

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

JULIE NEVAREZ, INDIVIDUALLY, AND  
ON BEHALF OF HER MINOR CHILDREN,  
BN, MN, AND GN; and DE'ANDRE WILLIS,

Plaintiffs,

Civil Action No.: 2:21-cv-1855

v.

Judge: \_\_\_\_\_

DANA COLEMAN, JOHN BOLGIANO,  
COREY DUPLANTIS, DEREK SCHLESINGER,  
WALTER TENNEY, SIDNEY THERIOT,  
TIMOTHY SOIGNET, ANTHONY DORRIS, AND  
JUSTIN LEONARD, INDIVIDUALLY; NICK  
MANALE, AS RECORDS CUSTODIAN FOR  
LOUISIANA STATE POLICE; MART BLACK,  
AS RECORDS CUSTODIAN FOR TERREBONNE  
PARISH CONSOLIDATED GOVERNMENT; and  
JOHN DOE OFFICERS,

Magistrate Judge: \_\_\_\_\_

Defendants.

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**COMPLAINT**

Plaintiffs Julie Nevarez—individually, and on behalf of her minor children, BN, MN, and GN—and De'Andre Willis are the surviving wife and children of decedent Miguel Nevarez (“Miguel”). They bring this Complaint through undersigned counsel, and in support, state:

**INTRODUCTION**

1. This case is devastating—not merely because Plaintiffs tragically lost their husband and father, but because of *how* they lost him. The Defendant Officers—John Bolgiano, Corey Duplantis, Derek Schlesinger, Walter Tenney, and Sidney Theriot (together, “Defendant Officers”)—and John Doe Officers responded disproportionately and egregiously to an encounter that should never have resulted in a person dying.

2. Miguel was sitting in the driver's seat of his car, which was parked in reverse in his own driveway, when Defendant Tenney approached him to investigate reports of a shooting in the area. Miguel reportedly declined to get out of his car to speak with Tenney. Tenney did not see a gun or observe Miguel committing any crime. Yet, when Miguel did not get out of his car, Tenney responded by escalating the encounter into a SWAT scene, replete with dozens of officers from the Houma Police Department and Terrebonne Parish Sheriff's Office ("TPSO"). This SWAT team surrounded Miguel's driveway and held him at gunpoint as they ordered him to get out of the car. An armored "BearCat" truck was also parked in front of Miguel's car with one or more Defendant Officers and Doe Officers pointing rifles down at him from the truck. All the while, no officer saw Miguel with a gun.

3. The scene ended with the Defendant Officers and Doe Officers repeatedly, and unjustifiably, incapacitating Miguel with various and repeated means of excessive and deadly force. In short, despite surrounding Miguel for almost two hours and *not once observing him with a gun*, the ill-trained, ill-disciplined, and ill-supervised Defendant Officers and Doe Officers each subsequently shot at Miguel multiple times, striking him 17 times in total. Each shot reflects a separate instance of excessive and deadly force.

4. Compounding the egregious circumstances of Miguel's killing, dozens of Doe Officers, Defendant Dana Coleman (Chief of Houma Police), and Defendant Timothy Soignet (Sheriff of TPSO) stood by idly. They watched Defendant Officers and Doe Officers first unconstitutionally seize Miguel and then escalate the situation into one that employed repeated unnecessary, unjustified, and unwarranted excessive and deadly force. And yet they made no attempt to de-escalate the situation and no effort to prevent or halt Defendant Officers' and Doe Officers' uses of plainly excessive force.

5. Houma Police apparently deferred to the Louisiana State Police (“LSP”) to “investigate” the circumstances of Miguel’s death. LSP’s investigation was dubious. LSP apparently only interviewed the Defendant Officers who admitted to firing weapons that night. LSP did not interview any of the dozens of Doe Officers who were also at the scene, including any TPSO officers. Moreover, in the days after Miguel’s death, LSP conducted unconstitutional searches of: (i) Miguel’s car, (ii) his home, and (iii) his wife’s (Plaintiff Julie Nevarez) cell phone, which was unlawfully seized the night Miguel was killed to prevent Mrs. Nevarez from communicating with her husband.

6. LSP’s investigation found no wrongdoing—an unsurprising conclusion from a department that has recently received national attention (after investigations by the Associated Press and federal authorities) for covering up and “rubberstamping” excessive force investigations.

7. Consistent with its propensity for cover-ups and its failure to discipline officers who violate citizens’ constitutional rights, LSP, alongside Terrebonne Parish Consolidated Government (“TPCG”), has refused to respond in full to Plaintiffs’ public records requests, including Plaintiffs’ requests for the body-worn camera footage of the five Defendant Officers who shot at and killed Miguel.

8. Plaintiffs, Miguel’s surviving wife and children, now seek to hold these officers responsible for violating his constitutional rights by unreasonably seizing him, searching his property, using excessive force against him, brutally taking his life without legal justification, and then refusing to produce public records in connection with his death.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction under 28 U.S.C. sections 1331, 1343, and 1988.

10. Plaintiffs further invoke this Court’s supplemental jurisdiction pursuant to 28 U.S.C. section 1367 to adjudicate claims arising under state law.

11. Venue is proper in the Eastern District of Louisiana under 28 U.S.C. section 1391 as a substantial part of the events or omissions of which Plaintiffs complain occurred in Terrebonne Parish, Louisiana, which sits in this Court's jurisdiction.

**PARTIES**

12. Plaintiffs are the surviving, lawful descendants of decedent Miguel.

13. Plaintiff Julie Nevarez appears individually as Miguel's surviving, lawful wife, and on behalf of her and Miguel's minor children, Plaintiffs BN, MN, and GN.

14. Plaintiff De'Andre Willis is Miguel's biological son who is a competent adult and appears on his own behalf.

15. Defendant Chief Dana Coleman is the decision maker for the Houma Police Department, and, upon information and belief, is a citizen within this Court's jurisdiction. Defendant Coleman is named in his individual capacity and was at all pertinent times acting under the color of state law and the authority of the Houma Police Department.

16. Defendant Officer John Bolgiano was at all pertinent times acting under the color of state law and the authority of the Houma Police Department, and, upon information and belief, is a citizen within this Court's jurisdiction. Defendant Boligiano is named in his individual capacity.

17. Defendant Officer Corey Duplantis was at all pertinent times acting under the color of state law and the authority of the Houma Police Department, and, upon information and belief, is a citizen within this Court's jurisdiction. Defendant Duplantis is named in his individual capacity.

18. Defendant Officer Derek Schlesinger was at all pertinent times acting under the color of state law and the authority of the Houma Police Department, and, upon information and

belief, is a citizen within this Court's jurisdiction. Defendant Schlesinger is named in his individual capacity.

19. Defendant Officer Walter Tenney was at all pertinent times acting under the color of state law and the authority of the Houma Police Department, and, upon information and belief, is a citizen within this Court's jurisdiction. Defendant Tenney is named in his individual capacity.

20. Defendant Officer Sidney Theriot was at all pertinent times acting under the color of state law and the authority of the Houma Police Department, and, upon information and belief, is a citizen within this Court's jurisdiction. Defendant Theriot is named in his individual capacity.

21. Defendant Timothy Soignet is the Sheriff of the Terrebonne Parish Sheriff's Office and therefore the governing authority and decisionmaker for the same. Upon information and belief, Soignet is a citizen within this Court's jurisdiction. Soignet is named in his individual capacity and was at all pertinent times acting under the color of state law and the authority of the Terrebonne Parish Sheriff's Office.

22. Captain Nick Manale, in his official capacity as records custodian for LSP, is, upon information and belief, a citizen within this Court's jurisdiction.

23. Mart Black, in his official capacity as records custodian for TPCG, is, upon information and belief, a citizen within this Court's jurisdiction.

24. Defendant Anthony Dorris was at all pertinent times acting under the color of state law and the authority of LSP, and, upon information and belief, is a citizen within this Court's jurisdiction. Defendant Dorris is named in his individual capacity.

25. Defendant Justin Leonard was at all pertinent times acting under the color of state law and the authority of LSP, and, upon information and belief, is a citizen within this Court's jurisdiction. Defendant Leonard is named in his individual capacity.

26. Defendants John Doe Officers, who are sued in their individual capacities, at all relevant times, were employed as officers by TPCG with the Houma Police Department, TPSO, or LSP. Plaintiffs are unaware of the names and capacities of Doe Officers and therefore sue Doe Officers by such fictitious names. On information and belief, Doe Officers are citizens within this Court's jurisdiction. Plaintiffs will amend this Complaint to state the true name and capacity of Doe Officers when such have been ascertained. Doe Officers are liable jointly, severally, and *in solido* for the unconstitutional and tortious conduct set forth below in those claims in which they are named.

## **FACTS**

### **A. Miguel's Killing**

27. On October 13, 2020, a woman called 911 to report that she had heard two gun shots. At approximately 8:57 p.m., the caller also advised that, while she did not see anyone actively shooting a gun, a boy had been on a bike on or around Roosevelt Street in Houma, Louisiana at 6 p.m. and had been firing a gun.

28. At 9 p.m., Tenney responded to the area. He arrived on Polk Street where Miguel resided, nearly 0.5 miles east of Roosevelt Street. When Tenney first encountered Miguel, Miguel was sitting in the driver's seat of his car, which was parked in reverse facing the street in the private, fenced-in driveway of his own property. The gate to the driveway was open, and Tenney reportedly approached Miguel on foot in or near the driveway, instructing Miguel to come speak with him. When Miguel reportedly declined, Tenney drew his service weapon and called for backup.

29. In sum, by 9:02 p.m., *two minutes* after arriving at the scene, Tenney had, without any basis in fact, characterized Miguel as “uncooperative” and reported that Miguel possibly had a gun in his car. Tenney reported this despite the fact that he had *not* laid eyes on a gun.

30. Around this time, Tenney, still standing at the head of Miguel’s driveway, was joined by Doe Officers, who also began holding Miguel at gunpoint.

31. Tenney next reportedly pulled a police car in front of the driveway to block Miguel’s car from leaving.

32. By 9:04 p.m., Tenney and Doe Officers characterized Miguel as having “barricaded” himself in his car. This is a mischaracterization as Miguel was simply sitting inside of his car. The only “barricading” that occurred that night was caused by Defendant Officers and Doe Officers blocking Miguel’s driveway and cordoning off the streets surrounding his property.

33. Houma Police now claim they seized Miguel because a neighbor allegedly informed Tenney that Miguel had been doing “target practice” in his backyard (a misdemeanor in Louisiana) even though Tenney had not seen as much himself. Despite the fact that they had not witnessed a gun or any illegal behavior, Defendant Officers and Doe Officers continued to escalate the situation. They blocked off the surrounding streets so that only the officers and other authorized personnel could approach the scene. They also called for backup from the TPSO.

34. In total, nearly 50 officers reported to the scene, including a purported negotiator, Lt. Travis Theriot, who, upon information and belief, did not engage meaningfully with Miguel while he was in his car.

35. When Mrs. Nevarez arrived and tried to access Miguel and her home, a Doe Officer denied her access to the street then asked to use her cell phone to call Miguel. That Doe Officer, however, walked away with Mrs. Nevarez’s cell phone and did not return it to her that night. Upon

information and belief, the Doe Officer seized the cell phone for no other purpose than to prevent Mrs. Nevarez from communicating with Miguel while he was in his car.

36. At approximately 9:44 p.m., Houma Police substituted Tenney's police unit with a BearCat, an armored truck belonging to TPSO, to continue blockading Miguel's car in the driveway.

37. During the approximately 45 minutes it took to surround Miguel, no one on scene, including Defendant Officers, Doe Officers, Coleman, or Soignet had seen Miguel with a gun.

38. Defendant Duplantis, who was in the BearCat that was towering over Miguel's car, alleges he used the lens on a short-barrel rifle to look directly into Miguel's car. Duplantis could see so well that he observed a bandage on Miguel's finger. But he reported that he *never* saw a gun in the car.

39. By 10:24 p.m., a minute before Miguel reportedly got out of the car, not a single officer had seen Miguel with a gun.

40. At 10:26 p.m., Defendant Officers reported that Miguel allegedly got out of the car and ran towards the back of his house. Importantly, Miguel was still inside the fenced-in portion of his property. When he ran towards the back of the house, Tenney and Theriot, a SWAT team operator, were allegedly waiting on the outside of the back fence. Upon information and belief, their presence would not have been known to Miguel.

41. Theriot alleged that he had been instructed by superiors to shoot Miguel with what Defendant Officers described as a 40 mm "less lethal" weapon. Use of this weapon was allegedly intended to detour Miguel from trying to enter the back of his house.

42. As instructed, but in the absence of first providing Miguel with any verbal or other commands, Theriot reportedly fired the 40 mm when he allegedly saw Miguel running toward the



back of the house. He struck Miguel at least once. Theriot reported that he knew he had struck Miguel because he heard Miguel “yell” in response. Tenney also heard the yell and reported that he also saw Miguel buckle over and stumble in response to being hit.

43. Even though he witnessed this response, Tenney nonetheless allegedly attempted to tase Miguel. Tenney claims he did not make a “good connection” with the taser, but Theriot reported that the taser caused Miguel to stumble again.

44. Upon information and belief, Lt. Theriot, the purported negotiator, did not engage with Miguel from behind the fence before Miguel was shot with the 40 mm and tased.

45. Around the time that Tenney tased Miguel, Defendant Bolgiano left the cover of the police car shielding him and ran towards the front of the house. Defendant Officers reported that Miguel regained his footing and, as he was rounding the house (and still inside the property’s fence), allegedly raised a gun towards Bolgiano, who was now reportedly facing Miguel from the street. (Upon information and belief, discovery will contradict Bolgiano’s allegation.)

46. Upon information and belief, Bolgiano may have been the first to fire his weapon, shooting Miguel as Miguel came towards the front of the house. Bolgiano did not report how many times he believed he fired his weapon at Miguel.

47. After Tenney tased Miguel and caused him to stumble, Tenney then had sufficient time to switch to his firearm and—giving no commands to Miguel first—allegedly fired three to four rounds from behind Miguel, claiming he saw Miguel raise his gun towards Bolgiano.

48. Schlesinger who was allegedly to Bolgiano’s right, also reported firing his duty rifle at least two to three times at Miguel and, upon information and belief, may have done so after both Tenney and Bolgiano.

49. Duplantis, who, upon information and belief, was to Bolgiano's and Schlesinger's far right, reported firing his weapon "downwards" at Miguel three to four times. Duplantis was still sitting in the hatch of the BearCat.

50. Other Doe Officers may have also fired at Miguel.

51. Seventeen of the total shots fired by Defendant Officers and Doe Officers struck Miguel even though Defendant Officers collectively reported only firing eight to eleven shots. Notably, Miguel was shot from behind seven times, including in his back, legs, and buttocks.

52. Defendant Officers and Doe Officers then handcuffed Miguel as he lay dying in his own front yard. Upon information and belief, there was a substantial delay between the time he was shot and the time that he received medical assistance.

53. Doe Officers then transported Mrs. Nevarez to the Houma Police station and did not bother to inform her of her husband's death for several hours after killing him. Because she also did not have her cell phone, she also had no way of communicating with any of her family members who were at the scene.

#### **B. The Post-Incident Search Warrants**

54. Houma Police Administration requested LSP conduct an investigation of Miguel's death.

55. On October 14, 2020, the day after Miguel was killed, Defendant Leonard, an LSP State Trooper, secured a search warrant for Miguel's home and car, seeking:

Any and all weapons to include firearms, ammunition, items pertaining to weapons and/or ammunition, video surveillance recording devices, electronic devices that may store messages and/or video, handwritten notes and/or any and all evidence pertaining to the shooting. Also requested in this search warrant is the curtilage within the property to include the white Mitsubishi sedan.

56. The search warrant states the above property constitutes evidence of aggravated assault upon a peace officer pursuant to Louisiana R.S. 14:37.2.

57. Five days later, on October 19, 2020, Defendant Dorris, also an LSP State Trooper, sought a second search warrant concerning Mrs. Nevarez's cell phone that Doe Officers had unlawfully seized on the night Miguel was killed to prevent Mrs. Nevarez from communicating with her husband. The search warrant sought to seize and examine data on the phone, including:

1. Any voice messages, text message, phone numbers, pictures, GPS, and other electronic data and or media contained within the hardware, or cellular operating system of the cellular phone that identifies the owner and or possessor of the cellular phone.
2. Any and all voice messages, text messages, phone numbers, pictures, GPS, and other electronic data and or media contained within the hardware, software, and or microprocessors of the cellular phone related to the below listed crimes.
3. Any Voice messages, text message, phone numbers, pictures, GPS, and other electronic data and or media contained within the Mini Secure Digital (MiniSD), MultiMedia Card Mobile (MMCmobile), or any other types of card slots support removable memory cards or specialized peripherals, such as an SDIO Wi-Fi card and or cellular operating system related to the below listed crimes.
4. Any photographs, text messages, phone logs, or GPS information located within the internal memory of the cellular phone related to the below listed crimes.
5. Any and all hidden, erased, compressed, password protected, and/or encrypted files as they relate to the below listed crimes.
6. Photographs of the interior and exterior of the cellular phone[.]
7. DNA swabs both interior and exterior of the cellular phone[.]
8. Latent prints of both interior and exterior of the cellular phone[.]
9. Any and all voice messages, text message, phone numbers, pictures, GPS, and other electronic data and or media contained within Wireless communications such as infrared (i.e., IrDA) or Bluetooth that may be built in the device related to the below listed crimes.

10. Personal Information Management (PIM) applications that includes phonebook and date book facilities, and a means to synchronize PIM information with a desktop computer.

58. The search warrant states the above property constitutes evidence of aggravated assault upon a peace officer pursuant to Louisiana R.S. 14:37.2.

59. Doe Officers from LSP conducted the searches of the Nevarez home, Miguel's car, and Mrs. Nevarez's cell phone. To date, LSP has not returned items seized from the Nevarez home and Miguel's car.

60. Plaintiffs do not have copies of the affidavits Leonard and Dorris submitted to secure the search warrants. Upon information and belief, Leonard and Dorris knowingly and intentionally submitted affidavits containing false or insufficient factual statements and material omissions to procure the search warrants.

### **C. General Allegations on Policy and Practice**

61. On information and belief, Houma Police and TPSO have an unwritten policy and practice of violating individuals' constitutional rights through the use of excessive and deadly force and unreasonable seizures—and, with the support of LSP, these constitutional violations go investigated uncritically, if at all, and therefore unpunished.

62. Indeed, Houma Police and TPSO are known and frequently sued for alleged violations of the Fourth Amendment for unreasonable searches and seizures, and excessive force, including deadly force.<sup>1</sup>

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<sup>1</sup> See, e.g., *Orellana v. Terrebonne Par. Consol. Gov't*, CV 18-11673, 2019 WL 6036711, at \*4 (E.D. La. Nov. 14, 2019) (“Without a reasonable belief of future harm, [Officer Derek] Schlesinger’s removal of A.L. from school was a violation of A.L.’s Fourth Amendment right.”); *Tillman v. Larpenier*, CV 15-4588, 2017 WL 2226210, at \*1 (E.D. La. May 22, 2017) (denying defendant’s motion to dismiss a section 1983 claim for emotional distress arising from allegations that the Terrebonne Parish sheriff and two deputies used excessive, deadly force against a minor victim and falsely arrested four others during a September 2015 incident in Houma, and subsequently dismissing case following settlement).

63. When violations are “investigated,” Houma Police, upon information and belief, assigns such investigations to LSP based on a Memorandum of Understanding entered into between both agencies. But LSP is itself under a federal “pattern and practice” investigation for both police brutality and potential coverups, and a recent Associated Press investigation has revealed LSP has an extensive history of rubberstamping its investigations. According to a recent Associated Press report:

When [excessive force] footage is recorded, the agency [LSP] routinely refuses to release it. And a recently retired [LSP] supervisor who oversaw a particularly violent clique of troopers told internal investigators this year that it was his “common practice” to rubber-stamp officers’ use-of-force reports without reviewing body-camera video.<sup>2</sup>

64. Predictably, LSP’s investigation of Miguel’s death found that none of the Defendant Officers committed any wrongdoing. On the same token, based on LSP’s investigation report, LSP did not investigate Miguel’s death in earnest. Defendant Officers did not even appear to give statements to LSP until the end of October 2020, two weeks after killing Miguel on October 13. Their collective narrative: an “agitated,” “erratic” Miguel “barricaded” himself inside of his car and repetitively invited the Defendant Officers and Doe Officers to shoot him because he wanted “suicide by cop.” These obviously scripted, quoted terms were used as a litany by Defendant Officers and Doe Officers to justify their violations of Miguel’s constitutional rights.

65. Furthermore, it appears that only Defendant Officers—i.e., the ones who admitted to having fired weapons—gave statements, even though LSP’s report shows that at least 44 officers from TPSO and Houma Police were on-scene. Conspicuously absent from LSP’s report are statements from any of these other officers, including, by way of example, Defendant Chief

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<sup>2</sup> Jim Mustian and Jake Bleiberg, *Beatings, buried videos a pattern at Louisiana State Police*, <https://apnews.com/article/police-beatings-louisiana-video-91168d2848b10df739d73cc35b0c02f8> (last visited September 27, 2021).

Coleman and Defendant Sheriff Soignet, both of whom were present and presumably giving orders; Lt. Theriot, the alleged negotiator; and Lt. Karl Beattle, who was reportedly in command for at least a portion of the incident.

#### **D. Public Records Requests**

66. Because of Defendant Officers' and Doe Officers' actions leading up to Miguel's death and the version of events Defendant Officers reported to LSP, Plaintiffs submitted public records requests for more information about the circumstances of Miguel's killing—including, most notably, the body-worn camera footage from each of the Defendant Officers who admitted to firing weapons at Miguel.

67. Plaintiffs, through their agent, undersigned counsel, submitted their first public records request to the TPCG record custodian, Defendant Mart Black, in a letter dated March 11, 2021. This records request sought:

1. Body, backseat, and dash camera footage of the incident from all law enforcement sources and agencies, including the Houma Police Department;
2. All police reports and witness statements related to the incident;
3. Internal Affairs or Public Integrity Bureau complaint and the result of their complaint (i.e. an internal investigation), if applicable, and any other similar documents pertaining to an internal investigation related to the incident, Miguel Nevarez, and the events that led to his death;
4. All records regarding disciplinary proceedings instituted and/or complaints filed against the officers involved in the incident;
5. Any records sufficient to identify every officer present during the incident;
6. All records regarding citations issued by the law enforcement agency for the charges brought against Miguel Nevarez in connection with the incident, including all records indicating the charge for aggravated assault upon a peace officer;
7. All records that resulted from or were seized as a result of the execution of any search warrants in connection with the incident; and

8. A recording of the 911 call for service on October 13, 2020 related to the incident.

68. In a letter dated, April 19, 2021, counsel for TPCG's record custodian, Herbert & Marceaux, LLC, responded, stating that TPCG would produce some but not all of the requested records.

69. TPCG ultimately did *not* provide:

- Any dash-camera footage;
- All of the body-worn camera footage;
- Any of the police reports or witness statements;
- Any internal reports by the Houma Police;
- Any records of disciplinary proceedings instituted and/or complaints filed against Defendant Officers and Doe Officers;
- Any records indicating any citations or charges against Miguel in connection with the incident, including all records indicating the charge for aggravated assault upon a peace officer;
- Any records that resulted from or were seized as a result of the execution of any search warrants in connection with the incident; or
- The recording of the 911 call for service on October 13, 2020 related to the incident.

70. The records TPCG did provide included Defendant Officers' written statements to LSP during its criminal "investigation" of Miguel's death. Those records stated LSP's investigation closed November 20, 2020, just over a month after Miguel was killed. The video footage TPCG provided depicted only some of the events preceding Miguel's death. The videos did not show a beginning-to-end depiction of the night's events; nor did they show any alleged "agitation" and "erratic" behavior. Most critically, TPCG did not produce Defendant Officers' and Doe Officers' body-worn camera footage showing their respective shots at Miguel.

71. Of the records TPCG declined to produce were seven body-worn camera videos that TPCG stated “would violate the reasonable expectation of privacy for the following individuals if released publicly: 1. the family of Miguel Nevarez . . . , [and] 2. one witness identifying herself as Miguel Nevarez’s girlfriend or wife [Plaintiff Julie Nevarez].” But TPCG explained it would release these videos if “notarized waivers and releases from these individuals whose privacy we are protecting” were provided. This missing footage presumably depicts the final seconds of Miguel’s life, including when Miguel allegedly exited his car and was subsequently shot by Defendant Officers and Doe Officers.

72. On June 28, 2021, Miguel’s wife, Plaintiff Julie Nevarez, through undersigned counsel, submitted a notarized waiver and release to TPCG’s records custodian just as requested, swearing under oath that she was Miguel’s wife and authorizing TPCG to release the footage of her and Miguel. Plaintiffs also included a second request for information to TPCG’s records custodian, seeking:

1. All policies, manuals, handbooks, and similar materials of the Houma Police Department pertaining to: (a) de-escalation practices and procedures, (b) encounters with individuals who are actually or purportedly suicidal and/or experiencing a mental health crisis, (c) negotiating with suspects, and (d) use of force practices and procedures;
2. The digital audio recordings taken in relation to the internal investigation of the incident, ...;
3. All police reports or similar documents made concerning or pertaining to Mr. Nevarez in October 2020;
4. All dash camera footage from the incident;
5. All witness statements taken concerning the incident, including but not limited to those by [M. Naquin] and Julie Nevarez;
6. All documents and photographs related to or concerning the gun allegedly seized from Mr. Nevarez on October 13, 2020;



7. All records regarding disciplinary proceedings instituted and/or complaints filed against officers Corey Duplantis, Walter Tenney, Derek Schlesinger, and John Bolgiano;
8. Documents sufficient to show what other officer-involved shootings, if any, these officers, Corey Duplantis, Walter Tenney, Derek Schlesinger, and John Bolgiano, have been involved in since their employment at the Houma Police Department;'
9. All records regarding citations issued for the charges brought against Miguel Nevarez in connection with the incident that led to his death including all records indicating the charge for aggravated assault upon a peace officer; and
10. All records that resulted from or were seized as a result of the execution of any search warrants in connection with the incident.

73. Nearly a month later—well past the statutorily required response time—TPCG's records custodian did not produce the seven videos or any of the above-requested information, or otherwise acknowledge the affidavit from Mrs. Nevarez. Rather, the custodian responded: “[T]his matter is a State Police investigation and that agency would have all the witness statements and evidence. Unfortunately, we do not know the name of the individual with LSP who is handling this investigation.”

74. Plaintiffs submitted the same records request initially sent to TPCG to LSP's records custodian, Defendant Manale, on May 21, 2021. He also responded to Plaintiffs' public records request late, on June 10, 2021, and similar to the TPCG records custodian, stated: “Please be advised that the information you seek is still under investigation and then will be submitted to the handling District Attorney's office. As such, it is not public at this time pursuant to La. R.S. 44:3(A)(1).” (Such a response is consistent with the Associated Press's recent investigation into LSP, which found that it is a common pattern and practice for LSP to allow the “most violent

videos” to “languish[] for years, lost or ignored in a digital vault. Louisiana State Police troopers and top brass alike would often look the other way . . . .”<sup>3</sup>)

75. When Plaintiffs’ counsel responded to both records custodians and pointed out that previously produced LSP documents show the LSP investigation closed in November 2020, LSP refused to respond and instead directed Plaintiffs to the Terrebonne Parish District Attorney’s Office, which similarly did not respond to Plaintiffs’ inquiry. TPCG’s records custodian changed his position, responding:

I have been informed that the Police Chief is gathering the requested information and will deliver it to the Parish Attorney (copied on this email) who will review it before its release. As to the length of time needed, I cannot say for sure, but it is my understanding that the matter is being expedited. While it was my initial understanding, based on information from HPD, that this matter was under investigation, I think the Parish Attorney will need to confirm whether this is still the case.

76. After still receiving nothing 30 days later, Plaintiffs once again followed up with TPCG’s custodians record, who responded that “there is very little [he] can do about it at this time” in light of Hurricane Ida.

77. On September 24, 2021, LSP’s record custodian advised Plaintiffs’ counsel that LSP has a 19-page report that is responsive to Plaintiffs’ records request.<sup>4</sup> But LSP did not address the other requested records, including Plaintiffs’ request for the body-worn camera footage of the Defendant Officers and Doe Officers who shot at Miguel.

78. To date, Plaintiffs have never received the seven videos TPCG promised upon receipt of an affidavit from Mrs. Nevarez, nor have they received any footage of Defendant Officers and Doe Officers firing their weapons at Miguel or the other public records they requested

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<sup>3</sup> Mastian, *et al.*, *supra* note 2.

<sup>4</sup> At the time of this Complaint, Plaintiffs have not yet received the report.

from TPCG and LSP. Accordingly, both entities' records custodians have denied Plaintiffs the right to inspect the requested records.

### **CAUSES OF ACTION**

#### **Count I – 42 U.S.C. § 1983 Unreasonable Seizure and/or False Arrest in Violation of the Fourth Amendment (Against Defendant Officers and Doe Officers)**

79. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

80. Upon information and belief, Defendant Officers and Doe Officers arrived at Miguel's home at 9:01 p.m. on October 13, 2020. By 9:02 p.m., Tenney and Doe Officers had already begun holding Miguel at gunpoint, and shortly thereafter, they used a police car to block Miguel's car in his driveway. These actions made it clear to any reasonable person that Miguel was not free to leave. Defendant Officers and Doe Officers subsequently substituted the police car that was blocking Miguel's car from exiting with TPSO's armored BearCat truck, which was occupied by Doe Officers and Duplantis, who was holding a rifle pointed at Miguel. Duplantis's rifle and the armored SWAT truck likewise made it clear to any reasonable person that Miguel was not free to leave. Upon information and belief, Bolgiano, Schlesinger, and Doe Officers also stood behind their police units in front of Miguel's home, holding their guns to Miguel throughout the incident, further making it clear to a reasonable person that he was not free to leave.

81. It is clearly established law that if an officer exercises too much authority, too soon, a seizure is unconstitutional. That's what happened here. Defendant Officers and Doe Officers stopped and unreasonably seized Miguel almost immediately upon encountering him in his open, but fenced-in driveway without any reasonable suspicion that a crime had been committed or was about to be committed. As soon as Tenney approached Miguel in his driveway, a seizure occurred,

and Fourth Amendment protections were triggered. And, as Defendant Officers and Doe Officers continued to block Miguel in his driveway and subsequently used repeated excessive and deadly force against him, they further unreasonably and unconstitutionally seized him.

82. Additionally, or alternatively, Defendant Officers and Doe Officers falsely arrested Miguel by detaining him in his driveway with no probable cause. When Tenney arrived in front of Miguel's driveway, he had no probable cause to arrest Miguel, having reported that he did not see a gun or observe Miguel committing, or about to commit, any crime. No officer thereafter reported witnessing Miguel violating or about to violate any law, or that he possessed a gun. The lack of probable cause to arrest Miguel should have been evident to any reasonable person based on the facts and circumstances within Defendant Officers' and Doe Officers' knowledge at the time.

83. At the time, Defendant Officers and Doe Officers were acting under the color of state law, wearing their department-issued uniforms, and holding themselves out as police officers. They did not rely on specific and articulable facts or probable cause that reasonably warranted seizing, arresting, or using repeated excessive and deadly force against Miguel, thereby violating his Fourth Amendment rights.

84. Defendant Officers' and Doe Officers' conduct was objectively unreasonable in light of clearly established law providing that individuals have a right to be free from unreasonable searches, seizures, false arrests, and excessive and deadly force.

85. As a direct and proximate result of the Defendant Officers' and Doe Officers' misconduct, Miguel suffered substantial damages, including death.

86. As a direct and proximate result of Defendant Officers' and Doe Officers' misconduct, Miguel died, and Plaintiffs suffered, and continue to suffer, damages as result,

including pain and suffering, grief, loss of enjoyment of life, severe emotional distress, loss of companionship, loss of support, other similar damages, as well as compensatory damages, including for funeral and burial costs.

**Count II – 42 U.S.C. § 1983 Unreasonable Searches in Violation of the Fourth Amendment  
(Against Leonard, Dorris, and Doe Officers)**

87. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

88. The search warrants obtained by LSP on October 14 and 19, 2020, respectively, to search Mrs. Nevarez's phone, her and Miguel's home, and Miguel's car were unlawful as no probable cause existed for these warrants.

89. Upon information and belief, Leonard and Dorris knowingly, intentionally, and with reckless disregard for the truth submitted affidavits containing false or insufficient factual statements and material omissions to procure the search warrants. By way of example, Defendant Officers claim Miguel raised a gun towards them. If so, they presumably recovered the gun after shooting Miguel, in which case, no probable cause—and therefore no supportable factual statements by Leonard—could exist to justify a search warrant for evidence of aggravated assault on a peace officer in the Nevarez home and Miguel's car. Likewise, not only was there no legal basis to seize Mrs. Nevarez's cell phone in the first place, there was no probable cause to justify searching it after the fact. Still, upon information and belief, Dorris submitted an affidavit containing false, insufficient, or misleading statements to secure an overbroad search warrant not only for photographs, GPS information, and other irrelevant information from Mrs. Nevarez's cell phone but also for DNA swabs and fingerprints.

90. Doe Officers, who, upon information and belief, were employed by LSP, searched Mrs. Nevarez and Miguel's home, Miguel's car, and Mrs. Nevarez's cell phone pursuant to the

search warrants, seizing various items in the process—none of which have been returned. As a direct and proximate result of the searches, which were not supported by probable cause, Mrs. Nevarez suffered and continues to suffer substantial damages, including compensatory damages, impairment to her reputation, personal humiliation, and mental and emotional injury, and she seeks punitive damages for the unconstitutional searches.

**Count III – 42 U.S.C. § 1983 Excessive Force  
(Against Defendant Officers and Doe Officers)**

91. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

92. With no legal cause, Defendant Officers and Doe Officers used repeated excessive and deadly force against Miguel. Among other things, Defendant Officers and Doe Officers subjected Miguel to at least 19 instances of excessive force, including when each of them used repeated deadly force against Miguel *after* they had already shot him with a 40 mm weapon and tased him.

93. The first instance of excessive force occurred when Theriot fired the “less lethal” 40 mm at Miguel, and upon information and belief, did so without first issuing any commands to Miguel. This use of force was unreasonable for numerous reasons, including the fact that Defendant Officers and Doe Officers alleged that Miguel was running towards the back of his home—*away* from them.

94. Both Tenney and Theriot reported that the 40 mm incapacitated Miguel, causing him to stumble, at which time Miguel posed no threat of serious physical harm to Defendant Officers and Doe Officers. Yet, they continued to use excessive force against Miguel, all while failing to give him any warnings or commands—if they did give any commands, they failed to give him sufficient time to comply.

95. The second instance of excessive force occurred when Tenney further incapacitated Miguel, tasing him and causing him to stumble a second time—again, showing Miguel posed no threat of serious physical harm to Defendant Officers and Doe Officers. This use of force was unreasonable because Miguel had already been incapacitated by the 40 mm weapon.

96. Despite Miguel having been incapacitated on two separate occasions, Tenney, Bolgiano, Duplantis, Schlesinger, and Doe Officers then each used repeated excessive and deadly force against an incapacitated Miguel, having given him no or insufficient warnings or commands.

97. It is clearly established law that after a suspect has been incapacitated, an officer cannot continue using deadly force as Defendant Officers and Doe Officers did here. Furthermore, an exercise of force that is reasonable at one moment can become unreasonable in the next if the justification for the use of force has ceased. Each of the 17 shots that struck Miguel therefore represents a separate, legally distinct instance of excessive and unreasonable force because each successive shot further incapacitated Miguel and decreased the threat of any physical harm he could have posed to Defendant Officers and Doe Officers.

98. Defendant Officers and Doe Officers, who were acting under the color of state law, and acting with deliberate indifference, deprived Miguel of the rights, privileges, and immunities afforded to him under the Constitution and laws of the United States, including those under the Fourth and Fourteenth to the Constitution.

99. Defendant Officers' and Doe Officers' actions reflect their reckless disregard for Miguel's constitutional rights and his humanity; and, the willful, cruel, and unconscionable actions of Defendant Officers and Doe Officers warrant punitive damages for the incredible suffering caused to Miguel's widow and children.

**Count IV – Wrongful Death  
(Against Defendant Officers, Doe Officers, Coleman, and Soignet)**

100. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

101. Defendant Officers and Doe Officers are liable jointly, severally, and *in solido* for wrongfully causing Miguel's death. They each used unjustifiable deadly force against him multiple times with deliberate indifference to his constitutional rights and humanity, including with regard to his medical needs after they each shot him.

102. Coleman and Soignet, in their individual capacities, are also jointly and severally liable for wrongfully causing Miguel's death—where they participated in and ratified the events leading up to Miguel's death and acted with deliberate indifference to his humanity and the constitutional violations Miguel experienced, including the multiple instances of deadly force.

103. The actions of Defendant Officers, Doe Officers, Coleman, and Soignet were the proximate cause of the damages suffered by Miguel and Plaintiffs. The unreasonable seizures, including his death, and repeated uses of excessive and deadly force by Defendant Officers and Doe Officers, under the authority and presence of Coleman and Soignet, proximately caused Miguel to be physically injured to the point of death and experience conscious pain and suffering, and severe emotional distress before he died.

104. Plaintiffs are entitled to recover for Miguel's wrongful death, including general damages and other compensable injuries. These damages and compensable injuries include pecuniary losses such as funeral and burial expenses, lost benefits, and the value of Miguel's household services. Plaintiffs have also suffered damages in the form of loss of love, affection, companionship, and support. Additionally, the willful, cruel, and unconscionable actions of



Defendant Officers, Doe Officers, Coleman, and Soignet warrant punitive damages for the incredible suffering caused to Miguel's widow and children.

**Count V – Supervisory Liability  
(Against Coleman and Soignet)**

105. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

106. Coleman, individually, is and was Chief of Houma Police during the incident and is vicariously liable for all conduct of, or attributable to, Defendant Officers and the 20 or so Doe Officers of the Houma Police Department who were on scene when Miguel was killed. Coleman, who was also on scene affirmatively participating during the encounter with Miguel, failed to supervise or otherwise act to prevent 25 or more of his officers, including Defendant Officers and Doe Officers, from violating Miguel's constitutional rights on multiple occasions, beginning with the unconstitutional seizure of Miguel in his driveway and ending with 17 instances of deadly force. In doing so, Coleman acted with deliberate indifference to his officers' repeated violations of Miguel's constitutional rights. A causal link exists between Coleman's failures to supervise, or otherwise act, and the violation of Miguel's constitutional rights where the Defendant Officers and Doe Officers unlawfully seized then shot and killed Miguel unjustifiably.

107. Soignet, individually, is also vicariously liable for all conduct of, or attributable to, Defendant Officers and Doe Officers, including the two dozen TPSO Doe Officers who were at the scene and aiding the Houma Police in their unconstitutional seizures of Miguel. TPSO Doe Officers, as well as Soignet, who was also on scene affirmatively participating during the encounter with Miguel, assisted in seizing Miguel unconstitutionally by blocking him in his driveway, surrounding his home, and holding him at gunpoint alongside Houma Police. The armored BearCat that blockaded Miguel in his driveway was TPSO property under Soignet's

authority. Soignet failed to supervise or otherwise act to prevent these Doe Officers of TPSO, as well as Duplantis who was inside of the BearCat and among the officers who shot Miguel, from violating Miguel's constitutional rights. A causal link exists between Soignet's failures to supervise, or otherwise act, and the violation of the Miguel's constitutional rights where the Defendant Officers and Doe Officers unlawfully seized then shot and killed Miguel unjustifiably. Soignet's failure to supervise the Defendant Officers and Doe Officers, including Officer Duplantis who fired his weapon several times from the top hatch of the TPSO BearCat amounts to deliberate indifference.

108. Both Coleman and Soignet failed to instruct the Defendant Officers and Doe Officers against unreasonably seizing Miguel and authorized or allowed them to use excessive and deadly force against Miguel repeatedly. Their willful, cruel, and unconscionable actions warrant punitive damages for the incredible suffering caused to Miguel's widow and children.

**Count VI – Survival Action  
(Against All Defendants and Doe Officers)**

109. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

110. Plaintiffs, as Miguel's surviving wife and children, have standing to bring this claim under to La. C.C. Art. 2315.1 A(1) ("If a person who has been injured by an offense or quasi offense dies, the right to recover all damages for injury to that person, his property or otherwise, caused by the offense or quasi offense, shall survive for a period of one year from the death of the deceased in favor of: The surviving spouse and child or children of the deceased, or either the spouse or the child or children.").

111. Defendant Officers and Doe Officers, who were acting under the color of state law, deprived Miguel of the rights, privileges, and immunities afforded to him under the Constitution

and laws of the United States, including those under the Fourth and Fourteenth Amendments to the Constitution. Among other things, Defendant Officers and Doe Officers, acting with deliberate indifference, subjected Miguel to unreasonable seizures and repeated excessive and deadly force.

112. As explained, Defendant Officers' and Doe Officers' conduct ultimately caused Miguel's death. These defendants not only lacked any regard for Miguel's humanity, but they also acted in callous disregard and with deliberate indifference to the rights afforded to him under the Constitution, including to be free from unreasonable seizure and excessive and deadly force. Their wrongful acts and omissions were willful, oppressive, malicious, and shocking to ordinary citizens' conscience, all of which warrant an award of punitive damages against each of the Defendant Officers and Doe Officers.

Plaintiffs have suffered, and continue to suffer, damages as result, including pain and suffering, grief, loss of enjoyment of life, severe emotional distress, loss of companionship, loss of support, and other similar damages.

**Count VII – 42 U.S.C. § 1983 Failure to Intervene/Bystander Liability  
(Against Defendant Officers, Coleman, Soignet, and Doe Officers)**

113. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

114. Coleman and Soignet, in their individual capacities, and Doe Officers knew that Defendant Officers and Doe Officers were violating Miguel's constitutional rights by unreasonably seizing him in his driveway.

115. Each Defendant Officer likewise knew that they and other Doe Officers were violating Miguel's constitutional rights by unreasonably seizing him in his driveway.

116. Defendant Officers, Coleman, Soignet, and Doe Officers had a reasonable opportunity to intervene and prevent the unreasonable seizure during the nearly two hours that

Miguel was unlawfully seized and held at gunpoint. However, they—with deliberate indifference to and reckless disregard for Miguel’s constitutional rights, safety, and humanity—committed, or allowed to be committed, an unreasonable seizure that deprived Miguel of his constitutional rights, including by allowing each Defendant Officer and Doe Officer to provoke and escalate the seizure into multiple instances of unreasonable deadly force.

117. Any reasonable police officer in Defendant Officers’, Coleman’s, Soignet’s, and Doe Officers’ positions would have known that the initial seizure of Miguel was unreasonable in light of the circumstances and thus that they had an affirmative duty to take reasonable measures to intervene.

118. As a direct and proximate result of the unreasonable failures to intervene by Defendant Officers, Coleman, Soignet, and Doe Officers, Miguel was subjected to an unlawful seizure when he was detained and falsely arrested without any reasonable articulable suspicion or probable cause and subsequently was subjected to at least 19 instances of excessive force, including deadly force. Their wrongful acts and omissions were willful, oppressive, malicious, and shocking to ordinary citizens’ conscience, all of which warrant an award of punitive damages against each of the Defendant Officers and Doe Officers.

119. Plaintiffs have also suffered, and continue to suffer, damages as result, including compensatory damages, pain and suffering, grief, loss of enjoyment of life, severe emotional distress, loss of companionship, loss of support, and other similar damages.

**Count VIII – Battery  
(Against Defendant Officers and Doe Officers)**

120. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

121. Defendant Officers and Doe Officers battered Miguel, causing his death. As explained, they intentionally and without Miguel's consent used harmful and offensive conduct against him, including when Defendant Officers and Doe Officers unlawfully shot him with a 40 mm "less lethal" weapon, tased him, and then each shot him multiple times. Each of these uses of force was excessive and resulted from escalation and provocation solely by Defendant Officers and Doe Officers.

122. In doing so, Defendant Officers and Doe Officers injured Miguel and Plaintiffs, who are therefore entitled to general and compensatory damages.

**Count IX – Assault  
(Against Defendant Officers, Coleman, Soignet, and Doe Officers)**

123. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

124. Defendant Officers, Coleman (individually), Soignet (individually), and Doe Officers, as explained, intentionally used harmful and offensive conduct against Miguel, including when Defendant Officers and Doe Officers unlawfully shot him with a 40 mm "less lethal" weapon, tased him, and then each shot him multiple times. Defendant Officers, Coleman, Soignet, and Doe Officers placed Miguel in reasonable apprehension of receiving that harmful and offensive conduct by blocking his car in his own driveway with an armored SWAT truck and surrounding him with numerous police units and dozens of officers who, upon information and belief, had guns pointed at him.

125. In doing so, Defendant Officers and Doe Officers injured Miguel and Plaintiffs, who are therefore entitled to general and compensatory damages.

**Count X – Violation of Louisiana Public Records Law  
(Against Black and Manale)**

126. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

127. Each person's right to examine public documents is preserved by Article XII, § 3 of the Louisiana Constitution and the Public Records Law, La. Stat. § 44:31, *et seq.* In connection with Miguel's death, Plaintiffs, through undersigned counsel, sought the previously listed public records from the records custodians of TPCG and LSP, Defendants Black and Manale, respectively, under Louisiana's Public Records Law.

128. To date, the previously mentioned public records have not been received, including, importantly, the videos believed to show the Defendant Officers and Doe Officers shooting at Miguel.

129. Further, neither custodian produced the requested records within five days of receipt of Plaintiffs' requests to access the public records, nor did either custodian provide Plaintiffs' counsel a written estimate of the time reasonably necessary for collection, redaction, examination, or review of the request. The custodians have: (i) unreasonably delayed producing the requested records, (ii) arbitrarily and capriciously withheld the requested records, and (iii) unreasonably and arbitrarily failed to respond to the request as required by Louisiana R.S. 44:3.

130. Accordingly, Plaintiffs have been deprived of their rights under the Louisiana Public Records Law and are entitled to injunctive relief and/or issuance of a writ of mandamus, attorneys' fees and costs, and damages, including the attorneys' fees incurred for bringing this action should the withheld records plainly contradict any of Plaintiffs' claims.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray that after due proceedings, the Court enter judgment in their behalf and against all Defendants, jointly, severally, and *in solido*, as follows:

1. Compensatory damages, including funeral and burial costs for Miguel Nevarez;
2. Reasonable attorneys' fees and costs, including in relation to Plaintiffs' Public Records Requests;
3. Injunctive relief and/or issuance of a writ of mandamus for copies of the foregoing requested public records;
4. Punitive damages; and
5. All other relief that this Court deems just and proper.

Respectfully submitted,

**ACLU FOUNDATION OF LOUISIANA**

*/s/ Megan E. Snider*

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