UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BRUCE WASHINGTON, Plaintiff, v. RANDY SMITH, CHANCE CLOUD, CURTIS FINN, TAYLOR LEWIS, DOUGLAS SEARLE, GEORGE COX, RICHARD PALMISANO, DALE GALLOWAY, FRANK FRANCOIS, JR., JEREMY CHURCH, and ONEBEACON INSURANCE GROUP. Defendants.	CIVIL ACTION NO. 2:24-cv-00145 JUDGE: MAGISTRATE JUDGE: **COMPLAINT**

COMPLAINT

NOW INTO COURT, through undersigned counsel, comes Bruce Washington, a person of the full age of majority, domiciled and residing in the Eastern District of Louisiana, who respectfully avers as follows:

INTRODUCTION

1. This is a civil rights action against Defendants Randy Smith, George Cox, Richard Palmisano, Dale Galloway, Frank Francois Jr., Chance Cloud, Taylor Lewis, Curtin Finn and Douglas Searle of the St. Tammany Parish Sheriff's Office. Bruce Washington, a 54-year old Black man, and lifelong resident of St. Tammany Parish, seeks judicial redress for violations of his civil rights due to the actions of the Defendants.

2. This suit involves biased policing practices, including the humiliating practice of unnecessary, suspicion-less and nonconsensual frisks that Black men are subjected to in nearly every encounter they have with law enforcement, and intimidating and unjustified traffic stops.

3. On the night of January 13, 2023—three days after the world learned of the murder of Tyre Nichols at the hands of the Memphis Police Department[1]—Mr. Bruce Washington, a 53-year-old Black man and resident of Bogalusa, Louisiana, was ordered to pull over on Highway 121, a low-trafficked and poorly lit road, by St. Tammany Parish Sheriff's Office ("**STPSO**") Defendant Officers Chance Cloud and Taylor Lewis, who were soon joined by Defendant Officer Curtis Finn. Defendants Cloud, Lewis, and Finn unlawfully extended the stop for an alleged traffic offense, for which Mr. Washington did not even receive a citation, by unconstitutionally harassing, intimidating, questioning, and searching Mr. Washington, his possessions, and his vehicle—all while holding his driver's license hostage and telling him he was not free to go.

4. Mr. Washington has been subjected to similar incidents on multiple occasions. On October 8, 2023, an STPSO deputy, Defendant Douglas Searle, tailed Mr. Washington for almost twenty miles along Highway 121 and having found no traffic violation to stop Mr. Washington accused him of having no insurance, which was false. Indeed, Defendant Searle did not issue any citation and conceded that Mr. Washington's insurance was fully paid.

5. Defendants Cloud, Lewis, Finn, and Searle (together the "Officer Defendants"), under color of law, conspired to and did in fact, violate Mr. Washington's constitutional rights under the Fourth Amendment of the United States Constitution and Article I, Section 5 of the Louisiana Constitution. In doing so, they violated Mr. Washington's civil rights pursuant to 42 U.S.C. § 1983.

6. In fact, Defendants confirmed that they *never* intended to issue a citation to him in the first place, admitting that the stop was a mere pretext to search Mr. Washington and his vehicle.

[1] Emily Cochrane & Rick Rojas, *The Questions That Remain a Year After Tyre Nichols's Death*, N.Y. Times, Jan. 7, 2024, https://www.nytimes.com/article/tyre-nichols-memphis-police-dead.html.

But instead of simply issuing a warning, as the Officer Defendants stated was the purpose of the traffic stop, the Officer Defendants retained possession of Mr. Washington's ID and engaged in tactics designed to exploit Mr. Washington's fear for his safety, to ultimately coerce him into consenting to a search of his vehicle without any reasonable suspicion or probable cause, and intolerably delaying the traffic stop beyond what was reasonably necessary The Officer Defendants, under color of law, conspired to and did in fact, violate Mr. Washington's constitutional rights under the Fourth Amendment of the United States Constitution and Article I, Section 5 of the Louisiana Constitution. In doing so, they violated Mr. Washington's civil rights pursuant to 42 U.S.C. § 1983.

7. "The purpose of the Fourth Amendment is not to eliminate all contact between the police and the citizenry, but to prevent arbitrary and oppressive interference by enforcement officials with the privacy and personal security of individuals." *United States v. Mendenhall*, 446 U.S. 544, 553–54 (1980) (internal quotation marks omitted).

8. As have countless other residents of St. Tammany Parish, Mr. Washington has been subject to unlawful searches by the STPSO his entire life. This Incident has only compounded Mr. Washington's emotional and psychological distress caused by the previous unlawful search of his person that took place on March 13, 2021. *See Washington v. Smith*, No. 2:22-cv-00632, 2022 WL 17844622 (E.D. La. Dec. 22, 2022) (denying qualified immunity to STPSO deputy for unlawful search of Mr. Washington), *appeal dismissed by*, No. 23-30006, 2023 WL 4704142 (5th Cir. July 24, 2023).

9. The Defendants in this action, St. Tammany Parish Sheriff Randy Smith ("**Defendant Sheriff Smith**")[2] in his official and individual capacities; STPSO Deputy Chief of Professional Standards, George Cox, in his official and individual capacities; Major of Professional Standards, Richard Palmisano, in his official and individual capacities; Training Center Captain, Jeremy Church, in his official and individual capacities; Head of STPSO Internal Affairs, Dale Galloway, in his individual and official capacities; STPSO Internal Affairs Investigators, Frank Francois, Jr.; and STPSO Officers Chance Cloud, Taylor Lewis, Curtis Finn, and Douglas Searle, in their individual capacities, have implemented and are continuing to enforce, encourage, ratify and sanction a policy, practice, and/or custom of unconstitutional frisks of St. Tammany Parish residents, including Plaintiff, by the STPSO which are being done without the reasonable articulable suspicion required under the Fourth Amendment.

10. In addition, vis this pattern and practice of unconstitutional frisks, STPSO officers have often used, and continue to use, race and/or national origin, not reasonable suspicion, as the determinative factors in deciding to frisk and/or stop individuals in violation of the Equal Protection Clause of the Fourteenth Amendment. The targets of such racial and/or national origin profiling are principally Black and Latino individuals.

11. The STPSO's widespread constitutional abuses have flourished as a result of, and are directly and proximately caused by, policies, practices, and/or customs devised and implemented and by the Sheriff, Deputy Chief of Professional Standards, Major of the Professional Standards Division, Captain and Investigator(s) of the Internal Affairs Division, and Captain of

[2] A suit against a government official in his or her official capacity is effectively a suit against the municipal entity. *See Kentucky v. Graham,* 473 U.S. 159, 165 (1985). And municipalities or other local governments may be liable for constitutional violations under 42 U.S.C. § 1983. *Monell v. Dep't of Soc. Servs. of N.Y.C.,* 436 U.S. 658, 690 (1978). "[W]hen execution of a government's policy or custom . . . inflicts the injury . . . the government as an entity is responsible under § 1983." *Id.*at 694.

the Training Division and/or Training Center, who have acted with deliberate indifference to the constitutional rights of those who would come into contact with STPSO officers by: (a) failing to properly screen, train, and supervise STPSO officers, (b) inadequately monitoring STPSO officers and their frisk practices, (c) failing to sufficiently discipline STPSO officers who engage in constitutional abuses, (d) encouraging, sanctioning and failing to rectify STPSO's unconstitutional practices, and (e) explicitly approving, in writing, a known and repeated unconstitutional practices.

12. Despite vowing to serve and protect all members of the St. Tammany community, STPSO's pervasive culture of racism and prejudice against Black Americans is well documented. In 2010, the STPSO's then-Sheriff, Sheriff Rodney "Jack" Strain, ranted to a local news reporter on camera, "If you're [gonna] walk the streets of St. Tammany Parish with dreadlocks and chee wee hairstyles, then you can expect to be getting a visit from a sheriff's deputy." Jimi Izrael, *Dreadlocks Unwelcome in a Louisiana Parish,* NPR (July 10, 2006), https://www.npr.org/templates/story/story.php?storyId=5546068. Years later, in 2014, several high-ranking STPSO detectives were exposed for exchanging racist and offensive emails amongst each other, including referring to Black individuals as "monkey[s]" and "animals." David Lohr, *The 13 Racist Police E-mails You Didn't Read,* HUFFPOST (Apr. 9, 2015), https://www.huffpost.com/entry/st-tammany-parish-sheriffs-office-racist-emails_n_7027274.

13. These are not the documented prejudices of low-level STPSO employees or even the views of one outlier deputy, but rather a consistent message echoing throughout the top echelon of STPSO leadership and amounting to an STPSO-wide policy of racially-motivated targeting of Black individuals. As discussed below, this policy has not changed since Randy Smith took over as Sheriff in 2016.

14. This has resulted in shockingly disparate treatment of Black individuals by law enforcement. Nationally, Black drivers are about 20% more likely to be stopped than white drivers and they are about twice as likely as white drivers to be searched once stopped,[3] and St. Tammany Parish is ahead of the curve.

15. From January 1, 2023 to November 29, 2023 in St. Tammany Parish, Black individuals were 3.5 times more likely to be stopped for alleged traffic violations than white individuals.[4] In other words, the rate of stops per hundred thousand residents unveils an alarming disparity: there were 5,245 stops for every hundred thousand Black residents compared to 1,619 stops for every hundred thousand White residents.

16. And even though only 15% of St. Tammany Parish residents identify as Black, Black people account for **36%** of people stopped for alleged traffic violations, and **26%** of people cited for traffic violations. Similarly, Black people are two times more likely than white people to receive a citation solely for a violation that could not be observable to an officer on patrol, such as driving without a license.[5]

17. Mr. Washington's individual claims arise out of yet another instance of STPSO's pattern and practice of unconstitutional searches to which he was subjected during a pretextual traffic stop on the night of January 13, 2023 (the "**Incident**" or the "**Stop**"). Mr. Washington was pulled over in the dead of night, on a low-trafficked road, and surrounded by the Officers Cloud, Lewis, and Finn.

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[3] *See Research Shows Black Drivers More Likely to Be Stopped by Police,* NYU News Release, May 5, 2020, at https://www.nyu.edu/about/news-publications/news/2020/may/black-drivers-more-likely-to-be-stopped-by-police.html.

[4] *See infra* ¶222.

[5] *See infra* ¶224.

18. During the stop, Defendants Cloud, Lewis, and Finn, despite explicit confirmation that he posed no threat to officer safety and the complete absence of reasonable suspicion of any criminal activity, ordered Mr. Washington out of his vehicle; confiscated his ID; conducted a suspicion-less and nonconsensual frisk of his person that included unconstitutional reaching into his pockets; lifting his shirt to expose his torso; and a search of his wallet. Defendants Cloud, Lewis, and Finn also conducted a suspicion-less and nonconsensual search of his vehicle, well beyond the scope of a permissible vehicle search, which included searches of containers and the trunk.

19. Unfortunately, this was not the first time Mr. Washington has experienced such harassment, humiliation and violation of his constitutional rights at the hands of STPSO deputies. Mr. Washington (and his cousin, Gregory Lane) brought a suit against the STPSO on March 10, 2022 for strikingly similar conduct that took place in March 2021. *See* Complaint, *Washington v. Smith*, No. 2:22-cv-00632 (E.D. La. Mar. 10, 2022) ("***Washington I***"). A scant three weeks prior to the Incident, Judge Lance Africk of the Eastern District of Louisiana denied the defense of qualified immunity to the defendant officer, Alexander Thomas, for a suspicion-less and nonconsensual search of Mr. Washington under nearly-identical circumstances. Mr. Washington hoped and expected that nine months of litigation regarding the same unconstitutional practice would have spurred STPSO–now clearly aware of the risk its officers were engaging in constitutional violations—into action to prevent similar incidents, such as training its employees as to the importance of valid consent for searches.

20. But the STPSO remained deliberately indifferent, and Mr. Washington found himself again needing to report officer misconduct to the STPSO's Internal Affairs Division, comprised of Defendants Galloway and Francois. STPSO's investigation resulted in the

ratification of the Defendants Cloud, Lewis, and Finn's unconstitutional conduct, despite knowing the unconstitutionality of the conduct.

21. These demeaning experiences at the hands of STPSO officers in the lawsuit filed in March 2022 have left Mr. Washington—a Black man—in so much emotional distress that he now feels in danger whenever he leaves his home or drives his car, or in any way finds himself traveling through or within St. Tammany Parish. Indeed, proximity to these run-of-the-mill occurrences provoke fear that he will again be harassed and demeaned by STPSO deputies.

22. And, of course, Mr. Washington's fear is justified. On October 8, 2023, an STPSO deputy, Defendant Douglas Searle, followed Mr. Washington for almost twenty miles along Highway 21, trying to catch him for a traffic violation for the purpose of a pretextual stop. Defendant Searle's tailing of Mr. Washington was unsuccessful, but, determined to harass Mr. Washington, he pulled Mr. Washington over right before the Washington Parish line, accusing him of not having insurance.

23. But Mr. Washington *did* have insurance. In fact, Defendant Douglas Searle did not issue any citation and eventually conceded that Mr. Washington's insurance was fully paid. Nevertheless, Douglas Searle, deliberately indifferent to Mr. Washington's Fourth and Fourteenth Amendment rights, engaged Mr. Washington in an unlawful stop based on an outright lie.

24. And so, yet again, Mr. Washington finds himself in a position requiring him to litigate to protect his and other St. Tammany Parish residents' constitutional rights to privacy and to be free from unlawful stops and coerced searches.

25. It is unambiguously clear that Mr. Washington has been flagged by STPSO for consistent, targeted, harassment and intimidation in violation of the United States and Louisiana Constitution.

26. Mr. Washington suffers from the continued and actualized fear of being surveilled by STPSO deputies while doing mundane activities such as pumping gas or driving. He continues to fear being stopped and harassed by STPSO deputies, which hinders his ability to move about freely and travel to see his family, including Mr. Lane, and his girlfriend in New Orleans. As a result of a lifetime of driving as a Black man in St. Tammany Parish, he fears that he will suffer, yet again, a future incident of similar officer misconduct that will go unchecked by the STPSO.

27. Mr. Washington is not alone in this distress. Many Black residents of St. Tammany Parish keep their driving limited to going to and from their employment, or do not drive at all.

28. The Officer and Supervisor Defendants and STPSO's policies, customs or practices as created or implemented by the Parish and its employees directly caused a series of violations of Mr. Washington's Fourth Amendment rights. As is abundantly clear from the fact that the conduct at issue here is nearly identical to the conduct at issue in *Washington I*, the STPSO did not provide their deputies with proper oversight as it relates to conducting searches of persons and vehicles, and ending pretextual traffic stops. The custom of not disciplining employees who violate policies or citizens' rights, including not initiating decertification processes as they relate to any of their deputies for misconduct in the past decade, further compounded by refusing to have a single conversation or additional training regarding consent to search (or take any action *at all*) subsequent to Mr. Washington's March 2022 lawsuit, and his January 2023 misconduct complaint, reflects the STPSO policymaker, Defendant Sheriff Smith's, deliberate indifference to citizens' Fourth Amendment rights—and has resulted in the Officer Defendants acting with impunity.

29. Plaintiff seeks relief for Defendants' violation of his rights secured by 42 U.S.C. §§ 1983, 1988 and 2000d, of the United States Constitution, including the Fourth Amendment, and the laws of the State of Louisiana.

JURISDICTION AND VENUE

30. This is an action to redress the deprivation under color of statute, ordinance, regulation, custom or usage of rights, privileges and immunities secured to Mr. Washington by the Constitution and laws of the United States. Plaintiff brings this action pursuant to 42 U.S.C. §§ 1983, 1988, and 2000d, the Fourth Amendment to the United States Constitution, and the laws of the State of Louisiana.

31. Jurisdiction is conferred upon this Court by 28 U.S.C. §1331 and 28 U.S.C. §1343(a)(3).

32. The Court has supplemental jurisdiction over all other claims asserted under the laws of the State of Louisiana, pursuant to 28 U.S.C. §1367, because they arise out of the same operative facts and are so related to the federal claims that they are a part of the same case or controversy.

33. Venue is proper in this district in accordance with 28 U.S.C. §1391(b) because plaintiff is a resident of this district, all the Officer Defendants reside in this district, and a substantial part of the events giving rise to the claims herein arose in this district.

PARTIES

34. Plaintiff Bruce Washington is a 53-year-old man domiciled in the State of Louisiana within the Eastern District of Louisiana. He is a resident of Bogalusa, Louisiana.

Defendant Sheriff Randy Smith

35. Defendant Sheriff Randy Smith ("**Defendant Sheriff Smith**"), in his capacity as Sheriff of the STPSO, is and was, at all times relevant herein, the Sheriff of St. Tammany Parish and the chief policymaking official. He is and was responsible for the hiring, training, supervision, discipline, administration, policies, customs, practices, operations, management, and control of the

STPSO and its deputies, including Officer Defendants Cloud, Lewis, Finn and Searle. Defendant Sheriff Smith is a final policymaker for the STPSO in the areas of law enforcement and the employment and supervision of STPSO deputies. As a matter of federal law, Defendant Sheriff Smith is liable for his own actions as final policy maker. As a matter of Louisiana law, Defendant Sheriff Smith is liable for his own actions as final policy maker and is vicariously liable for the actions of Defendants Cloud, Finn, and Lewis. Smith is made a defendant herein in his official and individual capacities.

Officer Defendants

36. Defendant Chance Cloud ("**Cloud**") is a resident of Covington, Louisiana, located in the Eastern District of Louisiana. Upon information and belief, at all times pertinent and relevant to this action, Cloud was employed as a deputy by the STPSO and was acting in the course and scope of his employment and under color of law. Cloud is made a defendant herein in his individual capacity.

37. Defendant Curtis Finn ("**Finn**") is a resident of Abita Springs, Louisiana, located in the Eastern District of Louisiana. Upon information and belief, at all times pertinent and relevant to this action, Finn was employed as a deputy by the STPSO and was acting in the course and scope of his employment and under color of law. Finn is made a defendant herein in his individual capacity.

38. Defendant Taylor Lewis ("**Lewis**") is a resident of Slidell, Louisiana, located in the Eastern District of Louisiana. Upon information and belief, at all times pertinent and relevant to this action, Lewis was employed as a deputy by the STPSO and was acting in the course and scope

of his employment and under color of law. Lewis is made a defendant herein in his individual capacity.

39. Defendant Douglas Searle ("**Searle**") is a resident of Covington, Louisiana, located in the Eastern District of Louisiana. Upon information and belief, at all times pertinent and relevant to this action, Searle was employed as a deputy by the STPSO and was acting in the course and scope of his employment and under color of law. Searle is made a defendant herein in his individual capacity.

Supervisor Defendants

40. Defendant Deputy Chief George Cox ("**Cox**") is and was, at all times relevant herein, an officer, employee and agent of the STPSO, "appoint[ed]" by Defendant Sheriff Smith "for direct supervision" of the Agency's Professional Standards Division, which includes the Public Integrity Bureau/Internal Affairs Division, and the Training Division. *See* STPSO Policies and Procedures at DR.02:02.100.01. Deputy Chief Cox is sued in his official capacity.

41. Defendant Richard Palmisano ("**Palmisano**") is and was at all times relevant herein, an officer, employee, and agent of the STPSO, and Major of the Professional Standards Division of STPSO. The Professional Standards Division is responsible for "assur[ing] the compliance with directives is prevalent throughout the [STPSO]."[6] The "Major of Professional Standards Division [Defendant Palmisano] shall confer with the Deputy Chief of Professional Standards [Defendant Cox]" regarding the "investigation of complaints or allegations against the agency or its employees that are received in Internal Affairs."[7] The "Internal Affairs Division

[6] Exhibit 1 at 2, STPSO Policies and Procedures at DR.02:07.100(B).

[7] *Id.* at 3, STPSO Policies and Procedures SOP.0025:01.100(A).

reports directly to the Major of the Professional Standards Division."[8] Palmisano is sued in his official capacity.

42. Defendant Dale Galloway ("**Galloway**") is and was, at all times relevant herein, an officer, employee and agent of the STPSO as Captain of the STPSO Public Integrity Bureau and Internal Affairs Division. Galloway has delegated policymaking authority from Sheriff Smith to "[d]etect, thoroughly investigate and properly address any misconduct by agency personnel to ensure the integrity of the agency and its mission,"[9] and "present[] recommendations for corrective measures to the sheriff."[10] Galloway "has the authority to coordinate and direct assigned personnel and other allocated resources to achieve organization objectives."[11] Galloway is sued in his official and individual capacities.

43. Defendant Frank Francois, Jr., ("**Francois**") is and was, at all times relevant herein, an officer, employee and agent of the STPSO. He serves as the primary Investigator of complaints made to the STPSO Internal Affairs Division regarding officer misconduct and has delegated policymaking authority from Sheriff Smith and/or Capt. Galloway to "detect[ ], thoroughly investigate[ ] and properly address[ ]" any misconduct by agency personnel "to ensure the integrity of the agency and its mission."[12] Francois is made a defendant herein in his official and individual capacities.

44. Defendant Jeremy Church ("**Church**") is and was at all times relevant herein, an officer, employee and agent of the STPSO. As the STPSO Training Division Captain, Church is

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8 *Id.* at 3, STPSO Policies and Procedures at SOP.0025:01.100(A).

9 Exhibit 2, *St. Tammany Parish Sheriff's Office Budget Document FY 2023* (Relevant Pages) ("STPSO 2023 Budget Book"), at 261 (available at https://www.stpso.com/images/uploads/2023_Budget_Document.pdf)

10 *Id.* at 224.

11 Ex. 1 at 5, STPSO Policies and Procedures at DR.02:03.125.01(1).

12 Ex. 2. STPSO 2023 Budget Book, at 260.

and was responsible for: "(A) Keeping apprised of training resources and scheduling training to meet the requirements for law enforcement personnel as set forth by the Louisiana Peace Officer Standards and Training Council, applicable law, and Agency policy; (B) Using national, state, and local resources in developing and providing staff training; (C) Developing and maintaining an in-service, in-house training program to address specific needs of the Agency and to ensure those skills requiring qualification and re-qualification are kept current; (D) Ensuring that training records stay current, complete and accurate, (E) Providing a general orientation to all new sworn personnel prior to duty assignment; and (F) Selection of appropriate personnel for Louisiana Peace Officer Training Council (POST) Instructor Development Course".[13] Church is sued in his official and capacity.

45. On information and belief, Defendant OneBeacon Insurance Group ("**Defendant Insurer**") is an insurance company who may have issued and currently has in effect one or more policies of insurance that are written or delivered in the state of Louisiana covering Defendants and/or the actions complained of herein. Defendant Insurer is sued under the relevant provisions of the Louisiana Direct Action Statute. La Rev. Stat. 22:1269.

46. All named Defendants are liable jointly, severally, and *in solido* for the unconstitutional, unlawful and tortious conduct set forth below.

[13] Ex. 1 at 6, STPSO Policies and Procedures at SOP.1700:01.200.

FACTS

A. The January 13, 2023 Pretextual Traffic Stop and Unconstitutional Search of Mr. Washington

47. On January 13, 2023, at around 7:00 PM, Mr. Washington was driving on Highway 12, heading to New Orleans to spend Martin Luther King Jr. weekend with his girlfriend and assist her with yardwork.

48. While Mr. Washington was driving, an unmarked vehicle pulled in front of him and slowed down. Confused by the odd driving behavior of the car ahead of him. Mr. Washington safely passed it in the left lane and returned to the driving lane.

49. Unbeknownst to Mr. Washington, the unmarked vehicle was an STPSO vehicle driven by STPSO officers Chance Cloud and Taylor Lewis.

50. At approximately 7:16 PM, Defendants Cloud and Lewis initiated the emergency lights of the unmarked vehicle and instructed Mr. Washington to pull over.[14] Mr. Washington immediately complied. It was extremely dark outside, and the road was poorly lit. There were very few, if any, vehicles passing by.

51. Defendant Cloud and Defendant Lewis got out of the unmarked vehicle. Defendant Cloud approached the driver's side of Mr. Washington's vehicle, while Defendant Lewis approached the passenger side. Once at the driver's side door, Defendant Cloud shined his flashlight onto Mr. Washington, who had already rolled down his window. Defendant Cloud introduced himself and said to Mr. Washington that he had been pulled over because he had ridden on the center of two lanes "for a second" and had failed to signal (the "**pretextual purpose**").

[14] Unless otherwise specified, all references to timing of events or quotations of conversations between Defendants Cloud, Lewis and Finn, and Mr. Washington are based on the body-worn camera footage obtained from the STPSO via a Public Records Request.

52. Mr. Washington was extremely nervous, and knew that anything but strict compliance and deference to the Defendants Cloud, Lewis, and Finn could escalate the situation. He apologized immediately.

53. Defendant Cloud assured Mr. Washington that he was "good" and that he was not offended.

54. Defendant Cloud asked Mr. Washington for his identification. As Mr. Washington was obeying, and reaching into his pocket to retrieve his wallet which contained his driver's license, Defendant Cloud began to question him.

55. Defendant Cloud first asked Mr. Washington, "Any weapons or anything in the boot?" Mr. Washington truthfully responded, "No, sir." Defendant Cloud asked Mr. Washington if the car was his, which Mr. Washington confirmed. Defendant Cloud asked Mr. Washington where he was coming from and where he was heading. Mr. Washington responded that he was coming from Bogalusa and going to New Orleans.

56. While Defendant Cloud was questioning Mr. Washington on topics unrelated to the pretextual purpose of the stop, Defendant Lewis shined a light into the backseat of Mr. Washington's vehicle. Defendant Lewis said to Defendant Cloud, "hey, you can get him out."

57. Upon information and belief, Defendant Lewis mistakenly believed he saw weapons or contraband that would justify ordering Mr. Washington out of his vehicle, even though the officers' safety was not threatened.

58. Based on Defendant Lewis' covert suggestion that there were grounds for ordering Mr. Washington out of the car, Defendant Cloud told Mr. Washington, "Do me a favor, man. Hop out real quick?" Mr. Washington began to open the car door on the driver's side. Defendant Cloud pulled it open further.

59. As Defendant Cloud was pulling the door open further, but *before* Mr. Washington had exited his vehicle, Defendant Lewis, still inspecting the car with his flashlight through the windows, explicitly retracted his earlier statement that it was appropriate to order Mr. Washington to get out of the car, instead informing Defendant Cloud, "Yeah, well, it's—it's not what I thought it was." That statement clearly indicated that any perceived justification for ordering Mr. Washington out of the vehicle no longer existed.

60. Defendant Cloud confirmed that he heard Defendant Lewis' statement and understood that whatever perceived justification supported ordering Mr. Washington out of his vehicle had been dispelled by saying to Defendant Lewis, "Okay. That's fine." Nevertheless, Defendant Cloud waited for Mr. Washington to exit the vehicle.

61. Mr. Washington was nervous and anxious, because it was nighttime, he had no passengers in his car, and there was nobody around to witness his encounter with three STPSO deputies. He knew if he didn't comply with every order or request, he ran the risk of arrest, violence, and even death.

62. As a tall, Black man, Mr. Washington knows that he must be extremely careful around law enforcement because he knows about the often-present implicit bias that Black men are violent and dangerous.

63. Mr. Washington was especially anxious given the misconduct that occurred during his previous stop by STPSO deputies in March 2021 that had given rise to *Washington I*, and knew that any attempt he made to assert that he knew his right to refuse or question an officer's request would be described as "belligerent."

64. With this in mind, Mr. Washington quietly and compliantly obeyed Defendant Cloud's order—the first of many shows of lawful authority that Mr. Washington would submit to over the course of the stop.

1. Defendant Cloud Unlawfully Searches Mr. Washington as Defendant Lewis Does Nothing

65. Once Mr. Washington was out of the car, Defendant Cloud asked Mr. Washington yet again if he had any weapons on his person or "anything crazy [he] should know about." Mr. Washington unambiguously and truthfully answered "No" to both questions.

66. Defendant Cloud "immediately advised [Mr.] Washington that he would like to perform a pat down search."[15]

67. Mr. Washington raised his hands but did not respond.

68. Mr. Washington, as a Black man, remains on high alert during encounters with law enforcement.

69. Mr. Washington was afraid that if he declined, Defendants Cloud, Lewis, and Finn would use it as an excuse to arrest or use force on him.

70. Mr. Washington also believed that if he declined, Defendant Cloud would search him anyway.

71. Mr. Washington, just as he did during his encounter with STPSO deputies on March 13, 2021, remained silent and raised his arms in a gesture of submission to Cloud's second show of lawful authority.

72. Even though Mr. Washington and his vehicle were located approximately four feet from the white line dividing the shoulder and the road and, upon information and belief, Defendant

[15] Exhibit 3, at 10. St. Tammany Parish Sheriff's Office Department Case Report, dated Jan. 30, 2023 (hereinafter "**Investigative Report**").

Cloud could have proceeded with a quick patdown then and there, Defendant Cloud ordered Mr. Washington to the rear of his vehicle.

73. Mr. Washington, still afraid for his physical safety and life, complied with Defendant Cloud's order and went to the rear of his vehicle. Defendant Cloud followed, and maintained possession of Mr. Washington's identification.

74. Even though unnecessary for an officer safety patdown, Defendant Cloud then ordered Mr. Washington to put his hands up on top of the car for him. Mr. Washington complied by "submitting" to the search.[16]

75. While Defendant Cloud began to search Mr. Washington, rather than taking Mr. Washington's identification from Defendant Cloud to initiate a records check, Defendant Lewis questioned Mr. Washington, distracting Mr. Washington from the unconstitutional search that was occurring and delaying conducting the license check.

76. During what Defendant Cloud had referred to as a patdown search, Defendant Cloud, without Mr. Washington's consent, and *clearly outside the scope of a constitutionally permissible frisk,* reached into Mr. Washington's pocket and "removed [Mr.] Washington's wallet from his front [left] pocket and placed it on the trunk of the [car]."[17]

77. Defendant Cloud did not ask Mr. Washington what he had in his pocket. He did not ask for consent to put his hand into Mr. Washington's pocket. Defendant Cloud knew that he did not have consent or the authority to reach into Mr. Washington's left pocket during a patdown search.

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16 *Id.*

17 *Id.*

78. Then Defendant Cloud moved to Mr. Washington's right side, and began patting down his right leg. Yet again, without consent, Defendant Cloud deliberately reached into Mr. Washington's right pocket and found nothing. Defendant Cloud could not have felt a weapon or contraband before reaching into Mr. Washington's right pocket, because Mr. Washington's pocket was *empty*. Defendant Cloud knew that he did not have consent or the authority to reach into Mr. Washington's right pocket during an officer safety patdown.

79. Finally, having already gone far beyond the constitutional scope of a frisk at least twice, and undeterred by either of the officers also present, Defendant Cloud then lifted Mr. Washington's jacket, exposing no contraband or weapons, only Mr. Washington's bare torso.

80. Once Defendant Cloud completed his overextended and unlawful search, he silently handed Mr. Washington's identification to Defendant Lewis for a license and records check.

81. Mr. Washington, humiliated by the unambiguous violation of his privacy and on high alert that the Defendants present were deliberately indifferent to his Fourth Amendment protections, apologized again for going in front of the unmarked car as it was driving slowly.

82. Defendant Cloud laughed and said, "no, you good."

83. Defendant Lewis said, "no you're good, man, not the end of the world," and then walked to his vehicle with Mr. Washington's identification.

84. Defendant Cloud said, "you didn't offend me or anything, that isn't why I – um – we – uh stopped you."

85. Mr. Washington knew why they had stopped him: because he was Black.

2. Defendant Cloud Unlawfully Searches Mr. Washington's Wallet

86. Having already violated Mr. Washington's constitutional rights and dignity, and despite having verbally and physically confirmed that Mr. Washington was not armed, and having no articulable reasonable suspicion to further search Mr. Washington or any of his possessions, Defendant Cloud decided to exploit Mr. Washington's fear and compliance by searching his wallet.

87. Defendant Cloud gestured to Mr. Washington's wallet, which he (Cloud) had placed on the trunk of the car and said, "your wallet there – do you mind if I make sure you don't anything crazy in there?" Defendant Cloud did not indicate what "anything crazy" referred to, such as weapons or contraband.

88. Mr. Washington was afraid that if he refused Defendant Cloud's request to search his wallet, Defendant Cloud or the other Defendants would react negatively, arrest, or use force against him, and therefore, Mr. Washington felt that he was left with no choice but to surrender his wallet to Defendant Cloud

89. Only one car had driven by since Mr. Washington had been pulled over. There would be nobody around to witness if any of the officers twisted his legitimate and legal refusal of consent as a reason to arrest or use force against him.

90. "[W]ithout protest,"[18] Mr. Washington surrendered his wallet to Defendant Cloud, who spent nearly a minute searching through it. Defendant Cloud inspected every pocket and item in Mr. Washington's wallet. He rifled through each bill individually. He pulled out various items, closely inspecting and turning them over. He bent Mr. Washington's wallet in various directions. Defendant Cloud even dropped an item on the ground.

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[18] *Id.*

91. Mr. Washington was anxious in speaking to the officers, keeping his arms immobile and crossed in front of him as he responded to the officers' persistent questioning throughout the search. Mr. Washington knew this position showed that he could not move his hands quickly to reach into his pockets or waistband.

3. Defendants Cloud, Lewis, and Finn Decide to Search Mr. Washington's Vehicle Without Probable Cause or Consent

92. While Defendant Cloud was conducting the unlawful searches of Mr. Washington's person and his wallet, Defendant Finn walked over to Mr. Washington's car, shining his flashlight into the passenger side. As he was doing so, Defendant Finn, in a stern tone of voice, also began to question Mr. Washington, asking many of the same questions Mr. Washington had already answered.

93. In a stern tone of voice, Defendant Finn asked Mr. Washington where he was headed. Mr. Washington immediately responded, "New Orleans," consistent with his prior answer to that same question.

94. In the same stern tone of voice, Defendant Finn asked Mr. Washington where he was coming from. Mr. Washington responded, "Bogalusa," consistent with his prior answer to that same question.

95. Defendant Finn quickly followed up with, "you live in Bogalusa?"

96. Mr. Washington responded, "yes, sir."

97. Defendant Finn said, "okay, what's in New Orleans?"

98. Mr. Washington began to describe where he was going in New Orleans.

99. Defendant Finn cut Mr. Washington off, saying "nah, like what's in New Orleans, what are you going there for?"

100. Mr. Washington said that he was going to see his girlfriend and explained that he was going to cut her grass.

101. While Mr. Washington was explaining, Defendant Finn interrupted him to continue the questioning, saying "oh, okay – going for the weekend or – or just for tomorrow?"

102. Mr. Washington said that he was going for the long weekend, planning on staying there through Monday. It was a holiday weekend, and Monday, January 16, 2023, was Martin Luther King, Jr. Day.

103. Defendant Finn said, "okay," and returned to shining his flashlight into the passenger-side windows.

104. Defendant Cloud commented that Mr. Washington was a "good man" and Defendant Finn said, "yeah, that's pretty good of you man," as he continued to shine his light into Mr. Washington's vehicle.

105. Mr. Washington wished to see what Defendant Finn was doing but was too afraid of turning away from Defendant Cloud while he was being spoken to, or making any unauthorized movements, as that behavior could jeopardize his liberty and life.

106. Mr. Washington noticed that Defendant Finn was trying to get a closer look at an item Mr. Washington had on the backseat. He explained that it was his "weed-eater."

107. Defendant Finn confirmed that Mr. Washington had a "weed-eater" in the backseat and stated that he saw that was what the item was. Defendant Finn began to walk towards Mr. Washington , making a comment about his shorts.

108. Defendant Finn passed Mr. Washington and stood behind Defendant Cloud.

109. At this point, Mr. Washington had already been unlawfully ordered out of his car and searched. It was pitch-black outside. Mr. Washington was leaning against the back of his car, surrounded by two officers facing him and the highway on his right.

110. While Defendant Lewis remained in the STPSO vehicle, maintaining possession of Mr. Washington's license, Mr. Washington, fearful that any behavior could be considered threatening, began to engage in small talk with the Defendants while trying to remain as still and peaceful-seeming as possible.

111. On the night of the Incident, it was widely known that Tyre Nichols, a Black man in Memphis, Tennessee, had died three days earlier after being beaten by police officers after a traffic stop.

112. After a moment of silence where Mr. Washington was looking at the ground, wanting to make clear he was being deferential and respectful, Defendant Cloud asked whether Mr. Washington had anything in the car that they "should be concerned about."

113. Mr. Washington thought Defendant Cloud was interested in the weed-eater, and that perhaps the officers thought it might be a weapon.

114. Mr. Washington responded, "No, you can look," and gestured towards the windows that Defendant Finn and Defendant Lewis had been looking into, where the box containing the weed-eater was visible.

115. Mr. Washington offered to open the door so they could look at the weed-eater, to assuage any (unjustified) concerns Defendants may have had.

116. Defendant Cloud told Mr. Washington, "no, no, you good man, you can stay right there."

117. Defendant Cloud radioed in, saying, "1431 we're code four." "Code four" indicates to dispatch that no further assistance is needed.

118. Defendant Cloud told Mr. Washington that he was "not a ticket writer" and that he would not "write [him] a ticket over something simple like that [the pretextual purpose of the stop]," clearly communicating that the purpose of the stop was to give Mr. Washington a verbal warning about the lane change concern. Once that warning had been issued, the purpose of the stop had been concluded, and it was clearly established that any further detention of Mr. Washington required reasonable suspicion of additional criminal activity.

119. Mr. Washington effusively expressed appreciation, again wanting to appear as deferential and respectful as possible.

120. Defendant Finn approached Mr. Washington's vehicle once again after finishing his conversation with dispatch. He stood by the passenger side of the car, still staring into the contents of the vehicle but this time without his light.

121. Mr. Washington, gesturing to his trunk, said he could "open it" so they "can look" and headed towards the driver's seat to "pop the trunk."

122. Mr. Washington did *not* say the Defendants could search his car.

123. None of the Defendants *asked* for Mr. Washington's consent to search his car.

124. There was no smell of marijuana emanating from the vehicle, or any indication that the vehicle contained contraband or a weapon.

125. Mr. Washington had only said that the Defendants could "look" in his trunk and offered to open it.

126. Mr. Washington had explained that he had clothes in the trunk, thinking that the Defendants were wondering if he had weapons in there because they hadn't been able to see inside it with their flashlights, like they did the rest of the car.

127. Defendant Cloud told him that Mr. Washington didn't need to open the trunk for him, and that he could "just stay right [there]."

128. Without seeking consent, Defendant Cloud, who had just confirmed Mr. Washington had no weapons on him (after Mr. Washington truthfully said twice that he did not), and who had unlawfully searched through Mr. Washington's wallet, informed Mr. Washington that the Defendants would "go through [his] car real quick" and then "get [him] on the road. . . to New Orleans as soon as [they] can."

129. Defendant Cloud did *not* ask if the Defendants could search Mr. Washington's car.

130. It was clear to Mr. Washington that Mr. Washington was not authorized to get "on the road" until the search Defendants Cloud, Lewis, and Finn had decided to do was complete. In other words, Mr. Washington was instructed that he was not free to leave until the search of his vehicle was complete.

131. Mr. Washington was about to say something when Defendant Finn interrupted and began to question him.

132. Unprompted, and in an accusatory tone, Defendant Finn asked Mr. Washington if he had ever been arrested before. Mr. Washington responded that he had gotten out of prison in 1991.

133. Defendant Finn followed up asking if he had been to jail since.

134. Mr. Washington said he had not.

135. As Defendant Finn began to pull on the passenger-side door handles of Mr. Washington's car, Defendant Cloud asked Mr. Washington, "what happened in 1991?"

136. Mr. Washington began to answer, and then noticed that Defendant Finn was jimmying the door handles. Mr. Washington did not want Defendant Finn to force entry, and potentially cause damage, so Mr. Washington asked Defendant Finn if he wanted him to "unlock that door," referring to the back door on the passenger side where the weed-eater was located.

137. Defendant Finn said, "I'll get it if you don't mind" and began to walk towards the driver's door.

138. Defendant Cloud said, "he's got it," referring to Defendant Finn unlocking Mr. Washington's car.

139. Defendant Cloud asked Mr. Washington again what happened in 1991. To answer his question, Mr. Washington had to remain facing Defendant Cloud, with his back to the car.

140. At 7:19 PM, Defendant Lewis, having completed checks of Mr. Washington's license and received confirmation from dispatch that there were no outstanding warrants against Mr. Washington, approached Defendant Cloud and Mr. Washington.

141. Despite having completed the license check, Defendant Lewis maintained possession of Mr. Washington's license while Defendant Finn began the search. Even if Mr. Washington had not explicitly been told that he was not free to leave, he could not have left, because Defendants Cloud, Lewis, and Finn retained possession of his identification.

142. Defendant Cloud continued to ask Mr. Washington about his time in jail, but while Mr. Washington was answering, Defendant Cloud turned to Defendant Lewis, saying "you mind hanging out with him here real quick?"

143. Defendant Lewis came over to Mr. Washington to take over the role of asking Mr. Washington questions, forcing Mr. Washington to remain with his back to the car.

144. So that the Defendants would not think he was being disrespectful or uncooperative, Mr. Washington did not resist the search or refuse to answer questions.

145. Defendant Cloud walked over to the passenger door, which was now unlocked, to join Defendant Finn in the search of Mr. Washington's vehicle.

146. For the entirety of the search, either Defendant Cloud or Defendant Lewis was asking Mr. Washington questions and making small talk.

147. As detailed below, Defendants did not go through Mr. Washington's car "*real quick*."

B. The Unlawful Search of Mr. Washington's Car

1. Defendant Finn's Knowingly Unlawful Search and Defendant Cloud's Admission That Defendants Cloud, Lewis and Finn Had No Justification to Search Mr. Washington's Car

148. Without probable cause and without Mr. Washington's valid and voluntary consent, Defendants Cloud, Lewis, and Finn searched Mr. Washington's vehicle.

149. First, while Defendant Cloud was still peppering Mr. Washington with questions, Defendant Finn unlocked the driver's door and looked inside the vehicle with his flashlight. He then got into the vehicle and reached over to unlock both passenger side doors.

150. While sitting in the driver's seat, Defendant Finn spent *over a minute* inspecting just the center console alone. First, he removed a small orange plastic bag, through which he could feel its contents. Upon information and belief, Defendant Finn could not feel anything that could be considered a weapon. Defendant Finn threw the bag on the seat and tentatively shook it open

to look at its contents. He then grabbed it again, squeezing it with his left hand, then left it on the seat.

151. As Defendant Finn returned to the console, Defendant Cloud joined the unlawful search on the passenger side of the car.

152. Defendant Finn directed Defendant Cloud to a bag in the back seat as he continued his thorough search of the middle console of Mr. Washington's car.

153. Defendant Finn retrieved a flashlight from the console and opened it, removing the batteries. He spent half a minute alone inspecting the flashlight. He had no reasonable suspicion to believe that there was contraband or a weapon in the flashlight.

154. As Defendant Finn was feeling the inside of a hair scrunchie, he commented to Defendant Cloud that it "look[ed] like" there were "weed-eater glasses" in the orange plastic bag he had left on the seat.

155. Though Defendant Finn had confirmed that there was no reasonable suspicion to look in the orange bag again, Defendant Cloud did so anyway, wasting time searching a bag known to have no contraband or weapons.

156. Defendant Finn then turned to the driver's seat, seemingly hoping to find contraband or a weapon. He looked in the side door pockets. He got onto his knees and lifted the rug under the seat. He looked under the drop-stop.

157. Defendant Finn forcefully jimmied the trunk-opening mechanism several times, before successfully unlocking the trunk. Mr. Washington had not provided consent for the Defendant Officers to search his vehicle, and certainly not his trunk.

158. Defendant Finn then searched under Mr. Washington's seat covers.

159. Defendant Finn asked if Defendant Cloud had looked through any of the other items in the front seat. And although Defendant Cloud said that he had, Defendant Finn searched through the items again, further extending the length of the search.

160. Defendant Finn then turned to the back seat. As he reached for the passenger door, he continued to distract Mr. Washington with questions, asking about the price of his car.

161. In order to respectfully respond to Defendant Finn's question, Mr. Washington could not limit the scope of a consent search as he was entitled to do by, for example, requesting Defendant Finn not to look in the back seat. Defendant Finn continued to engage Mr. Washington in conversation as he methodically searched the back seat.

162. Defendant Finn picked up Mr. Washington's canvas briefcase and looked through all of its contents. He rifled through the front pocket of the briefcase and took out another flashlight to inspect.

163. As Defendant Finn was searching Mr. Washington's briefcase, Defendant Cloud explained that he was looking for whatever Defendant Lewis said he had seen at the beginning of the stop, but had determined was not sufficient grounds to order Mr. Washington out of his vehicle.[19]

164. In other words, Defendant Cloud explained to Defendant Finn that he had no idea what he was searching for, whether drugs or a weapon, only that it was something Defendant Lewis had determined was *not actually contraband or a weapon.*

[19] Defendant Cloud explained he was looking for whatever Defendant Lewis was referring to when "he said it wasn't what he thought it was, whatever he thought it was."

165. After the search had proceeded for at least five minutes after the pretextual purpose of the traffic stop was accomplished, Mr. Washington, surprised and uncomfortable with how long the search was taking, said, "I've got a lot of stuff in there."

166. Defendant Cloud muttered, "I've seen worse." Defendant Finn responded, "actually, not too bad," and continued to search. He opened the box containing the "weed-eater." He looked through two more plastic bags. He removed at least three medication bottles.

167. He shook and opened each of Mr. Washington's pill bottles, inspecting his medication.

168. Defendant Finn asked Mr. Washington what his name was, for the third time, and upon information and belief, this was to confirm that the medication bottles were his.

169. Defendant Finn then opened the hood of Mr. Washington's car and thoroughly inspected the engine. He then returned to the rear of the vehicle where Defendant Cloud was going through the contents of Mr. Washington's trunk, while Defendant Lewis was still engaging Mr. Washington in distracting conversation.

2. Defendant Cloud Joins in the Knowingly Unlawful Search of Mr. Washington's Car and Its Trunk

170. At 7:17 PM, Defendant Finn started searching Mr. Washington's car. Two minutes later, Defendant Cloud left Defendant Lewis to stand guard over and distract Mr. Washington, and approached the passenger side of the vehicle to join Defendant Finn. Defendant Finn then instructed Defendant Cloud to search a bag located in the back seat.

171. Instead, Defendant Cloud opened the glove box, reached inside and inspected its contents. He then spent several minutes inspecting the area around the front passenger seat rather than proceeding with the search as instructed.

172. Defendant Cloud lifted the rug in front of the seat and looked underneath. He inspected the side door pockets. He looked through the loose change on the floor. He looked in the glove box again. He felt along the edge of the car. He looked under the rug again. He lifted the seat covers. He looked through more loose change. He inspected the cup holders.

173. Finally, Defendant Cloud went to retrieve the backpack that Defendant Finn had instructed him to search first. He brought it to the front passenger seat and inspected each compartment and pocket, and commented on Mr. Washington's Xbox. After placing the bag back in the backseat, Mr. Washington had to ask Defendant Cloud to zip the bag up, so his Xbox would not fall out.

174. Defendant Cloud then began muttering about "Taylor" and what "Taylor" had seen. Upon information and belief, Defendant Cloud was referring to the suspicion that Defendant [Taylor] Lewis had dispelled at the outset of the stop, and was essentially stating that he had no idea what he was searching for.

175. After concluding the search of the passenger side, Defendant Cloud returned to the driver's side to access and engage the trunk-opening mechanism.

176. Defendant Cloud walked to the rear of the vehicle, where the trunk door was now open.

177. Without asking for Mr. Washington's consent, Defendant Cloud opened the trunk fully.

178. Mr. Washington was taken aback that Defendant Cloud was opening the trunk without his consent. At this point, he had been pulled over, ordered out of the car, had his person searched, had his wallet searched, *and* had his vehicle searched. He just wanted the stop to be over.

179. Defendant Cloud asked, "what you got in here, Bruce?" as he shined his flashlight into the trunk.

180. As explained previously, Mr. Washington said that he had clothes and other possessions in the trunk.

181. Defendant Cloud reached into the trunk and began touching and rifling through Mr. Washington's possessions.

182. Mr. Washington pointed to the locations of his various items: his clean clothes in one area, his dirty clothes in another, and his shoes in the back.

183. As Mr. Washington described the contents of the trunk, Defendant Cloud continued to rifle through the bags.

184. Defendant Cloud removed a bag and began to look inside. He began to question Mr. Washington again, asking, "how long you said you were staying?" and implying that Mr. Washington had not been telling the truth when he said he was going for the long weekend, through Monday. Mr. Washington repeated his plans to visit his girlfriend.

185. Defendant Cloud said, "you packed a lot for just a weekend." Mr. Washington explained that he always keeps his clothes in his car.

186. Mr. Washington said that other STPSO officers could tell Defendant Cloud that Mr. Washington always keeps his clothes in his car.

187. Other STPSO officers would know that because they have stopped and searched Mr. Washington repeatedly, even though he has not been arrested in decades.

188. Mr. Washington began watching Defendant Cloud and explaining everything Defendant Cloud was looking at, such as his camcorder and video games. That did not stop

Defendant Cloud from searching through everything. Defendant Cloud took several bags out of the trunk, placing them on the ground.

189. Mr. Washington, clearly uncomfortable with how invasive the search was, weakly protested, "that's my other clothes – that's it. And the cups I use to wash my car with."

190. Defendant Finn asked Mr. Washington where his girlfriend lives. Mr. Washington responded that she lives in Gentilly, and told him, "You can call her, I'll let you call her."

191. Defendant Finn told Mr. Washington, "I'm just making small talk with you. I ain't trying to accuse you of nothing."

192. Until that point, Mr. Washington clearly believed (and Defendant Finn understood) that Mr. Washington did not believe he was free to limit the scope of the search, let alone walk away from the encounter.

193. Mr. Washington commented that he "should have knew that was a police [car]" driving near him, from the way it had slowed down when it passed him the first time, remarking the car had been driving "mighty slow." Mr. Washington did not want to be behind a vehicle he thought was driving dangerously, and understandably pulled ahead of it.

194. Mr. Washington expressed his disappointment with himself for failing to maintain his hypervigilance around potential law enforcement, and putting his life at risk.

195. Defendant Cloud shoved all of Mr. Washington's bags into his trunk, crushing them, and with flagrant disregard to the organization that he had just complimented Mr. Washington on.

196. Finally, at 7:29 PM, Defendant Cloud slammed the trunk shut and asked Mr. Washington if he had his keys. Mr. Washington told him they were in the car.

197. Finally, no less than *ten minutes* after Mr. Washington's license had been cleared by dispatch, and *thirteen minutes* after Defendant Lewis had dispelled any chance of reasonable suspicion, Defendant Cloud told Mr. Washington that he was "good to go."

198. Defendant Cloud had to tell Mr. Washington that he was "good to go" because until that point, *he was not free to leave.*

199. It was only after Defendant Cloud told Mr. Washington that he was "good to go" that Defendant Lewis finally returned Mr. Washington's identification to him.

200. Defendant Lewis had left his patrol car after running checks on Mr. Washington at 7:19 PM. For the entire time Mr. Washington's car and trunk were searched, Defendant Lewis held Mr. Washington's ID hostage.

201. Mr. Washington had not been free to leave because he had been advised that Defendant Cloud would conduct an officer safety patdown, whether Mr. Washington gave his consent or not.

202. Mr. Washington had not been free to leave because, even though he had been given a verbal warning about using his turn signal (at which point the pretextual purpose of the stop was complete), he was ordered *not* to return to his vehicle.

203. Mr. Washington had not been free to leave because Defendants Cloud, Lewis, and Finn retained possession of his identification until the unlawful search of his vehicle and its trunk were complete.

204. Mr. Washington had not been free to leave because Defendants told him he would not be able to "get on the road" until they completed the search of the vehicle.

205. Even Defendant Finn stated that "[t]he traffic stop ended" when Mr. Washington was finally "allowed to leave,"[20] clearly showing that Defendants had been detaining Mr. Washington.

3. Defendants Cloud, Lewis, and Finn Prevented Mr. Washington From Observing or Limiting the Scope of the Vehicle Search

206. Throughout the search, Defendant Cloud and Defendant Lewis peppered Mr. Washington with questions unrelated to the stop, preventing him from observing or limiting the search that was unlawful to begin with.

207. Defendant Lewis told Mr. Washington that he saw his criminal history pop up and noted that Mr. Washington had not gotten in trouble with the law in decades, likely referencing what had come up as he was running Mr. Washington's license.

208. Despite recognizing Mr. Washington's criminal history and recent lack thereof, as well as the fact that Defendant Cloud himself had told Mr. Washington that he was not intending to issue him any ticket, Defendant Lewis still did not return Mr. Washington's identification while the vehicle search was ongoing.

209. Defendant Lewis once again asked Mr. Washington if the vehicle was his car. Mr. Washington confirmed that it was his and that he had bought it for $800. They proceeded to comment on the mileage of the vehicle. Defendant Lewis engaged Mr. Washington in conversation about the weather in Louisiana, the locations of gas stations, taxes, slow highway construction, and where in New Orleans Mr. Washington was heading, all while Defendant Cloud and Defendant Finn continued to search the vehicle that Mr. Washington had to maintain his back to.

[20] Ex. 3, Investigative Report, at 7.

C. Defendant Galloway's and Defendant Francois' Ratification of The Defendants Cloud, Lewis, and Finn's Unlawful Search of Mr. Washington and Its Basis

210. On January 26, 2023, Mr. Washington, deeply unsettled by the Incident, and confident that he had been unlawfully detained and searched, contacted the Internal Affairs number listed on the STPSO's website, as suggested by Capt. Dale Galloway in *Washington I*.[21]

211. The Public Integrity Bureau/Internal Affairs Division of the STPSO has two full-time positions, which are currently filled by Capt. Dale Galloway and Sgt. Frank Francois, Jr. In other words, the whole Internal Affairs Division is comprised entirely of Defendants Galloway and Francois.

212. The Internal Affairs Division reports directly to the Major of the Professional Standards Division.[22] Defendant Palmisano, is the Major of the Professional Standards Division, and he is responsible for "assur[ing] that compliance" with policies and directives "is prevalent" throughout the STPSO.[23] The "Major of Professional Standards Division shall confer with the Deputy Chief of Professional Standards [Defendant Cox]" regarding the "investigation of complaints or allegations against the agency or its employees that are received in Internal Affairs."[24]

213. Defendants Galloway and Francois have delegated policymaking authority from Defendant Sheriff Smith and the duty to "[d]etect, thoroughly investigate and properly address any

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21 Exhibit 4, *Washington I*, Galloway Dep. Tr. 121:4-9, Nov. 16, 2022

22 Ex. 1 at 3, STPSO Policies and Procedures, at SOP.0025:01.100(A).

23 Ex. 1 at 2, STPSO Policies and Procedures, at DR.02:07.150(B).

24 Ex. 1 at 3, STPSO Policies and Procedures, at SOP.0025:01.100(A).

misconduct by agency personnel to ensure the integrity of the agency and its mission,"[25] and "present[] recommendations for corrective measures to the sheriff."[26]

214. On January 26, 2023, Mr. Washington spoke with Defendants Francois and Galloway for approximately 30 minutes.

215. On January 30, 2023, Mr. Washington went to the STPSO office in Mandeville, Louisiana, for a complaint intake interview with Defendants Galloway and Francois, which lasted approximately 30 minutes. On January 31, 2023, Defendants Francois and Galloway interviewed Defendants Cloud, Lewis, and Finn.

216. On February 1, 2023, the STPSO Public Integrity Bureau and Internal Affairs Division, and Defendants Cox, Palmisano, Galloway and Francois, after *thoroughly investigating* the Incident, reported the following official findings regarding Defendants Cloud, Lewis, and Finn's conduct, motivating reasons, and understanding of the Incident:

i. Defendant Cloud "instructed Washington to get out of the vehicle, after receiving a *covert suggestion* from Deputy Taylor Lewis (emphasis added)."[27] Defendant Lewis' "initial concern was unfounded."[28]

ii. Defendant Lewis had "signaled Deputy Cloud to remove Washington from the vehicle" *because* he had "observed gleanings of green vegetable matter on a box in the rear seat."[29] However, Defendant Lewis "almost immediately realized that what [he] was looking at was grass clippings on a weed whacker box," a mistake that he

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25 Ex. 2, STPSO 2023 Budget Book, at 261.

26 *Id.* at 224.

27 Ex. 3, Investigative Report, at 4.

28 *Id.* at 8.

29 *Id.* at 6.

"kinda felt silly about," and which he immediately conveyed to Defendant Cloud.[30] Defendant Cloud disregarded Defendant Lewis' update.[31]

iii. After instructing Mr. Washington to exit his vehicle, Defendant Cloud "*immediately* advised Washington that he would like to perform a patdown search. Washington raised his arm up *without a retort*, indicating [that] he was *submitting without protest* to the search."[32]

iv. Defendant Cloud "*removed Washington's wallet from his front pocket* and placed it on the trunk of the gray Saturn."[33]

v. The "traffic stop was concluded" after "the search of Washington's vehicle ended," whereupon "Bruce Washington was released."[34]

217. On February 1, 2023, the Professional Standards Division, Public Integrity Bureau and Internal Affairs Division, through Defendants Cox, Palmisano, Galloway and Francois,

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30 Defendant Lewis made this statement to STPSO Internal Affairs on January 31, 2023 in connection with the investigation into the traffic stop. Plaintiff obtained a recording of the interview via a Public Records Request.

31 The Summary of Defendant Lewis' interview notes that Defendant Cloud "was already patting down Washington for weapons" when Defendant Lewis informed him of his error. Ex. 3, Investigative Report at 6. This is plainly contradicted by the BWC footage. *See also* Ex. 3, Investigative Report at 8 (finding that "Deputy Lewis indicated that his initial concern was unfounded" while Defendant Cloud "*simultaneously* . . . asked Washington if he had any weapons") (emphasis added); *see supra* ¶¶ 59-60 ("As Defendant Cloud was pulling the door open further, but *before* Mr. Washington had exited his vehicle, Defendant Lewis, still inspecting the car with his flashlight through the windows, explicitly retracted his earlier statement that it was appropriate to order Mr. Washington to get out of the car, instead informing Defendant Cloud, "Yeah, well, it's—it's not what I thought it was." That statement clearly indicated that any perceived justification for ordering Mr. Washington out of the vehicle no longer existed. Defendant Cloud confirmed that he heard Defendant Lewis' statement and understood that whatever perceived justification supported ordering Mr. Washington out of his vehicle had been dispelled by saying to Defendant Lewis, "Okay. That's fine.")

32 Ex. 3, Investigative Report, at 10 (emphasis added).

33 *Id.* (emphasis added).

34 *Id.* at 9.

"exonerated" Defendants Cloud, Lewis, and Finn, finding that their actions were "within the parameters of the St. Tammany Parish Sheriff's Office policies and regulations."[35]

218. On February 1, 2023, the Professional Standards Division, Public Integrity Bureau and Internal Affairs Division, through Defendants Cox, Palmisano, Galloway and Francois, disposed of Mr. Washington's complaint as "without merit, considering there are no reasonable or factual grounds to support the underlying claim."

219. At least two individuals with delegated policymaking authority from Defendant Sheriff Smith, Defendants Galloway and Francois, explicitly ratified the unconstitutional conduct of Defendants Cloud, Lewis, and Finn based on impermissible grounds.

D. The Disparate Impact of STPSO Traffic Enforcement on Black People and People of Color

220. STPSO has been aware of a consistent and concerning pattern of disproportionate numbers of Black people being stopped by STPSO officers since at least 2008.[36]

221. Despite STPSO's commitment at that time to record racial data related to stops, STPSO has consistently refused to produce the data it avers to collect in response to Mr. Washington's public records requests.[37] Mr. Washington, however, was successfully able to obtain

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35 *Id.* at 11; Exhibit 5, Internal Affairs Log Entry No. 2023-008219 (Feb. 1, 2023, 10:16 A.M.) at 2.

36 "Throughout our data collection process, the St. Tammany Parish Sheriff's Office expressed interest and concern about racial profiling. To demonstrate the legal and professional conduct of their officers and to show their opposition to racial profiling, the St. Tammany Parish Sheriff's Office has agreed to collect racial data on all traffic stops in accordance with LSA-R.S. 32.398.10." ACLU, *Unequal Under the Law: Racial Profiling in Louisiana* (2008) at 18 (available at https://lpdb.la.gov/Serving%20The%20Public/Reports/txtfiles/pdf/Unequal%20Under%20the%20Law.pdf).

37 Mr. Washington has been requesting traffic and investigatory stop demographic data for previous years from the St. Tammany Parish Sheriff's Office Custodian of Records since November 9, 2023. *See* Exhibit 6, Public Records Requests for Traffic Stop Data (Nov. 9, 2023; Dec. 1, 2023; Dec. 13, 2023; and January 10, 2024).

The Custodian has refused to provide such records because her means of access to the database allegedly does not allow her to produce records of stops that indicate the race or sex of the individual. *See* Exhibit 7, Dec. 27, 2023 STPSO Response to Dec. 13, 2023 Public Records Request for Traffic Stop Data.

from the STPSO certain data regarding certain traffic stops effected by the STPSO between January 1, 2023 and November 29, 2023.[38] The following findings are based on that data.

222. In St. Tammany Parish, from January 1, 2023 to November 29, 2023, the rate of traffic stops per hundred thousand residents unveils an alarming disparity: there were 5,245 stops for every hundred thousand Black residents compared to 1,619 stops for every hundred thousand White residents. In other words, Black individuals were at least 3.5 times more likely to be stopped for alleged traffic violations than white individuals.[39] Generally, in St. Tammany Parish, people of color[40] are stopped a rate at least 2.1 (likely 2.9[41]) times higher than white people.

Mr. Washington was able to obtain the data for January 1, 2023-November 29, 2023 on December 6, 2023 because it had been generated by STPSO employees "based on a document provided by Mobiletec, STPSO's database vendor," while troubleshooting the search issues the Custodian was having. *See* Exhibit 8, "Mobiletec Dataset" (also available at http://bit.ly/STPSO-Mobiletec-Dataset). The STPSO Custodian of Records incorrectly maintains that producing the data in its possession from other time periods is tantamount to creating a new document, while refusing to grant access to the database so Plaintiff can access the information that STPSO has confirmed is readily and easily accessible. Ex. 7.

38 The Mobiletec Dataset is comprised 109,097 lines of data, which contain 12,921 event numbers and 16,634 event number-full name pairs associated with Call Type – Traffic Stop. Ex. 8. Mr. Washington was informed that this may not accurately capture all traffic stops, because a traffic stop may be categorized in the STPSO's recordkeeping system as another "call type." STPSO has refused to provide access to a list of possible call types on the basis that, although the call types available for data entry purposes are viewable by STPSO employees, it has no record listing them out. As of the filing of this complaint, Mr. Washington has several public records requests outstanding with the STPSO, seeking to obtain the same Mobiltec dataset for years prior. Ex. 7.

Out of concern for the privacy of individuals listed in the Mobiletec dataset, names are not included in the version attached as an exhibit.

39 Despite STPSO's commitment to collect racial data, only 5,529 event number-full name pairs associated with 'Call Type – Traffic Stop' actually contain the expected racial demographics (33%).

The Rethnicity package is a Bidirectional LSTM model created to predict race from an individual's first and last name. The model was trained on Florida Voter Registration on an equal-sized training set of 104,632 female and male names each from the ethnic categories of Black, White, Asian, Hispanic to ensure accuracy from minority ethnic backgrounds. Plaintiff notes that name to race / ethnicity prediction is a limited area of research that should only be utilized for the direct purpose of academic research or understanding discriminatory practices. Notwithstanding the foregoing, the application of the Rethnicity name-race prediction algorithm to the 11,105 event number-full name pairs lacking the racial data indicates that Black individuals are **4.2 times** more likely to be stopped by STPSO deputies than their white counterparts.

40 Any individual not categorized as "white" on the Mobiletec dataset.

41 Applying the Rethnicity prediction algorithm (*see supra* n. 39), the rate leaps to **2.9**.

223. And even though only 15% of St. Tammany Parish residents identify as Black, Black people accounted for **36%** of people stopped for alleged traffic violations, and **26%** of people cited for traffic violations.

224. Black people were two times more likely than white people to receive a citation solely for a violation that could not be observable to an officer on patrol, such as driving without a license.[42]

225. When an individual receives a traffic citation, it may be for more than one violation. In St. Tammany Parish, in 2023, Black people received 1.37 violations per traffic ticket. White people received 1.19. Alarmingly, Hispanic people received 1.86 violations per traffic ticket.

226. This is a clear and consistent pattern of action that cannot be explained by any grounds other than discriminatory practices, selective enforcement or impermissible treatment based on race and/or national origin.

E. STPSO's Refusal to Provide Training to Address the Serious Concerns Regarding Unlawful Frisks Is the Moving Force Behind the Identical, Subsequent Unlawful Search of Mr. Washington

227. Defendant Sheriff Smith is the final policymaker for decisions regarding training of prospective and current employees.

228. Defendant Sheriff Smith "moved POST training in-house for prospective and current employees. Sheriff Smith determined that the agency can provide training specific to the needs of the community we serve in addition to state-mandated training. In-house operation also

[42] The data was segmented to isolate incidents where a single citation was issued. Subsequently, the number of citations issued to both Black and White individuals for specific offenses was calculated, including 32:0412 EXPIRED DRIVER'S LICENSE, 32:0863.01 NO PROOF OF INSURANCE, 32:0411 NO DRIVER'S LIC. IN POSS., 47:0508 EXPIRED LICENSE PLATE, 47:0501 FAILURE TO REG VEHICLE, 32:0861 NO INSURANCE, 32:0052 DRIVER MUST BE LICENSED, and 32:0415 DRIVING UNDER REV/SUSP. These figures were then normalized by dividing them by the total number of citation incidents where individuals of both racial groups received only a single violation.

boosts morale and provides an opportunity to instill the agency's unique traditions with its deputies."[43] It appears that STPSO's "unique traditions" include disregarding the very real risk that its officers may be engaging in unconstitutional frisks.

229. Defendant Church, as Captain of the Training Division, has delegated policymaking authority from the Sheriff for "developing and maintaining an in-service, in-house training program to address specific needs of the Agency."

230. Defendant Cox directly supervises the Training Division.

231. It is indisputable that *Washington v. Smith* put Defendants Smith, Cox, and Church on notice of the risk that STPSO officers might be engaging in unconstitutional frisks, and thus require remedial or additional training.

232. If Defendant Sheriff Smith and the Supervisor Defendants were not made aware of the risk by March 10, 2022 when Mr. Washington filed *Washington v. Smith*, they were certainly aware by December 22, 2022 when the Eastern District of Louisiana denied an STPSO officer qualified immunity for a frisk *conducted in identical circumstances.*[44]

233. Mr. Washington further avers that qualified immunity is not a defense to any of his constitutional claims as the text of Section 1983 precludes such a defense.[45]

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43 Ex. 2, STPSO 2023 Budget Book, at 72.

44 *Washington v. Smith,* No. CV 22-632, 2022 WL 17844622, at *1 (E.D. La. Dec. 22, 2022), appeal dismissed sub nom. *Washington v. Thomas,* No. 23-30006, 2023 WL 4704142 (5th Cir. July 24, 2023).

45 That language is highlighted in the authentic copy of the Civil Rights Act of 1871, certified by the National Archives and Records Administration on August 19, 2022, reproduced here as Exhibit 9. As Judge Willett recently explained: "The language is unsubtle and categorical, seemingly erasing any need for unwritten, gap-filling implications, importations, or incorporations. Rights-violating state actors are liable—period—notwithstanding any state law to the contrary." *Rogers v. Jarrett*, 63 F.4th 971, 980 (5th Cir. 2023) (Willet, J., concurring), *cert. denied*, 144 S. Ct. 193 (2023). In that vein, the burden is not on Mr. Washington to overcome qualified immunity, discovery may not be restricted by the doctrine, and there is no requirement that the law be clearly established for Mr. Washington to prevail on his constitutional claims. *See See Alexander A. Reinert, Qualified Immunity's Flawed Foundation*, 111 Calif. L. Rev. 201, 207–08 (2023).

234. On December 21, 2022, it was highly predictable that STPSO officers would conduct traffic or investigatory stops. It was also highly predictable that STPSO officers would conduct frisks during those stops.[46]

235. Instead, Defendants Smith, Cox, Church, and other Supervisor Defendants were deliberately indifferent to that risk and issued *no* directive to officers in light of the Eastern District of Louisiana's denial of qualified immunity to an STPSO officer for a suspicion-less and nonconsensual frisk, nor even consider conducting additional trainings or updates to policies.[47]

236. This lack of training directly and proximately caused Officer Defendants, in particular Defendants Cloud and Lewis, to conduct and witness—in shockingly identical circumstances—a violation of the "law of frisks"[48] and, by extension, Mr. Washington's constitutional rights.

237. Although fully aware that the work of the STPSO demands extensive training, superior judgment, and close supervision, Defendant Sheriff Smith and Supervisor Defendants failed to properly train and supervise STPSO officers, knowing that such failures would result in Fourth and Fourteenth Amendment violations. The inadequate screening, training, and supervision of the STPSO is a direct and proximate cause of the STPSO's rampant unconstitutional frisks. As a direct and proximate result of the Defendants' failure to train and supervise STPSO officers, thousands of people have been subjected to unlawful stops and frisks, many times simply because of their race and/or national origin. By failing to properly train and supervise STPSO

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46 *See, e..g,* Exhibit 10, *Washington I,* Thomas Dep. Tr. 100:19 – 101:1, Nov. 14, 2022 (describing a pattern of officer safety patdowns absent reasonable suspicion during "most traffic stops" when individuals "answer 'no'" if asked whether "carrying weapons").

47 Exhibit 11, *Washington I,* STPSO 30(b)(6) Dep. Tr. 262:5-21, Oct. 11, 2023 (confirming no changes or updates to STPSO "regarding consent searches or pat downs" or "reminder regarding policy or guidelines or anything along those lines regarding consent searches and officer safety pat downs").

48 *Washington v. Smith,* 2022 WL 17844622, at *5.

officers, Defendant Sheriff Smith and the Supervisor Defendants have acted recklessly and with deliberate indifference to the constitutional rights of those who would come into contact with the STPSO.

F. The STPSO Violates Mr. Washington's Rights, Yet Again: October 8, 2023

238. On October 8, 2023, an STPSO deputy, Defendant Douglas Searle followed Mr. Washington for almost twenty miles along Highway 121, intent on pulling over Mr. Washington, a law-abiding Black man. Defendant Searle's tailing of Mr. Washington was unsuccessful, but, determined to harass Mr. Washington, pulled Mr. Washington over right before the Washington Parish line. Naturally, Defendant Searle did not turn on his body-worn camera to record the Fourth and Fourteenth Amendment violations he was willfully and deliberately about to undertake.[49]

239. Defendant Searle told Mr. Washington that he had pulled him over after running his license plate because his system said that Mr. Washington did not have any valid insurance.

240. That was false. Mr. Washington's insurance was fully paid, and Defendant Searle had no reason to believe otherwise. Nonetheless, Defendant Searle, recklessly and callously indifferent to Mr. Washington's Fourth and Fourteenth Amendment rights, maliciously engaged Mr. Washington in an unlawful stop based on knowingly false information.

241. Defendant Searle knew this stop was unlawful because he did not turn on his body-worn camera when he initiated the stop. Defendant Searle did not turn on his body-worn camera for the ten minutes during which he questioned Mr. Washington as he looked in his car. Defendant Searle only turned on his body-worn camera once he returned to his vehicle and began to conduct the license check on Mr. Washington.

[49] Information regarding this incident is based on Defendant Searle's body-worn camera footage that Mr. Washington obtained via a Public Records Request to the STPSO.

242. If the knowingly unlawful seizure of Mr. Washington wasn't egregious enough, Defendant Searle – as he was waiting for dispatch to complete the check—took *pictures of Mr. Washington's* driver's license and other documentation on a cellphone.

243. Upon information and belief, because this cellphone had social media applications on it, the cellphone used was Defendant Searle's personal cellphone. Mr. Washington is suffering great distress knowing that his personal information is stored on a private cellphone of an STPSO employee.

244. Moreover, Defendant Searle's deliberate and reckless invasion of privacy was not limited to Mr. Washington. The body camera footage clearly shows many other pictures of other individual's identification on Defendant Searle's phone. And if the phone used by Defendant Searle were an agency-issued device (which Plaintiff does not believe it is), then there is no justification for this invasive practice and insecure data maintenance.

G. The Impact of STPSO's Reprehensible, Intimidating, Harassing and Unconstitutional Misconduct On Mr. Washington

245. As a result of the January 2023 Incident, the October 2023 Incident, the March 13, 2021 Incident, and a lifetime history of being stopped by STPSO deputies, Mr. Washington suffers from ever-present anxiety.

246. Mr. Washington continues to suffer ongoing emotional distress, including a constant fear of being detained and harassed by police, anxiety, stress, hypervigilance, and fear of driving in St. Tammany Parish.

FIRST CAUSE OF ACTION

Violation Under 42 U.S.C. § 1983—Unlawful Extension of Detention in Violation of the Fourth and Fourteenth Amendment and Article 1 Section 5 of the Louisiana Constitution
(Against Defendants Cloud, Finn, and Lewis)

247. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

248. The conduct of Defendants Cloud, Lewis, and Finn in stopping, frisking and searching Mr. Washington and his vehicle on January 13, 2023, were performed under color of law and without any reasonable suspicion of criminality or other constitutionally required grounds. Moreover, these stops and frisks were performed on the basis of racial and/or national origin profiling.

249. The Fourth Amendment applies to all seizures of the person, including seizures that involve only a brief detention short of traditional arrest. *United States v. Brignoni–Ponce*, 422 U.S. 873, 878 (1975). It is clearly established that lawful traffic stops may last no longer than necessary to effectuate their purpose. *Rodriguez v. United States*, 575 U.S. 348, 356-57 (2015).

250. It was clearly established as of January 13, 2023, that under the Fourth Amendment to the U.S. Constitution a traffic stop may last no longer than is necessary to effectuate its purpose. To further detain a suspect during a traffic stop under the Fourth Amendment, an officer must have reasonable suspicion based on specific and articulable facts which, together with objective and reasonable inferences, form the basis for suspecting that the persons detained are engaged in criminal activity. Police officers may not detain people, or engage in searches and seizures, if they do not have reason to believe the extended detention would lead to evidence relating to the reason for the stop. *Rodriguez*, 575 U.S. at 348.

251. Even when the initial stop of a vehicle is valid, the continued detention, after a computer check on driver's license revealed clean records, is unreasonable and violates the Fourth Amendment. *United States v. Jones*, 234 F.3d 234, 241 (5th Cir. 2000). *See also United States v. Valadez*, 267 F.3d 395, 398–99 (5th Cir. 2001) (finding continued detention of defendant illegal

once officer confirmed that defendant had not committed traffic violation and no reasonable suspicion of any other wrongdoing existed); *United States v. Dortch*, 199 F.3d 193, 198 (5th Cir. 1999) (finding continued detention invalid "after the officer had informed [defendant] that the computer check was completed" but nonetheless detained defendant's car until dog team arrived); *see also United States v. Miller*, 146 F.3d 274, 280 (5th Cir. 1998) (stating purpose of invalid traffic stop "was to seek . . . consent of driver[] to search for drugs" and thus consent was tainted).

252. Even a delay of six to eight minutes following a traffic stop where the detention was unlawfully extended is a violation of a person's Fourth Amendment rights. *Rodriguez*, 575 U.S. at 356, 358.

253. "In order to prolong a detention after issuing a citation or determining that no citation should be issued", an officer must have developed a "reasonable suspicion" of additional criminal activity "in the course of the stop and before the initial purpose of the stop ha[s] been fulfilled". *United States v. Cavitt*, 550 F.3d 430, 436–37 (5th Cir. 2008).

254. Only if "the officer develops reasonable suspicion of additional criminal activity during his investigation of the circumstances that originally caused the stop, he may further detain its occupants for a reasonable time while appropriately attempting to dispel this reasonable suspicion." *United States v. Pack*, 612 F.3d 341, 350 (5th Cir. 2010).

255. "Reasonable suspicion exists when the detaining officer can point to specific and articulable facts that, when taken together with rational inferences from those facts, reasonably warrant the search and seizure." *United States v. Estrada*, 459 F.3d 627, 631 (5th Cir. 2006).

256. Defendants Cloud, Lewis, and Finn readily informed Mr. Washington that the purpose of the stop was to give him a verbal warning.

257. That purpose was achieved within the first two minutes of the stop, when Defendant Cloud informed Mr. Washington of the reason he pulled him over, and Mr. Washington apologized.

258. Whatever may have constituted a modicum of reasonable suspicion justifying Defendant Lewis' suggestion to order Mr. Washington out of the car (and everything that ensued thereafter) was unequivocally dispelled within *six* seconds.

259. There was no reasonable suspicion that criminal activity was ongoing or imminent (as confirmed by Defendants Cloud and Lewis) when Defendant Cloud ordered Mr. Washington out of his vehicle.

260. Even though Defendant Lewis was not busy and was waiting by the rear of Mr. Washington's vehicle, Defendant Cloud retained possession of Mr. Washington's identification while he conducted the impermissible search, rather than giving it to Defendant Lewis so he could initiate the license checks. This unlawfully prolonged the stop for the duration of the first search.

261. It was clearly established that once a stopped individual's records check comes back clear and the purpose of the stop has been achieved, continued detention is invalid.

262. The stop lasted at least 14 minutes and 24 seconds. Because the purpose of the stop was complete at 7:19 PM *at the latest* when Defendant Cloud informed Mr. Washington that he would not be issuing him a citation, and Defendant Lewis received confirmation from dispatch that there were no outstanding warrants against Mr. Washington, Defendants Cloud, Lewis, and Finn impermissibly extended the traffic stop by *ten* minutes.

263. Despite the utter absence of reasonable suspicion of evidence of wrongdoing, the search of Mr. Washington's vehicle, trunk and hood continued. So did the stop.

264. In fact, Defendants Lewis, Cloud, Finn, Galloway and Francois all agree that the stop was not "concluded" until the searches of Mr. Washington's vehicle and his belongings were complete, and his identification returned, whereupon Mr. Washington was "released."

265. Defendants Cloud, Lewis, and Finn's extension of the traffic stop when they had no reasonable suspicion that criminal activity was occurring or imminent was therefore unlawful and violative of Mr. Washington's rights under the Fourth Amendment to the United States Constitution against unreasonable seizures. Moreover, the extension of the stop was performed on the basis of racial and/or national original profiling.

266. Defendants Cloud, Lewis, and Finn's conduct was motivated by an evil motive or intent and/or involved reckless or callous indifference to Mr. Washington's federally protected rights.

267. No reasonable law enforcement officer in Defendants Cloud, Lewis, and Finn's position would have reasonably believed that lawful justification existed to prolong the traffic stop after the initial determination that no ticket was warranted, and certainly not after Mr. Washington's license check was complete.

268. Defendants Cloud, Lewis, and Finn decided, at least in part, to search Mr. Washington, his wallet, and/or his vehicle because he is a Black man.

269. There is no evidence suggesting that Defendants Cloud, Lewis, and Finn feared for their or the public's safety or suspected Mr. Washington of criminal activity. In fact, the opposite is true, and is evidenced by, among other things:

a) explicit statements that any suspicion justifying ordering Mr. Washington out of his vehicle was dispelled before he had exited;

b) never intending to issue Mr. Washington a citation in the first place;

c) finding Mr. Washington fully compliant and polite.

270. Upon information and belief, due to the unequivocal absence of suspicion or threat to the deputies and general public safety, the weapons frisk, wallet search, vehicle search, harassment, and detention were racially motivated and reflect Defendants Cloud, Lewis, and Finn's internalized racial stereotyping of delinquency and dangerousness rooted in the history of criminalization of Black people in Louisiana.[50]

271. Defendants Cloud, Lewis, and Finn's conduct thus violated Mr. Washington's clearly established rights, of which reasonable deputies would know or should know.

272. As a direct and proximate result of the Defendants Cloud, Lewis, and Finn's conduct as set forth above, Mr. Washington suffered and continues to suffer fear, embarrassment, humiliation, and pain, in an amount to be proven at trial.

273. The acts of Defendants Cloud, Lewis, and Finn were intentional, wanton, malicious, reckless and oppressive, thus entitling Plaintiff to an award of punitive damages.

274. As a direct and proximate result of such acts, Defendants Cloud, Lewis, and Finn deprived Mr. Washington of his Fourth and Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

275. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

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[50] *See, e.g.*, J. Michael Kennedy, *Sheriff Rescinds Order to Stop Blacks in White Areas*, L.A. Times (Dec. 4, 1986, 12:00 AM), https://www.latimes.com/archives/la-xpm-1986-12-04-mn-1380-story.html (explaining that the then-sheriff of Jefferson Parish Sheriff's Office reportedly said, "If there are some young blacks driving a car late at night in a predominantly white area, they will be stopped . . . .If you live in a predominantly white area and two blacks are in a car behind you, there's a pretty good chance they're up to no good.").

SECOND CAUSE OF ACTION

Violation Under 42 U.S.C. § 1983—Unlawful Search and Seizure in Violation of the Fourth and Fourteenth Amendments of the U.S. Constitution and Article 1 Section 5 of the Louisiana Constitution

(Against Defendants Cloud, Lewis, and Finn)

276. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

277. It was clearly established at the time of Defendant Cloud's search of Mr. Washington that, absent any reasonable suspicion, a law enforcement officer may only conduct a pat-down search after obtaining valid and voluntary consent. *United States v. Scroggins*, 599 F.3d 433, 440 (5th Cir. 2010).

278. It was clearly established at the time of Defendant Cloud's search of Mr. Washington that mere acquiescence to a claim of lawful authority is not voluntary consent. *United States v. Jaras*, 86 F.3d 383, 390 (5th Cir. 1996) (citing *Bumper v. North Carolina*, 391 U.S. 543, 548-49 (1968)).

279. It was clearly established at the time of Defendant Cloud's Search of Mr. Washington that nonresistance does not amount to consent. *United States v. Hernandez*, 701 F. App'x 400, 401 (5th Cir. 2017); *United States v. Cooper*, 43 F.3d 140, 145 n.2 (5th Cir. 1995).

280. In "advis[ing]" Mr. Washington "that he would like to perform a pat down search," Defendant Cloud made a claim of lawful authority to conduct a frisk of Mr. Washington.

281. Moreover, the STPSO determined that Mr. Washington "submitted without protest" to the search of his person.[51]

282. Mr. Washington did not feel he could refuse the search because it is the position of the STPSO that "refus[ing] to comply with initial commands" gives rise to reasonable suspicion

[51] Ex. 3, Investigative Report, at 10.

that would justify a *nonconsensual* search. *Washington v. Smith*, No. CV 22-632, 2022 WL 17844622, at *4 (E.D. La. Dec. 22, 2022).

283. Had Mr. Washington told Defendant Cloud that he *did* "mind" an officer safety patdown, Defendant Cloud would have patted him down anyway. Mr. Washington's gesture of "submi[ssion] to"[52] Defendant Cloud's show of lawful authority did not constitute consent.

284. Defendant Cloud violated Mr. Washington's Fourth Amendment rights by searching him without his consent. Moreover, this search was performed on the basis of racial and/or national origin profiling.

285. It was clearly established at the time of Defendant Cloud's search of Mr. Washington that, "to proceed from a stop to a frisk, the police officer must reasonably suspect that the person stopped is armed and dangerous." *Arizona v. Johnson*, 555 U.S. 323, 326-27 (2009).

286. It was clearly established at the time of Defendant Cloud's search of Mr. Washington that "[r]easonable suspicion must be supported by 'specific and articulable facts suggesting actual physical risk to [the officer] or others.'" *Washington v. Smith*, No. CV 22-632, 2022 WL 17844622, at *3 (E.D. La. Dec. 22, 2022) (citing *United States v. Jenson,* 462 F.3d 399, 407 (5th Cir. 2006)).

287. Defendant Sheriff Smith has publicly stated that St. Tammany Parish has a "low crime rate."[53]

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[52] *Id.*

[53] Ex. 2, STPSO 2023 Budget Book, at 25.

288. Throughout the stop, Defendant Lewis "didn't feel" that Mr. Washington "posed a threat to [him]."[54]

289. For approximately six seconds, Defendant Cloud believed that Defendant Lewis had "seen something" in the backseat of Mr. Washington's vehicle, such as "a weapon or something dangerous."

290. Before the search of Mr. Washington, Defendant Lewis clearly indicated and Defendant Cloud clearly acknowledged that Defendant Lewis' concern had been immediately dispelled.

291. As such, no reasonable officer would have believed a frisk in such circumstances was lawful.

292. It was clearly established at the time of Defendant Cloud's search of Mr. Washington that a weapons frisk is limited to patting a person's outer layers of clothing and that reaching into an individual's pocket exceeds the permissible scope of a weapons frisk. *Sibron v. New York,* 392 U.S. 40 (1968). A law enforcement officer may not squeeze pockets and clothing unless they plainly feel an item that may be a weapon. *See e.g., United States v. Johnson,* 932 F.2d 1071, 1073 (5th Cir. 1991).

293. Defendant Cloud reached into both of Mr. Washington's pockets when he had not plainly felt there may have been a weapon in either of them.

294. Defendant Cloud had not sought consent to reach into Mr. Washington's pockets, and Mr. Washington did not provide consent for Defendant Cloud to reach into his pockets.

[54] References to statements made by Defendants Lewis and Cloud are based on recordings of interviews conducted on January 31, 2023 in connection with the Internal Affairs investigation into the incident. Mr. Washington obtained these recordings via a Public Records Request to STPSO.

295. Further, Defendant Cloud "retrieved [Mr. Washington's] wallet from his pocket" without seeking his consent to do so, amounting to an unlawful seizure of his property.

296. Having not felt anything that could be a weapon, Defendant Cloud violated Mr. Washington's Fourth Amendment right to be free from unlawful searches by reaching into his pockets during the patdown search, *regardless* of whether Mr. Washington consented to the weapons frisk to begin with.

297. Defendant Cloud further violated Mr. Washington's Fourth Amendment right to be free from unlawful seizures by removing Mr. Washington's wallet from his pocket and placing it on the trunk of the car without Mr. Washington's consent.

298. It was clearly established at the time of Defendant Cloud's search of Mr. Washington that "apparent consent" to a search "preceded by an impermissible seizure" is "infected by [that] unlawful detention." *Mendenhall*, 446 U.S. at 558.

299. Any "apparent consent" from Mr. Washington to the weapons frisk was preceded by the impermissible order to exit his vehicle as any reasonable suspicion justifying such an order had been *explicitly* dispelled by Defendant Lewis and acknowledged by Defendant Cloud.

300. Any "apparent consent" from Mr. Washington to search his wallet was preceded by a weapons frisk, impermissible at its inception, and impermissibly extended in scope by Defendant Cloud's intrusion into his pockets and seizure of his wallet.

301. It was clearly established at the time of Defendant Cloud's weapons frisk of Mr. Washington that "where there is coercion, there cannot be consent." *Bumper v. North Carolina*, 391 U.S. 543, 550 (1968).

302. Defendant Cloud further violated Mr. Washington's Fourth Amendment rights by searching his wallet without his valid and voluntary consent.

303. No reasonable law enforcement officer in Defendants Cloud, Lewis, and Finn's' position would have reasonably believed that reasonable suspicion existed justifying a warrantless search and seizure of Mr. Washington or his wallet.

304. No reasonable law enforcement officer would understand any "consent" hypothetically perceived or given by Mr. Washington as valid and voluntary.

305. Defendants Cloud, Lewis, and Finn's conduct thus violated Mr. Washington's clearly established rights, of which reasonable deputies would know or should know. Moreover, the Defendants Cloud, Lewis, and Finn's acts were performed on the basis of racial profiling.

306. As a direct and proximate result of Defendants Cloud, Lewis, and Finn's conduct as set forth above, Mr. Washington suffered and continues to suffer fear, embarrassment, humiliation, and pain, in an amount to be proven at trial.

307. The acts of Defendants Cloud, Lewis, and Finn were intentional, wanton, malicious, reckless, and oppressive, thus entitling Plaintiff to an award of punitive damages.

308. As a direct and proximate result of such acts, Defendants Cloud, Lewis, and Finn deprived Mr. Washington of his Fourth and Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

309. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

THIRD CAUSE OF ACTION

Violation Under 42 U.S.C. §1983—Unlawful Search of Mr. Washington's Vehicle in Violation of the Fourth and Fourteenth Amendment of the U.S. Constitution and Article 1 Section 5 of the Louisiana Constitution
(Against Defendants Cloud, Lewis, and Finn)

310. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

311. At the time of the Incident, Mr. Washington had clearly established rights under the Fourth Amendment of the U.S. Constitution guaranteeing citizens the right to be secure in their persons and protecting them from unreasonable search and seizure by law enforcement officers. U.S. Const., amend. IV.

312. The Fourth Amendment requires that Mr. Washington, or any individual, not be subject to a vehicle search absent a warrant, probable cause, or valid consent. *U.S. v. Mendoza-Gonzalez*, 318 F.3d 663, 666 (5th Cir. 2003).

1. Defendants Cloud, Lewis, and Finn Did Not Have Probable Cause to Search Mr. Washington's Vehicle

313. It was clearly established at the time of Mr. Washington's unlawful search that, despite the somewhat diminished expectation of privacy in the automobile context, a search of an automobile is a substantial invasion of privacy. *See South Dakota v. Opperman*, 428 U.S. 364, 367–368 (1976) *and Almeida-Sanchez v. United States*, 413 U.S. 266, 269-270 (1973).

314. To protect that privacy from official arbitrariness, the Court has always regarded probable cause as the minimum requirement for a lawful vehicle search. *See id.* (holding that a vehicle search conducted 25 miles away from the border still required probable cause); *United States v. Ross*, 456 U.S. 798, 807–09 (1982) (holding that a vehicle search was valid when the law

enforcement officer had probable cause); *Chambers v. Maroney*, 399 U.S. 42, 51 (1970) (holding that the search of a vehicle was valid where the law enforcement officer had probable cause.); *United States v. Ortiz*, 422 U.S. 891, 896 (1975) (holding that roving patrols and traffic checkpoints both require probable cause to search the vehicle.).

315. It was clearly established at the time of Mr. Washington's unlawful search that failure to signal and cooperate with law enforcement, absent other facts, are not enough to establish probable cause to believe that a person's car contains contraband. *See United States v. Strong*, 552 F.2d 138 (5th Cir. 1977) (holding that probable cause to conduct a search arises where there are reasonable grounds to believe that the suspect's car contains contraband and is viewed in the totality of the circumstances).

316. Defendant Cloud pulled over Mr. Washington for riding the center of two lanes "for a second" and failing to signal, *not* for the suspected possession of contraband.

317. Not only was Mr. Washington pulled over for reasons that *cannot* amount to probable cause justifying search of his vehicle, but no reasonable grounds existed to believe that his car contained weapons or drugs during the course of the stop.

318. During the stop, Mr. Washington was cooperative and responsive with Defendants Cloud, Lewis, and Finn and immediately complied with all orders, including providing his identification when asked, and obeying Defendant Cloud's orders to exit his vehicle and place his hands on the trunk.

319. Mr. Washington responded truthfully that he had no weapons on his person, which Defendant Cloud confirmed by conducting a nonconsensual weapons frisk.

320. Because Defendants Cloud, Lewis, and Finn did not have probable cause or a warrant to justify the search, Defendants Cloud, Lewis, and Finn needed valid and voluntary

consent to search the vehicle. *See United States v. Mendoza-Gonzalez*, 318 F.3d 663, 666 (5th Cir. 2003) (holding that law enforcement must have either the owner's consent to conduct the search or probable cause to believe that the vehicle contains contraband or other evidence of a crime).

2. Mr. Washington Did Not Voluntarily and Validly Consent to a Search of His Vehicle

321. It was well established at the time of the incident that a defendant's mere acquiescence to a show of lawful authority is insufficient to constitute voluntary consent. *United States v. Jaras*, 86 F.3d 383, 390 (5th Cir. 1996) (citing *Bumper*, 391 U.S. at 548-49).

322. There are only two ways to view what occurred during the Incident as "consent": either it was reasonable to believe that Mr. Washington stating that the deputies could "*look at*" the weed-whacker followed by Deputy Cloud declining the offer constituted consent, or that Mr. Washington failing to object to Deputy Cloud's statement that they were going to "go through" his vehicle constitutes consent to search his entire vehicle and all containers within it.

323. Defendant Cloud never asked for consent but instead stated (after declining Mr. Washington's offer to "look *at*" his car) that the STPSO officers would "go through [his] car to make sure [he] didn't have anything crazy."

324. In telling Mr. Washington the STPSO officers would go through his car and telling Mr. Washington to remain at the rear of his vehicle while they did so, Defendant Cloud communicated that he had lawful authority to search Mr. Washington's car.

325. However, because Defendant Cloud had neither probable cause, nor Mr. Washington's consent, to search the vehicle, he did not have lawful authority to search it.

326. Mr. Washington merely acquiesced to Defendant Cloud's show of authority that he was allowed to conduct a limitless general search of Mr. Washington's vehicle.

327. Because mere acquiescence to a show of lawful authority does not amount to consent, Mr. Washington did not consent to the search of his vehicle that ensued.

328. It was clearly established at the time of the Incident that consent given after an unconstitutional detention or frisk is analyzed using a two-prong test: (1) whether the consent was voluntarily and freely given; and (2) whether the consent was an independent act of free will. *United States v. Macias*, 658 F.3d 509 (5th Cir. 2011).

329. It was clearly established at the time of the Incident that the temporal proximity of the unconstitutional conduct and the consent, the presence of intervening circumstances, and the purpose and flagrancy of the initial misconduct are relevant to determining whether consent is an independent act of free will. *See United States v. Jones*, 234 F.3d 234, 242 (5th Cir. 2000) abrogated in part on other grounds by *United States v. Pack*, 612 F.3d 341 (5th Cir. 2010) (holding that where the defendant was being held in a police car without his identification the consent to search was not valid).

330. It was clearly established at the time of the Incident that when illegal detention was still ongoing and there was not an intervening act between the illegal detention and the consent, any consent given is not an independent act of free will. *United States v. Portillo-Aguirre*, 311 F.3d 647 (5th Cir. 2002); *Florida v. Royer*, 460 U.S. 491 (1983).

331. Mr. Washington's consent was not voluntarily and freely given.

332. Because Mr. Washington's traffic stop was being unlawfully extended, he was being unlawfully detained, and thus any consent he *may* have given could not have been an independent act of free will.

333. For the reasons discussed above, any "consent" Mr. Washington *may* have given was immediately subsequent to a flagrantly unlawful search, and so could not have been an independent act of free will.

334. It was clearly established at the time of the Incident that when a law enforcement officer remains in possession of an individual's identification and the person is not aware he may leave, any consent to search is not an independent act of free will. *United States v. Jenson*, 462 F.3d 399 (5th Cir. 2006).

335. Because Defendants Cloud, Lewis, and Finn did not return Mr. Washington's license to him until the search of his vehicle was complete and he did not believe he was free to leave, any consent he may have given was not an independent act of free will.

336. It was clearly established at the time of the Incident that when a law enforcement officer holds on to a person's identification until 30 seconds before asking for consent and orders them to stay at the rear of a vehicle after trying to walk toward the front of their car, any consent given was not an independent act of free will. *United States v. Macias*, 658 F.3d 509 (5th Cir. 2011).

337. Because Defendants Cloud, Lewis, and Finn were in possession of Mr. Washington's license for the entirety of the stop and had ordered him to remain at the rear of the vehicle after he sought to return to the front of his car, any consent he may have given to search his vehicle was not an independent act of free will.

338. It was clearly established at the time of the incident that consent that is coerced is not valid. *See United States v. Gomez-Moreno*, 479 F.3d 350, 357 (5th Cir. 2007), *overruled on other grounds by Kentucky v. King*, 563 U.S. 451 (2011).

339. To determine whether consent was given voluntarily, the Fifth Circuit considers: (1) the voluntariness of the defendant's custodial status; (2) the presence of coercive police procedures; (3) the extent and level of the defendant's cooperation with the police; (4) the defendant's awareness of his right to refuse consent; (5) the defendant's education and intelligence; and (6) the defendant's belief that no incriminating evidence will be found. *United States v. Hernandez,* 279 F.3d 302, 307 (5th Cir. 2002).

340. Mr. Washington was pulled over at nighttime on an extremely dark and nearly quiet road.

341. Mr. Washington provided the Defendants with his identification and was ordered out of his vehicle. He was alone and was surrounded by three armed police officers.

342. Throughout the stop and the search, Defendants Cloud, Lewis, and Finn peppered Mr. Washington with questions and asked him at least two times if he had any weapons or items they should be concerned about.

343. Because Mr. Washington had been pulled over, was no longer in possession of his driver's license, and had been searched beyond the scope of *Terry,* his custodial status was not voluntary. *See Rodriguez v. United States,* 575 U.S. 348, 348 (2015) (finding that a police stop exceeding the time needed to handle the matter for which the stop was made violated a person's constitutional rights against unreasonable seizures).

344. Defendants confirmed that Mr. Washington's custodial status was not voluntary, because he was only "released" at the conclusion of the search.[55]

345. Because there were three officers present on a pitch-black and lightly trafficked road, Mr. Washington was alone and was asked repeatedly if he had weapons, to which he

[55] Ex. 3, Investigative Report at 9.

responded truthfully by saying no, and Mr. Washington had just been frisked without his consent, there were coercive police procedures present.

346. Mr. Washington's highest completed level of education is seventh grade. Mr. Washington started eighth grade but did not complete the academic year. Mr. Washington did not take the General Educational Development (GED) test. Mr. Washington did not start or complete any other educational schools.

347. Mr. Washington did not believe he could refuse consent to search his vehicle.

348. In fact, when Mr. Washington contacted the Internal Affairs division of the STPSO to make a complaint regarding the deputies' misconduct during the Incident, Defendant Francois told Mr. Washington that he should always comply with requests from law enforcement when pulled over.

349. Mr. Washington further did not believe that he could limit the scope of the search of his vehicle as it was ongoing.

350. Because 1) Mr. Washington's custodial status was not voluntary; 2) there were coercive police procedures present prior to obtaining any "consent" to search Mr. Washington's vehicle; 3) Mr. Washington has limited education, and 4) Mr. Washington did not believe he could refuse consent (for his safety and due to Defendant Cloud's show of lawful authority), Mr. Washington did not provide valid consent to the search of his vehicle at all, let alone to the egregious and invasive search that actually occurred.

3. The Individual Defendants' Actions Exceeded the Scope of the Object of the Search

351. It was clearly established at the time of the Incident that the standard for measuring the scope of consent is "what is objectively reasonable for the police officer to believe based on the defendant's actions." *Florida v. Jimeno*, 500 U.S. 248, 251 (1991)

352. The scope of a search is generally defined by its expressed object. *United States v. Ross,* 456 U.S. 798 (1982).

353. It was clearly established at the time of the Incident, that when conducting a warrantless search of a vehicle based on consent, officers have no more authority to search than it appears was given by the consent. *United States v. Cotton*, 722 F.3d 271, 275 (5th Cir. 2013) (citing *United States v. Garcia*, 604 F.3d 186, 190 (5th Cir.2010) and *United States v. Mendoza–Gonzalez*, 318 F.3d 663, 666–67 (5th Cir.2003)).

354. It was also clearly established at the time of the Incident that the objective reasonableness of the scope of consent is viewed by the totality of the circumstances. *See United States v. Rich*, 992 F.2d 502, 508 (5th Cir. 1993) (holding that where the law enforcement officer had just asked about drugs and weapons prior to the search, it was objectively reasonable for the scope of the search to include all places where drugs or weapons could be found.).

355. Defendant Lewis communicated and Defendant Cloud acknowledged that there was no reason to believe that there were drugs or weapons in the vehicle.

356. Defendant Cloud asked Mr. Washington at least two separate times whether he had weapons in his car or on his person and asked if there was "anything in the car we should be concerned about," clearly indicating that the object of the search was weapons and illegal drugs.

357. Even if Defendant Cloud's statement that the STPSO officers would "go through [his] car to make sure [he] didn't have anything crazy" could constitute a request for consent validly obtained, it was clear that the object of the search was weapons and illegal drugs.

358. Because weapons could not be found in any of the containers the STPSO deputies emptied and searched through, such as a small plastic bag, under the seat cover, or under the hood of the car, the search conducted by Defendants went beyond the purported object of the search.

359. Any reasonable law enforcement officer, including Defendants Cloud, Lewis, and Finn, should have known that, *if Mr. Washington consented at all*, he consented only to a limited search of his vehicle for weapons.

360. Because Defendants Cloud and Finn searched locations and containers in Mr. Washington's vehicle that could not have contained weapons, Defendants Cloud and Finn unreasonably extended the scope of the search in what clearly became a search for illegal drugs and other contraband.

4. Mr. Washington Was Intentionally Prevented From Limiting the Scope of the Search

361. It was clearly established at the time of the Incident that the scope of a search is dictated by the vehicle owner who may limit the scope of the search while it is ongoing. *See United States v. Mendoza-Gonzalez,* 318 F.3d 663 (5th Cir. 2003).

362. When a person is not in a position to object to the scope of a consent search due to being held behind a vehicle, the consent search may be unconstitutional. *J.J.V. v. State,* 17 So. 3d 881 (Fla. 4th Dist. App. 2009) (holding that the appellant who consented to a search was unable to protest the scope into a locked container where he was being held at the back of the vehicle and as such the search into the locked container was unconstitutional).

363. Defendant Cloud not only ordered Mr. Washington to stand behind his car during the search, but the Defendants Cloud, Lewis, and Finn intentionally prevented Mr. Washington from observing the search by repeatedly asking Mr. Washington questions.

364. When Defendant Cloud joined in the search of Mr. Washington's vehicle, he made sure Mr. Washington was still prevented from observing – or objecting to – the scope of the search by ordering Defendant Lewis to continue questioning Mr. Washington.

365. Defendants purposefully distracted Mr. Washington with repeated questions while they opened a small bag, multiple backpacks, a duffle bag, a box, and the hood of the car.

366. Mr. Washington feared that if he didn't engage with the officers as they made small talk, Defendants Cloud, Lewis, and Finn would escalate the already frightening situation.

367. Defendants Cloud, Lewis, and Finn ordered Mr. Washington to stay behind the vehicle while Defendant Finn and Defendant Cloud searched the vehicle and its contents for over nine minutes, including the middle console, a pocket flashlight (and the batteries within it), multiple closed backpacks and bags (and containers within those bags, such as Mr. Washington's medication bottle), a box in the backseat, under the seat covers, the trunk, the contents of the bags in the trunk, and the hood of the vehicle.

368. The Defendants' conduct thus violated Mr. Washington's clearly established Fourth Amendment rights in a manner that reasonable deputies would know was unconstitutional. Moreover, the Defendants Cloud, Lewis, and Finn's acts were performed on the basis of racial profiling.

369. The acts of Defendants Cloud, Lewis, and Finn were intentional, wanton, malicious, reckless, and oppressive, thus entitling Plaintiff to an award of punitive damages.

370. As a direct and proximate result of such acts, Defendants Cloud, Lewis, and Finn deprived Mr. Washington of his Fourth and Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

371. As a direct and proximate result of the Defendants Cloud, Lewis, and Finn's conduct as set forth above, Mr. Washington suffered and continues to suffer fear, embarrassment, humiliation, and pain, in an amount to be proven at trial.

372. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally liable.

FOURTH CAUSE OF ACTION

Violation Under 42 U.S.C. § 1983—Unreasonable Seizure in Violation of the Fourth and Fourteenth Amendment of the U.S. Constitution and Article 1 Section 5 of the Louisiana Constitution

(Defendant Searle)

373. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

374. Defendant Searle seized Mr. Washington using force and words a reasonable person would be afraid to ignore by following him for miles, and pulling him over in the middle of the night, in a low-trafficked area, using the flashing lights on Searle's vehicle.

375. At the time Defendant Searle seized him, Mr. Washington had clearly established rights under the Fourth and Fourteenth Amendment to be free from unreasonable search and seizure.

376. Defendant Searle's seizure of Mr. Washington was objectively unreasonable, because of the facts and circumstances complained of herein, including that Mr. Washington was not violating any laws at the time of his seizure. Instead, Searle stopped Mr. Washington for nothing more than his race.

377. Defendant Searle's seizure of Mr. Washington directly and proximately caused compensable injury to him.

378. The suspicion-less and nonconsensual frisk of Mr. Washington, the search of his pockets, the search of his wallet, the search of his vehicle, and the search of his trunk each reflect a separate instance of the Officer Defendants depriving Mr. Washington of the rights guaranteed by the Fourth Amendment.

379. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Searle and his actions alleged herein and are jointly and severally liable for any and all damages arising from the injuries suffered by Mr. Washington.

FIFTH CAUSE OF ACTION
Monell Liability for Unlawful Searches in Violation of the Fourth Amendment of the U.S. Constitution – Ratification of a Subordinate's Unlawful Act
(Against Defendants Sheriff Smith, Cox, Palmisano, Galloway and Francois)

380. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

381. "[W]hen a subordinate's decision is subject to review by the municipality's authorized policymakers, they have retained the authority to measure the official's conduct for conformance with their policies. If the authorized policymakers approve a subordinate's decision and the basis for it, their ratification would be chargeable to the municipality because their decision is final." *City of St. Louis v. Prapotnik,* 485 U.S. 112, 127 (1988)(plurality opinion); *see also Culbertson v. Lykos*, 790 F.3d 608, 622 (5th Cir. 2015).

382. Defendant Sheriff Smith has delegated certain policy decisions to Defendant Palmisano, Defendant Cox, Defendant Galloway, and Defendant Francois, namely whether conduct complained of by a citizen is "within the parameters of the St. Tammany Parish Sheriff's Office policies and regulations" and whether there are "reasonable or factual grounds to support the underlying claim" of officer misconduct.[56]

[56] Ex. 3, Investigative Report, at 11; *see also* ¶¶ 40-43.

383. To make this decision, the Internal Affairs Division is charged with conducting meetings with the complainant and interviews to determining whether the complaint should be handled by the officers' supervisors or the Internal Affairs Division. If the Internal Affairs Division is tasked with the investigation, Defendant Galloway and Defendant Francois are responsible for making the final decision as to whether a complaint is supported by sufficient facts and is meritorious.

384. On January 26, 2023, Defendant Francois told Mr. Washington that he the Defendants Cloud, Lewis, and Finn would have to articulate why they had to search his person, wallet, and vehicle in order for their actions to be "within the parameters of the law."

385. In interviewing Defendants Cloud, Lewis, and Finn, the Internal Affairs Division learned of the officers' conduct and the reasons (or lack thereof) undergirding their decisions to proceed with the unconstitutional searches and extension of Mr. Washington's traffic stop until he was "released" after the vehicle search.[57] In other words, the Internal Affairs Division understood that Mr. Washington was not free to leave until the completion of the vehicle search.

386. The Internal Affairs Division knew that purpose of the stop was accomplished, at most, *four minutes* into the stop, when Defendant Lewis determined Mr. Washington's record was clean and Defendant Cloud had informed Mr. Washington that he was not going to issue him a citation.

387. The Internal Affairs Division ratified Defendants Cloud, Lewis, and Finn's decision to continue to interview Mr. Washington and conduct searches of Mr. Washington's vehicle, trunk, and every single container within the vehicle without 1) reasonable suspicion that criminal activity was occurring or imminent, or 2) valid and voluntary consent.

[57] Ex. 3, Investigative Report at 9.

388. In particular, the Internal Affairs Division knew that Defendants Cloud, Lewis, and Finn maintained that the searches were permissible because, among others, Mr. Washington *submitted* to them, "without a retort" or "without protest."[58] In other words, the Internal Affairs Division ratified Defendants Cloud, Lewis, and Finn's conduct despite knowing that Defendant Cloud's basis for the search was Mr. Washington's acquiescence, and that clearly established law provides that mere acquiescence to a search is unequivocally not valid and voluntary consent.

389. The Internal Affairs Division knew that Defendant Cloud reached into Mr. Washington's pocket and removed his wallet even though Defendant Cloud did not believe it was a weapon. In other words, the Internal Affairs Division ratified not only Defendant Cloud's decision to reach into Mr. Washington's pockets during an officer safety patdown, but also his decision to physically remove Mr. Washington's wallet and place it on the trunk of the car, despite knowing that his reasons could not pass constitutional muster.

390. The Internal Affairs Division knew that Defendant Cloud ordered Mr. Washington out of his vehicle only because Defendant Lewis "gave him a signal to remove Washington from the vehicle."[59]

391. The Internal Affairs Division also knew that Defendant Lewis almost immediately determined that suspicion was "unfounded," and communicated that to Defendant Cloud.[60]

392. The Internal Affairs Division also knew that Defendant Cloud acknowledged Defendant Lewis' retraction of his belief that it was justifiable to order Mr. Washington out of his vehicle. In other words, the Internal Affairs Division ratified Defendant Cloud's decision to order

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58 *Id.* at 10.

59 *Id.* at 8.

60 *Id.*

Mr. Washington out of his vehicle based *solely*[61] on Defendant Lewis' "covert suggestion" that there was a "weapon or something dangerous" in Mr. Washington's vehicle– a suggestion that Defendant Cloud *understood* had been retracted and was unfounded.

393. Upon information and belief, the Major of Professional Standards Division and the Deputy Chief of Professional Standards were of the investigation into the Incident and did not review the Investigative Report or the Internal Affairs Division's determination that the complaint was unsubstantiated, and the officers' conduct within the parameters of STPSO policy.

394. Defendants Sheriff Smith, Cox, Palmisano, Galloway, and Francois, wholly aware of the clearly established unlawfulness of Defendants Cloud, Lewis, and Finn's conduct and its basis, consciously disregarded these violations by subordinates. *See Connick v. Thompson*, 565 U.S. 51, 71 (2011).

395. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally liable.

SIXTH CAUSE OF ACTION

Monell Liability for Unlawful Searches in Violation of the Fourth Amendment of the U.S. Constitution – De Facto Policy
(Against Defendants Sheriff Smith and the Supervisor Defendants)

396. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

[61] *Id.* at 4.

397. When incidents are sufficiently common, "the objectionable conduct is [considered] the expected, accepted practice of city employees." *Peterson v. City of Fort Worth, Tex.,* 588 F.3d 838, 850 (5th Cir. 2009).

398. Defendants Smith, Palmisano, Cox, Galloway, Francois, and Church have implemented, enforced, encouraged and sanctioned a policy, practice and/or custom of frisking stopped individuals without the reasonable articulable suspicion of criminality required by the Fourth Amendment and/or on the basis of racial profiling.

399. The Fourth Amendment prohibits police officers from frisking persons without a reasonable belief that they are armed or presently dangerous; searching and seizing persons without probable cause; or using excessive force in the course of policing activities. Additionally, the Equal Protection Clause of the Fourteenth Amendment bars police officers from targeting individuals for stops and/or frisks on the basis of race or national origin.

400. The pervasive unconstitutional practices of the STPSO are a direct and proximate result of policies, practices and/or customs devised, implemented, enforced, and sanctioned by the Sheriff and Supervisor Defendants, with the knowledge that such policies, practices and/or customs would lead to violations of the Fourth and Fourteenth Amendments. Those policies, practices and/or customs include: (a) failing to properly screen, train and supervise STPSO officers despite STPSO's awareness of the high risk that its officers may be engaging in unconstitutional frisks, (b) failing to adequately monitor and discipline STPSO officers, by ratifying unconstitutional conduct based on impermissible grounds, and (c) encouraging, sanctioning and failing to rectify the STPSO custom and practice of suspicion-less frisks.

401. All policymakers involved in the investigation of the Incident had constructive or active knowledge of STPSO deputies' custom of conducting officer safety patdowns during traffic stops without reasonable suspicion or valid and voluntary consent.

402. A scant three weeks before the unlawful search of Mr. Washington, STPSO and its policymakers knew that a deputy had been denied qualified immunity for this specific conduct.

403. Awareness of a constitutional violation making it all the way up the chain of command, coupled with an agency's failure to take any real action when made aware of the unlawful conduct, supports a conclusion that an agency has a policy, custom, or practice. *Sharp v. City of Houston*, 164 F.3d 923, 935 (5th Cir. 1999)

404. In conformity to the STPSO's de facto policy of not obtaining valid consent prior to searches, Defendants Cloud, Lewis, and Finn searched Mr. Washington without valid consent. This policy was the moving force behind the violation of Mr. Washington's Fourth Amendment rights.

405. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally liable.

SEVENTH CAUSE OF ACTION

Monell Liability for Unlawful Searches in Violation of the Fourth Amendment of the U.S. Constitution – Failure to Train

(Against Defendants Sheriff Smith and the Supervisor Defendants)

406. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

407. A municipality is liable for failing to train an employee if (1) the municipality's trainings were inadequate, (2) the municipality was deliberately indifferent in adopting this deficient training, and (3) the inadequate training directly caused the violation. *See Hankins v. Wheeler*, No. 211129, 2022 WL 2208848, at *7 (E.D. La. June 21, 2022) (citing *Ratliff v. Aransas Cnty.*, 948 F.3d 281, 285 (5th Cir. 2020))

408. The adequacy of the training is evaluated "in relation to the tasks the particular officers must perform." *Valle v. City of Houston*, 613 F.3d 536, 544 (5th Cir. 2010).

409. A single incident is sufficient to show deliberate indifference where the plaintiff shows that the "highly predictable consequence of a failure to train would result in the specific injury suffered." *Valle*, 613 F.3d at 549.

410. Failure to train exists when there is a "deliberate indifference to an obvious need for training where citizens are likely to lose their constitutional rights." *Peterson v. City of Fort Worth*, 588 F.3d 838, 849 (5th Cir. 2009).

411. Defendants Smith, Cox, Palmisano, and Church were deliberately indifferent to the obvious need for training related to suspicion-less and nonconsensual searches made clear after the Eastern District of Louisiana denied STPSO officer Alexander Thomas defense of qualified immunity based on the "clearly established law of frisks."[62]

412. "A pattern of similar violations" arising from training that is so clearly inadequate evinces deliberate indifference to conduct that was "obviously likely to result in a constitutional violation." *Burge v. St. Tammany Par.*, 336 F.3d 363, 370 (5th Cir. 2003) (quoting *Thompson*, 245 F.3d at 459).

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[62] *Washington v. Smith,* 2022 WL 17844622, at *5.

413. The identical nature of the March 2021 and January 2023 frisks clearly shows that STPSO's inadequate training on determination of reasonable suspicion and consent was the moving force behind the January 2023 unlawful frisk. Had STPSO issued *any* directive or training related to the allegedly ambiguous circumstances of the March 2021 frisk, Mr. Washington's rights might not have been violated again a mere three weeks after securing the *Washington I* victory in the Eastern District of Louisiana.

414. Defendant Sheriff Smith and Supervisor Defendants were deliberately indifferent to the known the continuing and present adverse effects of STPSO's pattern of conducting frisks without consent, and/or racially-motivated traffic stops and elected to do nothing in response.

415. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally liable.

SIXTH CAUSE OF ACTION
***Monell* Liability for Unlawful Searches in Violation of the Fourth Amendment of the U.S. Constitution – Single Decision by a Final Policymaker**
(Against Defendants Sheriff Smith and the Supervisor Defendants)

416. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

417. Where a municipality has "actual or constructive knowledge that its agents will probably violate constitutional rights, it may not adopt a policy of inaction." *King v. Kramer*, 680 F.3d 1013, 1021 (7th Cir. 2012).

418. In light of the duties assigned to specific officers or employees, the need for more or different training is so obvious, and the inadequacy so likely to result in the violation of

constitutional rights, that the policymakers of the city can reasonably be said to have been deliberately indifferent to the need." *City of Canton v. Harris*, 489 U.S. 378, 390, (1989)

419. The denial of qualified immunity to an STPSO officer based on the "clearly established law of frisks" made the need for more or different training related to the determination of valid and voluntary consent and reasonable suspicion so obvious that Defendant Sheriff Smith and Defendant Church can reasonably said to have been deliberately indifferent to the need.

420. The STPSO's widespread abuses are also a direct and proximate result of the failure of the Sheriff and Supervisor Defendants to properly and adequately monitor, discipline, and take necessary corrective action against STPSO officers who engage in, encourage, or conceal unconstitutional practices. Among other things, these Defendants knowingly, deliberately and recklessly have failed:

i. to take appropriate disciplinary action and corrective measures against STPSO officers who have engaged in suspicion-less frisks;

ii. to devise and implement appropriate oversight, disciplinary, and remedial measures in the face of extensive evidence STPSO officers engage in intentional or unintentional tactics that render any "consent" to frisk invalid;

iii. to devise and implement appropriate oversight, disciplinary, and remedial measures in the face of extensive evidence STPSO officers engage in suspicion-less frisks, especially when no contraband or weapons are retrieved after conducting frisks;

iv. to conduct adequate auditing to determine if the frisks conducted by STPSO officers comply with the STPSO's written policy prohibiting frisks that are nonconsensual and not based upon reasonable suspicion, and use race and/or national origin as the determinative factor in initiating police action;

v. to take sufficient, if any, steps to curb STPSO officers' non-compliance with data entry instructions to report racial data for all stops;

vi. to take sufficient corrective and remedial action against STPSO officers who evidentially fail to comprehend the constitutional framework governing the "law of frisks,"[63] by practice or ratification; and

vii. to take sufficient corrective, disciplinary and remedial action to combat the so-called "blue wall of silence," wherein STPSO officers regularly conceal or fail to report misconduct or intervene when possible.

421. Defendant Sheriff Smith and Supervisor Defendants failed to properly and adequately monitor, discipline, and take necessary corrective action against STPSO officers, knowing that such omissions would lead to Fourth and Fourteenth Amendment violations. By such acts and omissions, Defendant Sheriff Smith and Supervisor Defendants have acted recklessly and with deliberate indifference to the constitutional rights of those who would come into contact with the STPSO.

422. With the knowledge that such acts and omissions would create a likelihood of Fourth and Fourteenth Amendment violations, Defendant Sheriff Smith and Supervisor Defendants also have encouraged, sanctioned and failed to rectify the STPSO's abusive and unconstitutional practices.

423. As a direct and proximate result of the above policies, practices and/or customs, thousands of people have been, and will continue to be, subjected to unconstitutional frisks, searches, and seizures by STPSO officers, and the resulting continuing, present and adverse effects, simply because such individuals happen to be the wrong color, in the wrong place, at the

[63] *Washington v. Smith,* 2022 WL 17844622, at *5.

wrong time, or were incited into committing a pretextual traffic violation. Through such acts and omissions, Defendant Sheriff Smith and Supervisor Defendants have acted recklessly and with deliberate indifference to the constitutional rights of individuals who would come into contact with the STPSO.

424. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

EIGHTH CAUSE OF ACTION

Violation Under 42 U.S.C. §2000(d)—Title VI of the Civil Rights Act of 1964
(Against Defendants Sheriff Smith and the Supervisor Defendants)

425. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

426. Title VI of the Civil Rights Act of 1964 provides in relevant part that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000(d).

427. Private individuals may bring suit to enforce this provision. *Fennell v. Marion Indep. Sch. Dist.,* 804 F.3d 398, 408 (5th Cir. 2015). The plaintiff must show that (1) appropriate person with authority, (2) had actual knowledge of discrimination, and (3) that person responded with deliberate indifference. *See Doan v. Bd. of Supervisors of La. State Univ*., No. 17-3471, 2017 WL 4960266, at *2 (E.D. La. Nov. 1, 2017) (Zainey, J.); accord *Bhombal v. Irving Indep. Sch. Dist.,* 809 F. App'x 233, 237 (5th Cir. 2020).

428. The law enforcement activities described in the complaint have been funded, in part, with federal funds.

429. The STPSO is engaging in racial discrimination while receiving federal funds in violation of Title VI of the Civil Rights Act of 1964.

430. Discrimination based on race in the law enforcement activities and conduct described herein is prohibited under 42 U.S.C. § 2000(d), *et seq.* The acts and conduct complained of herein by the Defendants were motivated by racial animus, and were intended to discriminate on the basis of race and/or had a disparate impact on minorities, particularly Black [and Latino] individuals.

431. As a direct and proximate result of the above-mentioned acts, Mr. Washington has suffered injuries and damages and have been deprived of their rights under the civil rights laws. Without appropriate injunctive relief, these violations will continue to occur.

432. When Mr. Washington first contacted STPSO regarding the January 13, 2023 Incident, Defendant Francois stated that he knew some STPSO officers might be more afraid of Mr. Washington, and that he "might scare the wrong police officer." He advised Mr. Washington to "be polite and comply, and if you don't have a gun, you don't have a problem."

433. Defendant Francois asked Mr. Washington if he thought the Defendants Cloud and Lewis pulled him over because he is Black. When Mr. Washington said he believed so, Defendant Francois responded "ok, if he were racist then why didn't he write you a citation?"

434. Although Mr. Washington was clear that he had concerns of racial discrimination, and the STPSO policy has explicit instructions on addressing racial profiling concerns, the entirety of the investigation into Mr. Washington's allegations of discrimination consisted of Defendant Galloway asking each Individual Defendant whether Mr. Washington was pulled over simply because he was a Black male.

435. Upon information and belief, Defendants Smith, Cox, Palmisano, Church, Galloway and Francois of the STPSO have been made aware of concerns that STPSO employees are engaging in racial profiling but have refused to take corrective action.[64] As a result, Defendants Smith, Cox, Palmisano and Church have failed to develop and implement policies and practices that generally would be expected of law enforcement agencies, and specifically would be expected of law enforcement agencies to protect against and hold deputies accountable for discriminatory policing and constitutional violations.

436. There is no legitimate law enforcement purpose that explains these failures. These failures are evidence that STPSO's discrimination against Black members of the St. Tammany Parish community and specifically, Mr. Washington, is either, at worst, intentional, or, at best, evidence that the STPSO and Official Defendants callously disregard the dignity and constitutional rights of Black Americans.

437. At all relevant times described in this Complaint, the STPSO had been and continues to be a recipient of federal financial assistance, either directly or through another recipient of federal financial assistance.

438. In the STPSO Annual Financial Report for fiscal year 2022, the STPSO received $628,140 in federal grants.[65] The STPSO estimates the value of its 2023 grants at $1,443,513.[66] These grants went towards the STPSO's General Fund which is the primary operating fund for the sheriff to use to support law enforcement services, including policing.

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64 *See e.g., Perkins v. Hart,* 617 F. Supp. 3d 444, 449 (E.D. La. 2022*), rev'd in part, appeal dismissed in part*, No. 22-30456, 2023 WL 8274477 (5th Cir. Nov. 30, 2023)(alleging STPSO engages in racial profiling)*;* ACLU Foundation of Louisiana, *Unequal Under the Law Report*, *supra* n.36.

65 *St. Tammany Parish Sheriff's Office Adopted Budget – General Fund for Fiscal Year 2023* (available at https://www.stpso.com/images/uploads/General_Fund_Revised_2023.pdf).

66 *St. Tammany Parish Sheriff's Office Adopted Budget – General Fund for Fiscal Year 2024* (available at https://www.stpso.com/images/uploads/General_Fund_Adopted_2024.pdf)

439. Policing is a service the STPSO provides with the intention to serve and protect the members of the St. Tammy Parish community.

440. Consequently, Mr. Washington was an intended beneficiary of the federal financial assistance the STPSO received.

441. As a condition of receiving federal financial assistance, the STPSO certified that it agreed to comply with all requirements imposed by Title VI of the Civil Rights Act of 1964.

442. Nevertheless, STPSO has engaged in law enforcement practices with the intent to discriminate against Black drivers on the basis of race, color, or national origin with the help of these federal funds.

443. The STPSO's discriminatory law enforcement practices and intentional discrimination violate Title VI of the Civil Rights Act of 1964. As a result, Mr. Washington suffered damages in an amount to be proven at trial.

444. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

NINTH CAUSE OF ACTION

Monell Liability for Racist Policing Practices in Violation of the Fourteenth Amendment to the U.S. Constitution

(Against Defendant Sheriff Smith and the Supervisor Defendants)

445. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

446. On information and belief, conducting pretextual traffic stops and/or weapons frisks on the basis of race is such a pervasive policy, practice and custom in the STPSO that it has become a *de facto* policy.

447. Defendants Smith, Cox, Palmisano, Galloway, Francois, and Church have implemented and enforced a policy, practice and/or custom of frisking Black people without the reasonable articulable suspicion of criminality required by the Fourth Amendment and based solely on their race and/or national origin. These suspicion-less and nonconsensual frisks have and are being conducted predominantly on Black individuals on the basis of racial profiling. As a result, the STPSO's policy, practice, and/or custom of suspicion-less stops and frisks violate the Equal Protection Clause of the Fourteenth Amendment. The STPSO's constitutional abuses were and are directly and proximately caused by policies, practices and/or customs devised, implemented, enforced, encouraged, and sanctioned by Defendant Sheriff Smith and Supervisor Defendants, including: (a) the failure to adequately and properly train, and supervise STPSO officers; (b) the failure to adequately and properly monitor and discipline the STPSO and its officers; (c) and the encouragement, sanctioning and ratification of and failure to rectify the STPSO's use of racial and/or national origin profiling in making determinations of reasonable suspicion.

448. Defendants Smith, Cox, Palmisano, Galloway, Francois, and Church have also implemented and enforced a policy, practice and/or custom of racially motivated detentions (and likely ensuing frisks) of Black people for alleged traffic violations based on the internalized racial stereotyping of delinquency and dangerousness rooted in the history of criminalization of Black people in Louisiana.[67]

449. As a result, the STPSO's policy, practice, and/or custom of suspicion-less stops and frisks violate the Equal Protection Clause of the Fourteenth Amendment. The STPSO's constitutional abuses were and are directly and proximately caused by policies, practices and/or

[67] *See, e.g.*, J. Michael Kennedy, *Sheriff Rescinds Order to Stop Blacks in White Areas*, *supra,* n. 50.

customs devised, implemented, enforced, encouraged, and sanctioned by Defendant Sheriff Smith and Supervisor Defendants, including: (a) the failure to adequately and properly train, and supervise STPSO officers; (b) the failure to adequately and properly monitor and discipline the STPSO and its officers; (c) and the encouragement, sanctioning and ratification of and failure to rectify the STPSO's use of racial and/or national origin profiling in making traffic enforcement decisions.

450. Each of the Defendants has acted with deliberate indifference to the Fourteenth Amendment rights of Mr. Washington. As a direct and proximate result of the aforesaid acts and omissions of the Defendants and each of them, Mr. Washington's Fourteenth Amendment right has been violated. By their acts and omissions, Defendants have acted under color of state law to deprive Mr. Washington of his Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

451. Due to the STPSO targeting Black and Latino persons in areas where Mr. Washington [and other class members] resides a real and immediate threat exists that the Fourteenth Amendment rights of Mr. Washington [and other class members] will be violated by STPSO officers in the future.

452. Moreover, because Defendants' policies, practices and/or customs subject Mr. Washington to repeated stops and frisks without any reasonable, articulable suspicion of criminality, and often on the basis of race, Mr. Washington cannot alter his behavior to avoid future violations of their constitutional and civil rights at the hands of the STPSO, as clearly evidenced by the fact that this is the second time Mr. Washington has had to resort to litigation in two years.

453. It is not an adequate remedy at law to require Mr. Washington to litigate yet again when, inevitably, he will be stopped and searched in nearly identical circumstances. Unless Defendants are enjoined from continuing the STPSO policy, practice, and/or custom of

unconstitutional race-based stops and frisks, and the policies, practices and/or customs that have directly and proximately caused such constitutional abuses, Mr. Washington will continue to suffer serious and irreparable harm to his constitutional rights.

454. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

TENTH CAUSE OF ACTION

Conspiracy to Commit §1983 Violation of Fourth and Fourteenth Amendment Rights
(Against Defendants Cloud, Lewis, and Finn)

455. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

456. Defendants acted under color of state law at all times relevant hereto.

457. It is clearly established that an agreement to perform an illegal act under color of state law that results in an actual constitutional deprivation is a conspiracy. *Bevill v. Fletcher*, No. 20-40250, 2022 WL 420752, at *3 (5th Cir. Feb. 11, 2022) (citing *Whisenant v. City of Haltom*, 106 F. App'x 915, 917 (5th Cir. 2004)).

458. The facts set out in this complaint amount to a conspiracy to commit a §1983 violation of Mr. Washington's Fourth Amendment rights under 42 U.S.C. §1983 for which Defendants Cloud, Lewis, and Finn are jointly and severally liable and for which each Defendant is separately liable.

459. Under color of state law, Defendants Cloud, Lewis, and Finnagreed and conspired to unlawfully extend the detention of Mr. Washington using a variety of delay tactics. These delay tactics transformed a lawful traffic stop into an unconstitutional seizure of Mr. Washington.

460. Under color of state law, Defendants Cloud, Lewis, and Finnagreed and conspired to unlawfully search Mr. Washington's vehicle and Mr. Washington's person using a variety of coercive and distractive tactics. These tactics resulted in a search that far exceeded the scope of any consent that may have been given or understood to be given.

461. Upon information, belief, and per the Defendants Cloud, Lewis, and Finn's body camera footage, Defendant Cloud, after confirming that he only intended to issue Mr. Washington a verbal warning, and Defendant Lewis, after completing Mr. Washington's license checks, searched or enabled the search of Mr. Washington's car for ten minutes, with the help of Defendant Finn.

462. As a result of Defendants Cloud, Lewis, and Finn's actions and agreement, Mr. Washington was deprived of his constitutional right to be free from unreasonable seizure.

463. Defendants Cloud, Lewis, and Finnare thus conspiratorially liable for all claims set forth in this complaint, pursuant to Louisiana Civil Code §2324 and 42 U.S.C. §1983.

464. Defendants Cloud, Lewis, and Finnacted with deliberate indifference to Mr. Washington's rights, and they acted maliciously, willfully, wantonly, and in reckless disregard of those rights. Defendants Cloud, Lewis, and Finnacted with the specific intent to deprive Mr. Washington of his rights and cause substantial injury, distress, humiliation and embarrassment to Mr. Washington, rendering appropriate the award of punitive damages against each individual defendant, separately, in his individual capacity.

465. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

ELEVENTH CAUSE OF ACTION

Violation of Article I Section 5 of Louisiana Constitution—Unlawful Search and Seizure
(Against Defendants Cloud, Lewis, and Finn)

466. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

467. Article I, Section 5 of the Louisiana Constitution provides that "[e]very person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy."

468. It is well-established that Article 1, Section 5 of the Louisiana Constitution does not merely duplicate the Fourth Amendment. Rather, it represents a conscious choice by the citizens of Louisiana to give "a higher standard of individual liberty than that afforded by the jurisprudence interpreting the federal constitution." *Hernandez*, 410 So. 2d at 1385. The Louisiana Supreme Court has consistently interpreted "the right of privacy to afford even more stringent protection of individual liberty than the Fourth Amendment." *State v. Perry,* 610 So. 2d 746, 756 (La. 1992). As demonstrated by the facts and circumstances complained of herein, Defendants Cloud, Lewis, and Finn impermissibly extended the detention of Mr. Washington, in addition to unlawfully searching his person and his vehicle.

469. It was clearly established as of January 13, 2023, under Louisiana Code of Criminal Procedure Article 215.1(D), that during the detention of an alleged violator of any provision of the motor vehicle laws of Louisiana, a law enforcement officer may not detain a motorist for a period of time longer than reasonably necessary to complete the investigation of the violation and issuance of a citation for the violation, absent reasonable suspicion of additional criminal activity.

470. Nothing arose during the Defendants Cloud, Lewis, and Finn'sdetention of Mr. Washington that justified extending the detention of Mr. Washington by approximately 10 minutes by searching his vehicle.

471. Mr. Washington's traffic stop was impermissibly extended beyond the time reasonably necessary to complete the investigation into the alleged traffic infractions and to issue a verbal warning for the alleged violation because Defendants Cloud, Lewis, and Finn lacked reasonable suspicion of additional criminal activity.

472. Defendants Cloud, Lewis, and Finn's extension of the traffic stop was therefore unlawful and violative of Mr. Washington's rights under the Constitution of the State of Louisiana of 1974, Article I, Section 5 against unreasonable seizures.

473. At the time Defendants Cloud, Lewis, and Finnimpermissibly extended the detention of Mr. Washington, they were operating under the color of law. They were wearing uniforms of the STPSO and held themselves out as law enforcement officers.

474. No reasonable deputy in the Defendants Cloud, Lewis, and Finn's positions would have believed that lawful justification existed to prolong addressing the purpose of the traffic stop once the license check had occurred and the verbal warning issued.

475. Defendants Cloud, Lewis, and Finn'sconduct thus violated Mr. Washington's clearly established rights, of which reasonable deputies would know or should know.

476. As a direct and proximate result of Defendants Cloud, Lewis, and Finn'sconduct as set forth above, Mr. Washington suffered damages in an amount to be proven at trial.

477. As a direct and proximate consequence of Defendants Cloud, Lewis, and Finn'sacts and omissions, Mr. Washington has suffered and continues to suffer injury, including emotional

distress. Therefore, Mr. Lane is entitled to compensatory damages, costs, and attorney's fees for violation of his clearly established right to be free from unreasonable seizure.

478. Moreover, the facts and circumstances complained of herein demonstrate that Defendants Cloud, Lewis, and Finnengaged in this conduct willfully, intentionally, and with reckless disregard for Mr. Washington's protected rights. Accordingly, Defendants Cloud, Lewis, and Finnare liable for punitive damages for the unlawful seizure of Mr. Washington, in an amount to be proven at trial.

479. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

TWELFTH CAUSE OF ACTION

Invasion of Privacy in Violation of Article 1, Section 5 of the Louisiana Constitution
(Against Defendants Cloud, Lewis, and Finn)

480. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

481. Defendant Cloud intentionally and unreasonably intruded upon Mr. Washington's privacy interest by frisking him despite his clear lack of consent.

482. There was no legal basis for searching Mr. Washington's person, wallet or vehicle. Upon information and belief, Defendant Cloud searched Mr. Washington in the hope of finding evidence of crime unrelated to the purported basis for the traffic stop. The search of a person without lawful basis is an unconstitutional invasion of privacy.

483. Mr. Washington's privacy interest in the security of his own person and property outweighs Defendant Cloud's unlawful interest in searching him for evidence of a crime without a lawful justification for doing so.

484. As a direct and proximate result of this invasion of privacy, Mr. Washington suffered and continues to suffer embarrassment, humiliation, pain, suffering, and fear of the STPSO.

485. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

THIRTEENTH CAUSE OF ACTION
State Law Claim – Negligent infliction of emotional distress
(Against All Defendants)

486. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

487. Mr. Washington asserts that the Defendants violated Louisiana law by committing negligent torts, while acting within the scope of their employment of the St. Tammany Parish Sheriff's Office. Defendants' breach of their duty was a cause-in-fact of Mr. Washington's severe emotional distress.

488. Defendants owed Mr. Washington a duty of care and breached that duty of care, causing him harm within the scope of protection of the duty they owed him. Because of Defendants' negligent acts and omissions, Mr. Washington continues to suffer emotional injury and mental distress. Mr. Washington further continues to suffer injuries such as depression, anxiety, increased high blood pressure, headaches, nausea, and/or insomnia.

489. Defendants' negligent acts are the direct and proximate cause of the aforementioned injuries that Mr. Washington has suffered. Defendants acted with reckless disregard for the consequences of their actions and omissions. As a direct and proximate foreseeable result of the Defendants' unreasonable search, as set forth above, Plaintiff Washington suffered injuries,

physical pain and suffering, mental pain and suffering, emotional distress, and loss of normal life, in an amount to be determined at trial.

490. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

FOURTEENTH CAUSE OF ACTION
State Law Claim for Negligent Supervision/Training
(Against Defendants Sheriff Smith and Supervisor Defendants)

491. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

492. At all times relevant hereto, the employees of Defendant Sheriff Smith and Supervisor Defendants, were acting under the color of state law of Louisiana and within the scope of their employment with the St. Tammany Parish Sheriff's Office.

493. At all times relevant hereto, it was the duty of the St. Tammany Parish Sheriff's Office to provide adequate supervision, training and control to its officers, agents, and/or employees. *See Adams v. City of Shreveport*, 269 F. Supp. 3d 743, 771 (W.D. La. 2017).

494. Notwithstanding such duty, the St. Tammany Parish Sheriff's Office breached its duty by 1) failing to properly train its officers in Fourth Amendment searches, 2) providing inadequate training regarding how to obtain consent to searches and 3) providing inadequate supervision, training, and control to police officers and other personnel, including Defendant Finn and Defendant Cloud, who conducted the above-described unreasonable search.

495. Defendants Sheriff Smith, Cox, Palmisano and Church only require law enforcement to meet a 40-hour minimum annual training, of which even less hours are devoted to Fourth Amendment searches and properly obtaining consent to such searches.

496. The training currently provided Defendants Sheriff Smith, Cox, Palmisano and Church is not adequate for Defendants Sheriff Smith, Cox, Palmisano and Church to meet their duty to train, supervise, and control its officers, agents, and/or employees.

497. Defendants Sheriff Smith, Cox, Palmisano and Church's breach of their above-described duty was the actual and proximate cause of the illegal and unreasonable search of Mr. Washington's and his vehicle, from which Mr. Washington suffered injuries, including physical injuries, physical pain and suffering, mental pain and suffering, emotional distress, and loss of normal life, in an amount to be determined at trial.

498. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

FIFTEENTH CAUSE OF ACTION
State Law Claim for Failure to Intervene
(Against Defendants Cloud, Lewis, and Finn)

499. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

500. Under Louisiana law, a "police officer has a duty to perform his function with due regard for the safety of all citizens who will be affected by his actions." *Westmoreland v. City of Natchitoches*, 2000-00320 (La. App. 3 Cir. 10/4/00), 771 So. 2d 715.

501. More specifically, "the duty of law enforcement officers is that of maintaining peace and order, preventing and detecting crime, and enforcing the law. This duty is owed to the general public but may be transformed into a duty owed to an individual only where a personal or one-on-one relationship arises between an individual and a police officer through closeness in proximity or time." *Keys v. Broussard*, 96-1379 (La. App. 3 Cir. 3/5/97), 692 So. 2d 596.

502. The duty owed by law enforcement to the public is considered so vital by the Louisiana State Legislature, that they enacted the Peace Officer Standards and Training Law, stating "[t]he legislature finds that law enforcement work is of such importance to the health, safety and welfare of the people of this state and is of such a nature as to require education and training of a professional character." La. Stat. Ann. § 40:2401.

503. Since January 1, 2022, the Louisiana State Legislature has mandated law enforcement personnel received instruction on "duty-to-intervene matters" as part of their minimum training requirements, thereby recognizing that all officers have a duty to intervene and must be aware of that fact. La. Stat. Ann. § 40:2404.2.

504. Louisiana State Courts have also recognized law enforcement officers' duty to intervene in the actions of their fellow officers. In *Rogers v. Dep't of Pub. Safety & Corr.*, 2021-0914 (La. App. 1 Cir. 3/7/22), reh'g denied (Apr. 12, 2022), the First Circuit Court of Appeal of Louisiana took judicial notice of guilty plea agreements made by four corrections officers in the United States District Court for the Middle District of Louisiana, as the officers had failed to intervene while observing other officers striking an inmate without legal justification. In *Taylor v. City of Baton Rouge*, 233 So. 2d 325 (La. Ct. App.), *writ refused,* 256 La. 255, 236 So. 2d 32 (1970), the court held "it is the duty of every police officer to protect a citizen from an unjustified and unprovoked assault even by a fellow officer."

505. The Louisiana Department of Public Safety and Corrections has held, and the Louisiana Civil Service Commission has affirmed, that failure to intervene in the improper actions of another law enforcement officer is a disciplinable offense. *Rogers v. Dep't of Pub. Safety & Corr.,* 2021-0914 (La. App. 1 Cir. 3/7/22), *reh'g denied* (Apr. 12, 2022).

506. Once Defendant Lewis informed Defendant Cloud, "Yeah, well, it's—it's not what I thought it was," indicating that the justification for ordering Mr. Washington out of his vehicle no longer existed, and Defendant Cloud still ordered Mr. Washington to exit the vehicle, Defendant Lewis failed to intervene while observing an unconstitutional seizure.

507. Defendant Lewis observed Defendant Cloud make a show of lawful authority to frisk Mr. Washington, and observed Mr. Washington submitting to the unlawful search. Because Defendant Cloud ordered Mr. Washington to the back of the car after it appeared he was submitting to the show of lawful authority, Defendant Lewis had ample time to intervene, and seek valid consent from Mr. Washington. But he did not.

508. Defendant Lewis failed to intervene when he observed Defendant Cloud conducting an unlawful search of Mr. Washington and seizure of his property by reaching into Mr. Washington's pocket and removing his wallet, both without his consent.

509. Defendant Lewis failed to intervene when he returned to Mr. Washington's vehicle at approximately 7:19 PM, having completed the license, and observed Defendants Cloud and Finn conducting a search of Mr. Washington's vehicle even though the purpose of the stop had been achieved, and no reasonable suspicion existed to justify further detention of the stop. Yet, Defendant Lewis maintained possession of Mr. Washington's identification, and not only allowed the search to continue but to expand.

510. Defendants Lewis and Finn failed to intervene when Defendant Cloud began to search Mr. Washington's trunk, despite having no probable cause to do so, or Mr. Washington's consent.

511. Therefore, Defendants Lewis, Cloud and Finn violated their duty to intervene as law enforcement officers under Louisiana law.

512. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

SIXTEENTH CAUSE OF ACTION
State Law Claim for False Imprisonment
(Against Defendants Cloud, Lewis and Finn)

513. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

514. The Officer Defendants intentionally seized Mr. Washington and held him captive. At all times, Mr. Washington was conscious that he was unable to leave the Officer Defendants' presence due to the Officer Defendants' display of police authority.

515. "Simply stated, it is restraint without color of legal authority." *Harrison v. State Through Dep't of Pub. Safety & Corr.*, 97-1086 (La. 12/1/98), 721 So. 2d 458. "The unlawfulness of the detention is the gravamen of the offense; neither malice nor ill will is required." *Id.*

516. The Louisiana Supreme Court has found that if a person was "detained against his will and searched" that is sufficient to show detention of the person. *See Gladney v. deBretton*, 218 La. 296, 49 So. 2d 18 (1950).

517. The Louisiana Supreme Court has held that in the context of false imprisonment, an officer's statements that the plaintiffs were "free to leave after questioning" and that the plaintiffs "were released" suggested that the plaintiffs had been detained. *Harrison v. State Through Dep't of Pub. Safety & Corr.*, 97-1086 (La. 12/1/98), 721 So. 2d 458.

518. Because it was clear to Mr. Washington as well as the Officer Defendants and Defendants Galloway and Francois that Mr. Washington was not free to leave, in part based on the statements of the officers, Mr. Washington was detained.

519. The Officer Defendants did not obtain a warrant for Mr. Washington's arrest and lacked statutory authority to arrest him. The Officer Defendants did not have articulable facts on which to base a reasonable suspicion that Mr. Washington had committed any unresolved offense, nor probable cause to believe an offense justifying a warrantless arrest had occurred.

520. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendants and their actions alleged herein and are jointly and severally.

SEVENTEENTH CAUSE OF ACTION
State Law Claim For Vicarious Liability
(Against Defendant Sheriff Smith and Supervisor Defendants)

521. Mr. Washington hereby incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

522. Under La. R.S. § 9:3921(A), "every master or employer is answerable for the damage occasioned by his servant or employee in the exercise of the functions in which they are employed." The doctrine of vicarious liability may also be imposed for intentional torts. *See* 1 LOUISIANA TORT LAW § 13.01 (2020).

523. At all relevant times, the Defendants were employed by and/or acting on behalf of the St. Tammany Parish Sheriff's Office. The St. Tammany Parish Sheriff's Office is a department of St. Tammany Parish, Louisiana. Defendant Sheriff Smith is the St. Tammany Parish Sheriff and heads the St. Tammany Parish Sheriff's Office. St. Tammany Parish officers act under the direction, control, and supervision of Defendant Sheriff Smith.

524. At all relevant times, the Defendants were acting within their respective capacities, course and scopes of their employment with the St. Tammany Sheriff's Office and/or accomplished the acts stated herein by virtue of their job-created authority.

525. The Defendants intentionally, negligently, and/or recklessly directly and proximately caused physical and emotional injury to Mr. Washington.

526. Therefore, Defendant Sheriff Smith and Supervisor Defendants are liable under the laws of vicarious liability, including the doctrine of respondeat superior for the tortious actions and inactions of the Defendants as described herein.

527. On information and belief, OneBeacon Insurance Group has issued and/or currently has in effect one or more policies of insurance covering Defendant Sheriff Smith and Supervisor Defendants and their actions alleged herein and are jointly and severally.

PRAYER FOR RELIEF

Plaintiff Washington, therefore ,brings this action and requests:

A. *Injunctive Relief.*

1. Due to the present, continuing adverse effects, and real and immediate threat of future harm related to STPSO's ongoing Fourth and Fourteenth Amendment violations arising from unreasonable frisks in the absence of valid consent or reasonable suspicion, and the fact that Mr. Washington cannot avoid the conduct that leads to these injuries, an order from the Court requiring:

    a. STPSO employees to consistently record in event and field interview and/or contact reports when a search of a person or property occurred during an investigatory or traffic stop, including: whether the search was based on reasonable suspicion, probable cause or consent;

    b. In cases of a nonconsensual searches, officers to indicate the factors and/or circumstances justifying reasonable suspicion;[68]

[68] This practice may be achieved by listing permissible circumstances justifying a nonconsensual frisk in a form that officers are required to fill out after conducting any frisk. *See, e.g,* Exhibit 12, NYPD UF-250 Form.

c. Monitoring of the frequency of frisks, as well as the sufficiency and propriety of circumstances STPSO officers articulate as justifying said frisks;

d. An STPSO-wide training on valid and voluntary consent, including coercive procedures;

e. An update to STPSO policies and procedures clearly enunciating the requirements for valid and voluntary consent and what may be understood as a coercive procedure by a stopped individual.

2. Due to the present, continuing adverse effects, and real and immediate threat of future harm related to ongoing Fourth and Fourteenth Amendment violations stemming from STPSO's concerted pattern conducting racially-motivated traffic and investigatory stops, and the fact that Mr. Washington cannot avoid the conduct that will lead to future injuries, an Order from the Court requiring STPSO to immediately cease:

a. its harassment and intimidation of Black individuals and people of color by conducting racially-motivated traffic and investigatory stops, and;

b. engaging in all other racial profiling practices.

of police misconduct and a culture of authorization of such conduct existed).

B. *Declaratory relief*, pursuant to 28 U.S.C.A. §§2201, 2202, that Defendants' conduct violated the United States Constitution and Louisiana Law; including that the policy and practice of conducting frisks in the absence of valid consent and reasonable suspicion, and/or conducting race-motivated traffic stops.

C. Compensatory damages, including damages for emotional distress on all claims allowed by law in an amount to be determined at trial;

D. Punitive damages, consistent with the purpose of § 1983 and Defendants' reckless or callous indifference to the violation of constitutional rights,, to deter future egregious conduct in violation of constitutional rights, *see* *Creamer v. Porter,* 754 F.2d 1311, 1319 (5th Cir. 1985), in an amount to be determined at trial.

E. Reasonable attorneys' fees and costs under 42 U.S.C. § 1988, in an amount to be determined at trial;

F. Pre- and post-judgment interest at the lawful rate to be determined at trial; and

G. Any other relief that the Court deems just and proper.

Dated: January 13, 2024

Respectfully submitted,

By: */s/ Erin Bridget Wheeler*

Erin Bridget Wheeler
Bar. No. 37546

Nora Ahmed (*pro hac vice forthcoming)*
Bar. No. 5092374 (New York)

ACLU FOUNDATION OF LOUISIANA
1340 Poydras St, Ste 2160
New Orleans, LA 70112
Tel: 225-405-5525
bwheeler@laaclu.org
nahmed@laaclu.org
justicelab@laaclu.org

By: */s/ Zoë Lillian*

Zoë Lillian (*pro hac vice forthcoming*)
Bar. No. 5960240 (New York)

LINKLATERS LLP
1290 Avenue of the Americas
New York, NY 10104
Tel: 212-903-9274
zoe.lillian@linklaters.com