td>
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<td>- Plaintiff Katrina Ahrens' Response to Defendant City of Dallas' Motion to Dismiss</td>
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<td>- Defendant City of Dallas reply to Plaintiffs Response to City of Dallas Motion to Dismiss and Motion to Strike</td>
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<td>03/29/2019</td>
<td>Counter/Cross Petition</td>
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<td>Intervenor's Petition in Intervention</td>
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<td>Intervenors' First Amended Petition in Intervention</td>
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<td>04/02/2019</td>
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<td>- Notice of Defendant DPA's Assist the Officer Foundation, Inc.'s Non-Compliance with Court Order</td>
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<td>Restraining order &amp; OSH - emailed</td>
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<td>04/03/2019</td>
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<td>- Notice of Change of Address</td>
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<td>Motion to Quash</td>
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<td>- Intervenors Motion to Quash and Motion for Protective Order</td>
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<td>4-11-19 - sent to court via que-ret</td>
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<td>04/10/2019</td>
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<td>- Plaintiff Katrina Ahrens' Response to Intervenors' Motion to Quash and for Protective Order</td>
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<td>- Plaintiff Katrina Ahrens' Emergency Motion for Expedited Discovery - sent to court via que</td>
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<td>Notice of Hearing</td>
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<td>04/11/2019</td>
<td>Motion to Quash (8:30 AM) (Judicial Officer Ray, Jerry)</td>
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04/11/2019 Rule 11 Agreement
04/11/2019 Notice
  Plaintiff Katrina Ahrens Amended Notice of Deposition of Intervenor Heidi Smith
04/15/2019 Notice
  Defendant City of Dallas’s Notice of Accelerated Appeal - handed to Carly
04/16/2019 Request
  Request for Reporter’s Record via Letter - emailed to Reporter
04/16/2019 Request
  Request to Prepare Clerk’s Record - gave to Carly
04/17/2019 Docket Entry
  Notice of Appeal issued to The 10th Court of Appeals via TAMES Trace #7866
04/17/2019 Bill of Cost
  Issued and emailed and mailed to Atty Charles A. "Cal" Estee
04/17/2019 Letter
  Letter from The 10th Court of Appeals - Notice of Appeal was filed
04/17/2019 Docket Entry
  File marked copy from The 10th Court of Appeals - Defendant City of Dallas’s Notice of Accelerated Appeal
04/17/2019 Designation
  Designation letter issued and sent to Atty with dates sent via email and mail - Record request received
04/17/2019 Order On Motion For Substitution of Counsel
  emailed
04/22/2019 Docket Entry
  Clerk’s Record submitted to The 10th Court of Appeals via TAMES trace #7884
04/23/2019 Letter
  Letter from The 10th Court of Appeals - Clerk’s Record was filed
05/03/2019 Motion
  Intervenors’ Motion to Lift Stay and Extend Ex Parte Restraining Order
05/03/2019 Notice of Hearing
  - May 7, 2019 @ 8:30a - sent to court via que
05/07/2019 Hearing (8:30 AM) (Judicial Officer Chrisman, Don)
  Result: Held
05/07/2019 Order Extending Temp Ex Parte Restraining Order & OSH
  Supplement
  Supplement to Defendants’ Special Appearance
05/09/2019 Motion for Substitution of Counsel
  - sent to court via que RET
05/09/2019 Proposed Order
  - Order on Motion for Substitution of Counsel - sent to court via que
05/10/2019 Letter Removing Hearing
  - sent to court via que-ret
05/13/2019 Order On Motion to Substitute Counsel
  MICHAEL J. ROGERS REPLACES JAMES SHIELDS FOR BRENDA DEVINE - Emailed to Atlys & Mailed to A. Petrocchi
05/16/2019 Temporary Restraining Order (8:30 AM) (Judicial Officer Chrisman, Don)
  Result: Held
05/16/2019 Order Extending Temp Ex Parte Restraining Order & OSH
  EMAILED
05/30/2019 Temporary Restraining Order (2:30 PM) (Judicial Officer Hewlett, Sydney B)
  Result: Held
06/26/2019 Letter
  Letter from The 10th Court of Appeals - order rendered
06/26/2019 Order
  Order from The 10th Court of Appeals
08/13/2019 Notice
  - Nonsuit Without Prejudice
08/14/2019 Letter to Court
  Letter to court regarding error filing - sent to court via que-ret
09/23/2019 Notice
  Notice of Stay - emailed
10/17/2019 CANCELED Pre-Trial Announcement (9:00 AM) (Judicial Officer Hewlett, Sydney B)
  Other
10/21/2019 CANCELED Jury Trial (9:00 AM) (Judicial Officer Hewlett, Sydney B)
  Other
01/22/2020 Letter
  Letter from The 10th Court of Appeals - Court entered order (Mediation)
01/22/2020 Order
  Referral to Mediation Order
02/25/2020 Letter
  Letter from The 10th Court of Appeals - Order rendered
02/25/2020 Order
03/05/2020 Letter from Court
03/17/2020 Returned Mail
  *B Shields*
03/25/2020 Returned Mail
  * Austin Champion*
04/02/2020 Returned Mail
  * Katherine Weber*
04/02/2020 Returned Mail
  * Ryan Funderburg*
04/15/2020 Returned Mail
  * J Shields*
## Defendant City of Dallas
<table>
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## Defendant Dallas Police Association
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<td>07/24/2017</td>
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## Intervenor Dart, Justin
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<td>80.00</td>
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## Intervenor SMITH, HEIDI
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## Plaintiff Ahrens, Katrina
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<td>Ahrens, Katrina</td>
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<tr>
<td>05/18/2018</td>
<td>E-File Receipt # 2018-03797</td>
<td>(62.00)</td>
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Police Records Request 3 years ago
D002331-020218
Under the Texas Public Information Act, I request access to, or a copy of, the following:
+Images, moving or still, from body worn cameras of Dallas police officers in the vicinity of the Black Lives Matter protest in downtown Dallas (near the intersection of Lamar and Main streets and in and around El Centro College) from approximately 8 p.m. on 7/7/16 to approximately 3 a.m. on 7/8/16. The subject of the videos are officers, civilians and others shot, injured and in harms way during the Micah Johnson shooting. In short, I am requesting all body worn camera video gathered in the shooting investigation. +Images, moving or still, gathered in the Micah Xavier Johnson shooting investigation from: any and all surveillance cameras; city-owned or otherwise; dashboard cameras in DPD vehicles; Air One helicopter camera(s); and Remote robot camera(s); any drone cameras; witnesses or other persons who shot video or took still images on their cell phones or private camera devices that were later seized or given to police. As provided by law, I expect your response as soon as possible. I request all information responsive to this request be provided in digital format. If you choose to seek an Attorney General’s decision on the release of the requested information, please quickly provide all segregable portions of otherwise exempt material. Please send me information as it becomes available, rather than wait to compile all the information before sending. I am not requesting any material that the courts have previously determined to be private. For instance, I am not interested in exempt email addresses or bank account or credit card numbers. As a news media representative acting on behalf of the public, I ask that all fees associated with this request be waived as this information is sought in the public interest. If fees to produce these records are, for any reason, not waived, notify me in advance of the copying or labor costs if you believe they will be more than $40. In the interest of expediency, I prefer to be contacted by phone (214-773-2052) or email (jptrahan@wfaa.com). Thanks, Jason Trahan Investigative producer WFAA-TV | Dallas, Tx. 214-773-2052 jptrahan@wfaa.com www.wfaa.com/local/investigates @wfaaiteam
Facebook.com/News8Investigates
Status: Sent to Attorney General
April 20, 2018

Ms. P. Armstrong  
Assistant City Attorney  
City of Dallas  
1400 South Lamar, 6th Floor, 6W  
Dallas, Texas 75215

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the “Act”), chapter 552 of the Government Code. Your request was assigned ID# 704387 (ORR Nos. D002162-013118; D002199-13118; D002200-13118; D002231-020118; D002279-020118; D002331-020218; D003578-022018; D003709-022118; D003727-022118; and D004269-022818).

The Dallas Police Department (the “department”) received ten requests from seven different requestors for information pertaining to a specified incident. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, 552.1085, 552.117, 552.1175, 552.130, 552.136, 552.137, 552.139, and 552.147 of the Government Code. Further, the department states release of the information at issue may implicate the privacy interests of the deceased individuals’ families. Accordingly, the department states it notified the family members of the requests for information and of their right to submit arguments to this office as to why the information at issue should not be released. Additionally, the department states it has notified Dallas Area Rapid Transit (“DART”) of the request pursuant to section 552.304 of the Government Code. See Gov’t Code § 552.304 (permitting interested third party to submit to attorney general reasons why
requested information should or should not be released). We have received comments from a family member of a deceased individual, a representative of some of the deceased individuals’ family members, and DART. We have considered the submitted arguments and reviewed the submitted representative sample of information. 1

Initially, we note the information we have indicated is not responsive to some of the instant requests for information because it was created after the date the department received the requests at issue. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to the requests for information we have indicated.

Next, we note some of the submitted responsive information was previously released in response to a previous request for information. The Act does not permit the selective disclosure of information. See id. §§ 552.007(b), .021; Open Records Decision No. 463 at 102 (1987). Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold that exact information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. See Gov’t Code § 552.007; Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988). Accordingly, pursuant to section 552.007, the department may not now withhold any previously released information unless its release is expressly prohibited by law or the information is confidential under law. See Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Although you raise section 552.103 of the Government Code for this information, we note this exception does not expressly prohibit release of the information at issue or make information confidential. See Gov’t Code § 552.007; Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Thus, the department may not withhold the information at issue under section 552.101. However, because section 552.101 of the Government Code can make information confidential under the Act, we will consider its applicability to the information at issue. Furthermore, we will consider the exceptions to disclosure the department raises for the submitted responsive information that has not been previously released.

Next, we note the submitted information includes police officers’ body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) provides:

1We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.
A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

(1) the date and approximate time of the recording;

(2) the specific location where the recording occurred; and

(3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). In this instance, some of the requestors do not provide the requisite information under section 1701.661(a). As the body worn camera recordings at issue were not properly requested by these requestors pursuant to chapter 1701, our ruling does not reach this information as to the these requestors and it need not be released to them.\(^2\) However, pursuant to section 1701.661(b), a “failure to provide all the information required by [s]ubsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.” Id. § 1701.661(b). As the remaining requestors did provide the requisite information under section 1701.661(a), we will address your arguments for the body worn camera recordings as to the remaining requestors.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. See Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. See id. § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue relates to a closed case that did not result in conviction or deferred adjudication. Based on your representation and our review, we agree section 552.108(a)(2) is applicable to the information at issue.

However, we note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Id. § 552.108(e). Basic information refers to the information held to be public in Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref’d n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by Houston Chronicle). We note basic information includes, among other items, a sufficient portion of the narrative to include a detailed description of the charged offense. See ORD 127 at 3-4. Thus, with the exception of basic

\(^2\) As we are able to make this determination, we need not address your argument against disclosure of the information at issue with respect to these requestors.
information, the department may withhold the information you marked under section 552.108(a)(2) of the Government Code.³

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find you have failed to demonstrate any of the remaining information you marked is highly intimate or embarrassing and not of legitimate concern to the public. Therefore, none of the remaining responsive information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.136 of the Government Code provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); see *id.* § 552.136(a) (defining "access device"). You state the employee identification numbers you marked also serve as access device numbers. Accordingly, the department must withhold the remaining information you marked under section 552.136 of the Government Code.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147(a). We note the information at issue consists of a deceased individual’s social security number. Because the right of privacy lapses at death, social security numbers of deceased individuals may not be withheld under section 552.147. *See Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref’d n.r.e.); *see also* Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 (1981) ("the right of privacy is personal and lapses upon death"). Accordingly, the decedent’s social security number may not be withheld under section 552.147 of the Government Code.

In summary, as some of the requestors did not properly request the body worn camera recordings at issue pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information, and the department need not release the submitted body camera recordings.

³As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. *See* Open Records Decision No. 597 (1991).
recordings in response to the requests we have indicated. With the exception of basic information, the department may withhold the information you marked under section 552.108(a)(2) of the Government Code. The department must withhold the remaining information you marked under section 552.136 of the Government Code. The department must release the remaining responsive information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/gw

Ref: ID# 704387

Enc. Submitted documents

c: 7 Requestor
   (w/o enclosures)

c: 2 Third Parties
   (w/o enclosures)
**Police Records Request**

**D025616-100418**

I request files related to Internal Affairs Division investigation into the death of Micah Xavier Johnson on July 7, 2016. This includes but is not limited to all officer statements, and recordings and images, still and moving, created and/or collected in the inquiry.

**Status**: Full Release

**Jason Trahan**

[View Invoice(s)] [View File(s)] [Details]
March 5, 2019

Ms. P. Armstrong
Assistant City Attorney
City of Dallas
1400 South Lamar, 6FL, 6W
Dallas, Texas 75215

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 750747 (COD ORR# D025616-100418).

The Dallas Police Department (the "department") received a request for information pertaining to a specified internal affairs investigation. The department states it will withhold or release some of the requested information pursuant to our decision in Open Records Letter No. 2018-09245 (2018). See Open Records Letter No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). The department claims some of the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.130, and 552.136 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted representative sample of information.1

1We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.
Initially, we note, and the department acknowledges, the department has not complied with the time periods prescribed by section 552.301 of the Government Code in seeking an open records decision from this office. See Gov't Code § 552.301. When a governmental body fails to comply with the procedural requirements of section 552.301, the information at issue is presumed public and must be released unless there is a compelling reason to withhold it. See id. § 552.302; Simmons v. Kuzmich, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); Hancock v. State Bd. of Ins., 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); see also Open Records Decision No. 630 (1994). The need of a governmental body, other than the governmental body that failed to timely seek an open records decision, to withhold information under section 552.108 of the Government Code can provide a compelling reason sufficient to overcome the presumption of openness. See Open Records Decision No. 586 (1991).

Because the department informs us, and provides documentation showing, the Dallas County District Attorney’s Office (the “district attorney’s office”) and the Dallas Area Rapid Transit Police Department (“DART PD”) object to the release of the information at issue, we will consider whether the department may withhold the submitted information under section 552.108 of the Government Code on behalf of the district attorney’s office and DART PD. Additionally, the department raises sections 552.101, 552.102, 552.130, and 552.136 of the Government Code for some of the submitted information. Because these sections can provide compelling reasons to overcome the presumption of openness, we will also address the department’s arguments under these sections for the information at issue. However, we find the department has failed to establish a compelling reason to address its remaining exception.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. See id. § 552.301(e)(1)(A); Open Records Decision No. 434 (1986). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. See Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983). Where a governmental body has custody of information relating to a case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the law enforcement agency’s case and a representation from the law enforcement agency that it wishes to have the information withheld. However, we note section 552.108 is generally not applicable to records of an internal investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. See City of Fort Worth v. Cornyn, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); Morales v. Ellen, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not
result in criminal investigation or prosecution); see also Open Records Decision No. 350 at 3-4 (1982).

The district attorney’s office and DART PD object to release of the submitted information because it pertains to a closed case that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to portions of the submitted information, which we have marked. However, the remaining information consists of internal affairs investigation materials and is not information that deals with the detection, investigation, or prosecution of crime only in relation to a criminal investigation that did not result in conviction or deferred adjudication. Therefore, we conclude section 552.108(a)(2) is not applicable to the remaining information, and the department may not withhold any of it on that basis.

We note, however, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref’d n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). See also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the department may withhold the information we marked under section 552.108(a)(2) of the Government Code on behalf of the district attorney’s office and DART PD.2

Section 552.102(a) of the Government Code excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex., 354 S.W.3d 336 (Tex. 2010). Accordingly, the department must withhold the employees’ dates of birth it marked under section 552.102(a) of the Government Code.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); see id. § 552.136(a) (defining “access device”). The department states the employee identification numbers it marked also serve as access device numbers. Accordingly, the department must withhold the information it marked under section 552.136 of the Government Code.

2As our ruling is dispositive, we need not address the department’s remaining arguments against disclosure of this information.
In summary, with the exception of basic information, the department may withhold the information we marked under section 552.108(a)(2) of the Government Code on behalf of the district attorney’s office and DART PD. The department must withhold the employees’ dates of birth it marked under section 552.102(a) of the Government Code. The department must withhold the information it marked under section 552.136 of the Government Code. The department must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/eb

Ref: ID# 750747

Enc. Submitted documents

c: Requestor
(w/o enclosures)
TEMPORARY INJUNCTION ORDER

On this day, the Court considered Plaintiff Katrina Ahrens’ Second Amended Petition and Supplemental Application for Temporary Restraining Order and Temporary Injunction and Brief in Support, filed February 12, 2018 (the “Amended Petition and Application for TI”), which seeks to enjoin Defendant the City of Dallas.

Based upon the record, including the evidence presented at the February 23, 2018 hearing on Plaintiff’s Amended Petition and Application for TI, and upon consideration of the arguments of counsel, the Court finds as follows:

Plaintiff has established a probable right to the relief she seeks in connection with counts 14, 15, and 16 of her Amended Petition and Application for TI. Plaintiff has presented evidence tending to show she has a right to control any images, autopsy photos, videos, audio recordings, transcripts, or other materials depicting or recording the shooting, injuries, suffering, or death of her late husband, DPD Senior Corporal Lorne Ahrens (the “Death Records”), that disclosure and use of Death Records would deprive her of privacy under Article I of the Texas Constitution and common law, and that the Death Records are confidential under Tex. Gov’t Code § 552.101 and
exempt from disclosure under the Texas Public Information Act.

If the City is not enjoined from publicly disclosing or otherwise using the Death Records, Plaintiff will suffer irreparable injury, loss, or damage. Disclosure of the Death Records would likely cause Plaintiff severe and irreparable emotional distress. Once disclosed, the harm would be irreparable given the Death Records could not somehow be undisclosed again and would likely appear on local and national television, the Internet, and social media for world consumption. It is probable that Plaintiff would be exposed to encounters with her loved one’s gory demise and the tragic but possible torment of those fueled by others’ grief. And given the criminal investigation into Sr. Cpl. Ahrens’ murder was officially closed on January 31, 2018, and all evidence related to the case was turned over to the City, potential disclosure of the Death Records is imminent.

The Death Records should be held in the status quo and preserved from disclosure pending a trial on the merits.

Plaintiff requests the Court preserve the status quo by temporarily enjoining the City and all other persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise from directly or indirectly publicly disclosing or using any Death Records.

**IT IS THEREFORE ORDERED** that Defendant the City of Dallas, and all other persons in active concert or participation with the City who receive actual notice of this Order by personal service or otherwise, are hereby enjoined until further order of this Court, on the following terms:

The City and all other persons in active concert or participation with the City who receive actual notice of this Order by personal service or otherwise are enjoined from publicly disclosing or using any images, autopsy photos, videos, audio recordings, transcripts, or other materials depicting or recording the shooting, injuries, suffering, or death of DPD Senior Corporal Lorne

 TEMPORARY INJUNCTION ORDER 

 Page 2 of 3
Ahrens.

IT IS FURTHER ORDERED that trial on the merits of Plaintiff’s claims shall commence beginning on the 19th day of December, 2018, at 9:00 A.M., in the 249th District Court, Johnson County, Texas.

IT IS FURTHER ORDERED that the bond heretofore filed with the Clerk upon issuance of the temporary restraining order herein be, and hereby is, continued in full force and effect as a temporary injunction bond.

The Clerk of the above-titled Court shall forthwith issue a Temporary Injunction Order in conformity with the law and the terms of this Order.

SIGNED this 23rd day of February, 2018, at 5:54 o’clock P.M.

Hon. Wayne Bridewell
This e-mail will confirm receipt of your submission to the Office of the Attorney General regarding your open records complaint. If you have any questions regarding this complaint or the Public Information Act, please call the Open Government Hotline at (512) 478-6736 or toll free at 1-877-673-6839.

Submitted on Thu, 02/11/2021 - 17:30

Submitted values are:

**Requestor Information**

Requestor Contact Information
Jason Trahan
8108 Woodhue Rd
Dallas, Texas. 75228
jptrahan@wfaa.com
214-773-2052

**Governmental Body Information**

Governmental Body Contact Information
City of Dallas
Pavala Armstrong
1400 S. Lamar St
Dallas, Texas. 75215
pavala.armstrong@dallascityhall.com
214-671-3430

**Public Information Request at issue in Complaint**

How did you submit your public information request to the governmental body?
Online form

Date of your public information request:
10/04/2018

Did the governmental body ask you to pay for the requested information?
Yes

How much did the governmental body ask you to pay for the information?
$37.90

How much have you paid for the information at this time?
$37.90

**Background Information about Complaint**

Have you contacted the governmental body about your complaint?
Yes

When did you contact the governmental body about your complaint?
Starting March 11, 2019 and continuously since then, most recently, today.

How did the governmental body respond to your complaint?
or201906129 stated we were owed information, but the city has stalled on releasing relevant materials. We have some, but not even close to all that we're owed.

Have you contacted another agency about your complaint?
No
Complaint based on Public Information Request

Which of the following options best describes the nature of your complaint?
The Office the Attorney General issued a ruling to release information, but I have not received my information. (Please include the ruling number in your comments below.)

Open Government Hotline
Yes

Upload Initial Request

city-of-dallas-open-records-center.pdf

Supporting Document

re-wfaa-overdue-open-records-information---d025616-100418.pdf