

DISTRICT COURT, DENVER COUNTY, COLORADO  
1437 Bannock Street  
Denver, CO 80202

DATE FILED  
February 25, 2025 8:14 AM  
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CASE NUMBER: 2025CV30696

**Plaintiffs:**

KIRSTY SHELTON, individually;  
J.S.1. a minor child, by and through her mother and next friend, Kirsty Shelton;  
J.S.2., a minor child, by and through her mother and next friend, Kirsty Shelton;  
SHARON SHELTON-KNIGHT;  
BRITTANY SHELTON

v.

**Defendants:**

OFFICER KYLE SMITH;  
OFFICER JOSEPH PORTILLO;  
OFFICER CHRISTOPHER GRUENTHER;  
OFFICER ANTHONY TAK;  
OFFICER PHILLIP HINKLE;  
OFFICER PERRY SPEELMAN;  
OFFICER KENT PIATRAFESO;  
OFFICER JOSHUA BOLLWAHN;  
OFFICER STEVE CARRIGAN;  
OFFICER JOHN CROWE;  
OFFICER(S) ALSO POINTING/BRANDISHING GUNS AT PLAINTIFFS

▲ COURT USE ONLY ▲

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Case Number:

Division:

**Plaintiff's Counsel:**

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**COMPLAINT WITH JURY DEMAND AND  
NOTICE OF EXEMPTION FROM C.R.C.P. 16.1**

Plaintiffs, through their attorneys, Holland Edwards & Grossman, LLC, respectfully allege and complain under the Colorado Constitution and the Enhance Law Enforcement Integrity Act (“ELEIA”) against the named Defendants, and request trial by Jury as follows:

**I. INTRODUCTION**

1. This case seeks redress under Colorado’s ELEIA against the Defendant police officers for a SWAT and/or FAST team action, which involved the illegal, intentional, terrifying assaultive pointing and brandishing of deadly weapons at the entirely innocent young children and adult Plaintiffs in their apartment on June 6, 2023.

2. The SWAT team variously pointed and/or brandished their guns at or to these Plaintiffs from both in and outside their apartment at 2381 Cleveland Place, Apartment #306, Denver, CO 80205. They live in a large, multi-story apartment building.

3. The SWAT team was looking for a man named Danny Garcia, who was well-known to many of the involved officers to be living or staying in a different apartment on the same floor -- Apartment #307. Suspect Garcia’s apartment was on the opposite side of the hall from where these Plaintiffs were living in Apartment #306.

4. Despite extensive actual personal knowledge that the suspect they were after was in #307, where he was ultimately arrested hours later for very serious alleged violent crimes, and despite #307 being very plainly marked, Defendants individually and collectively engaged in or failed to intervene to stop an unconstitutional search and seizure, and use of excessive force with a pointing and brandishing display of deadly weapons to intimidate, threaten and/or coerce Plaintiffs while they were peacefully residing in #306.

5. This activity culminated in the unconstitutional seizure of Plaintiffs, followed by their unreasonable confinement and loss of freedom to move and leave in a locked police car for a significant period of time, while the police illegally commandeered their apartment without a warrant, their consent, or the requisite hot pursuit exigent circumstances to do so.

6. Rather than take responsibility for this fiasco, multiple Defendants have sought to rewrite the history of this incident by falsifying after-action reports, and/or altogether denying its occurrence and what they did to this family.

**II. NOTICE OF EXEMPTION FROM C.R.C.P. 16.1**

7. Plaintiffs state that this action is exempted from C.R.C.P. 16.1. Plaintiffs and their counsel have explored the options and potential benefits of Rule 16.1 and Plaintiff believes that

application of the Rule to this action would not be appropriate. Plaintiff's counsel has not discussed the applicability of Rule 16.1 with counsel for Defendants as no appearance has been entered. Nevertheless, Plaintiff seeks a monetary judgment in excess of the limitations for action under Rule 16.1. Therefore, C.R.C.P. 16 shall govern this action.

### **III. PARTIES AND VENUE**

8. At all times pertinent to the subject matter of this litigation, Plaintiff Kirsty Shelton was a citizen of the United States of America and a resident of and domiciled in the State of Colorado. She is the mother and next friend of the minor children Plaintiffs, J.S.1 and J.S.2.

9. At all times pertinent to the subject matter of this litigation, Plaintiff J.S.1 was a citizen of the United States of America and a resident of and domiciled in the State of Colorado.

10. At all times pertinent to the subject matter of this litigation, Plaintiff J.S.2 was a citizen of the United States of America and a resident of and domiciled in the State of Colorado.

11. At all times pertinent to the subject matter of this litigation, Plaintiff Sharon Shelton-Knight was a citizen of the United States of America and a resident of and domiciled in the State of Colorado. She is the mother of the other adult Plaintiffs and the grandmother of the two children Plaintiffs.

12. At all times pertinent to the subject matter of this litigation, Plaintiff Brittany Shelton was a citizen of the United States of America and a resident of and domiciled in the State of Colorado.

13. Defendant Kyle Smith is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

14. Defendant Joseph Portillo is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

15. Defendant Christopher Gruenther is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

16. Defendant Anthony Tak is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

17. Defendant Phillip Hinkle is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

18. Defendant Perry Speelman is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

19. Defendant Kent Piatrafeso is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

20. Defendant Joshua Bollwahn is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

21. Defendant Steve Carrigan is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

22. Defendant John Crowe is an Officer employed by the Denver Police Department and was at all material times a resident of the State of Colorado.

23. Defendant Officer(s), also pointing/brandishing guns at Plaintiffs, in addition to named Defendants herein and did so as Plaintiffs were in or exiting their Apartment, or from the ground outside by aiming directly at their Apartment windows where they were seen by several Plaintiffs, including the children Plaintiffs. These officers were also employed by the Denver Police Department and were at all material times a resident or residents of the State of Colorado.

24. Venue is proper in the City and County of Denver District Court under Colorado Rule of Civil Procedure 98, as Denver County is the county in which Plaintiffs resides, where most if not all Defendants reside or can be found, as the County where all of the events complained of took place, and it is also the venue choice designated by Plaintiffs.

25. Plaintiffs have requested, so far to no avail, that Denver identify all the names of the Defendant officers who pointed their guns at Plaintiffs, including but not limited to, this officer on the left in this picture, who is believed to have been named individually herein, for aiming his assault rifle at Plaintiff Sharon Shelton-Knight's chest:



#### IV. STATEMENT OF FACTS

26. *Before* the events complained of herein, multiple officers, including many Defendants, have self-reported that they were dispatched and sent to #307 to arrest Danny Garcia, not to Plaintiffs' apartment #306.

27. Defendants were consciously aware that *before this incident*, the suspect target was in apartment #307.

28. As was sworn to a Court by Detective Langdon, Defendant Detective Portillo reported that the location of Danny Garcia was in apartment #307, which he personally saw him enter, and which Defendant Portillo knew and constantly observed *before* this unconstitutional SWAT raid took place:

On **June 6<sup>th</sup>, 2023**, Detective Joe PORTILLO with the Safe Streets Task Force Fugitive Group located Mr. GARCIA at the Benedict Park apartments, located at 2381 Cleveland Place. Detective PORTILLO observed Mr. GARCIA outside of this location and watched him walk to the Safeway across the street. Mr. GARCIA and an unknown male then returned to the apartment building. Detective PORTILLO observed Mr. GARCIA and the unknown male enter apartment #307 of the apartment complex, at which point Detective PORTILLO remained in the hallway with a constant view of the apartment door until members of the Denver METRO SWAT team arrived to relieve him.

29. Fellow Detective Landon further swore that, *before* the time of this incident, Danny Garcia's observed location was known to be apartment #307:

I, Detective Andrew LANDON, 13077, state under oath that I have reason to believe that at the place described as:

**-2381 Cleveland Place, Unit 307, City and County of Denver, State of Colorado 80205.**

**-This is a four-story apartment building with alternating light blue, gray, tan and red brick siding. The building is the northeast of four and #307 is located on the northeast corner of the building.**

**- The balcony faces northeast towards Washington St and has a sliding glass door leading to the interior. The front door is located on the interior of the building and is brown in color. The numbers "307" can be seen in white letters on a brown placard to the left of the door.**



30. Defendant Phillip Hinkle has also admitted to personally seeing Danny Garcia enter #307 before the events complained of herein.

31. Officer J. Grenfell reported that he was dispatched to #307:

On 06/06/23, at approximately 1258 hours, I was assigned to the METRO/SWAT Team, and dispatched to 2381 Cleveland Pl #307 to assist Fugitive with the arrest of a wanted person, Danny Garcia 03/03/97. Garcia was wanted for attempted murder and known to be armed.

32. Defendant Kent Piatrafeso also self-reported the same thing:

ON 06-06-23, AT ABOUT 1300HRS, WHILE WORKING WITH TECH. S. CARRIGAN, 16-02 RESPONDED TO 2381 CLEVELAND PL #307 TO ASSIST SAFE STREETS ON A FUGITIVE PICKUP. THE SUSPECT WAS CALMERED VERBALLY THROUGHOUT THE

33. Defendant Joshua Bollwahn reported being sent to the “listed apartment,” #307, at around 1300 hours.

34. Before these complained of events, Defendant John Crowe likewise reported that he was sent to arrest Danny Garcia at 2381 Cleveland Pl “#307” and personally saw him there. Specifically, Defendant Crowe wrote that: he “observed a Hispanic male that I immediately recognized the male as Mr. Garcia, walk out on the balcony.”

35. Despite these personal observations of the suspect, Defendant Crowe failed to timely or sufficiently share with team members his personal knowledge that the target suspect was in #307, not #306. He also failed to intervene to prevent the unconstitutional raid of #306 by his fellow officers, despite the opportunity and time to do so.

36. Officer Ben Longoria reported that prior to this incident, it was confirmed to him that Mr. Garcia was in #307:

Concerning an Incident occurring at En referencia a un incidente que ocurrió en: 2381 CLEVELAND PL # 307	Location Where Statement was Taken: Lugar donde se tomó la declaración METRO SWAT
Summary of Statement (Continued) Resumen de la declaración (Continuación)	
ON JUNE 6, 2023 I RESPONDED TO THE ABOVE LOCATION AT THE REQUEST OF THE ENFORCEMENT UNIT WHO HAD POSITIVELY IDENTIFIED A KNOWN FUGITIVE AND HAD CONFIRMED HIS PRESENCE THERE. PRIOR TO MY ARRIVAL, I ATTENDED A BRIEFING WHERE I WAS GIVEN INFORMATION ABOUT THE FUGITIVE'S NAME DANNY GARCIA (030397) AND HIS CURRENT LOCATION. I WAS ASSIGNED TO	

37. Additionally, DPD’s CAD Incident Detail Report time stamped this incident’s date and beginning as follows:

**Incident Date: 6/6/2023 13:05:01**

38. This same CAD Report also expressly states the Incident address was *then* known, as of 13:05:01, to be Benedict Apartments, 2381 Cleveland Place #307, as illustrated below:

<b>Incident Location</b>			
<b>Location Name:</b>	BENEDICT APTS	<b>County:</b>	Denver
<b>Address:</b>	2381 Cleveland Pl	<b>Location Type:</b>	Apartments
<b>Apartment:</b>	307	<b>Cross Street:</b>	Park Ave W/N Washington St
<b>Building:</b>		<b>Map Reference:</b>	1/231
<b>City, State, Zip:</b>	Denver CO 80205		

39. In his “After Incident Report,” Defendant Smith, “Incident Commander,” specifically documented that before the events complained of herein, he knew the “Location of Incident was 2381 Cleveland Place #307”:

<b>INCIDENT COMMANDER</b> Lt. Smith	<b>DISTRICT / DIVISION / SECTION / UNIT</b> METRO/SWAT/K9
<b>LOCATION OF INCIDENT</b> 2381 Cleveland Pl #307	<b>DATE AND TIME ORIGINATED</b> 06/06/23 at 1300 Hours

40. Defendant Smith specifically also reported that he and SWAT team “*Detectives*” knew the target unit was #307 by 1300 hours, *well before* the violation of Plaintiffs rights in #306 occurred at or about 14:15 hours.

On 06/06/23, at approximately 1300 hours, SSTF (Sgt. Hinkle) requested METRO to assist with the arrest of Danny Garcia (03/03/97) at 2381 Cleveland Pl #307. Safe Streets Detectives positively identified Garcia as he stepped out onto the apartment balcony several times. The suspect was wanted for Attempted Homicide X2 and 1<sup>st</sup> Degree Attempted Assault (Extreme Indifference) X2. During this

41. Defendant Speelman also confirmed in his report that the team was aware from reports by “*Detectives*” *before* this incident, by 1300 hours, that Garcia was in #307, not #306:

**Introduction:**

On June 6th, 2023, at approximately 1300 hours, Safe Street Detectives requested Metro/SWAT assistance in the apprehension of Danny Garcia 03/03/97. Detectives positively identified Garcia as he entered 2381 Cleveland Pl. Garcia was later observed sitting on a patio deck which detectives were able to determine belonged to apartment #307.

42. Before this incident, Defendant Anthony Tak also confirmed in his report the plan was to get Danny Garcia out of #307, adding that therefore his “location was surrounded from all sides.”

43. Other officers may have come to #307 or surveilled it prior to June 6, 2023, looking for this suspect.

44. Finally, a Safe Streets Task Force Bulletin was widely distributed to the team by email or other electronic means *before* the events at issue. It appears likely, given the afore-alleged reporting by multiple Defendants and other Officers, that this document also contained confirmation that the officers were dispatched to apartment #307.<sup>1</sup>

45. Thus, *before* this incident, multiple officers were indisputably told, personally knew, or themselves observed that Danny Garcia lived at or was staying in apartment #307, not #306.

46. There was also a pre-incident meeting, described by Defendants Speelman and Smith, in which “metro personnel met at a preplanned staging location and developed a plan to contain the apartment on all sides and order Garcia out to awaiting officers where he would be taken into custody.”

47. There was thus plenty of time, exceeding an hour, for Defendants to deliberate, assess, communicate and properly plan to enter the known correct apartment location #307 *prior* to raiding the wrong apartment where Plaintiffs resided in #306.

48. Not only was the suspect’s address at apartment #307 both clear and known to many or all of the officers, but the #307 was obviously and plainly visible in “white letters on a brown placard to the left” side of the apartment door.

49. Nevertheless, with palpable objective unreasonableness, Defendants did not bother to read the plainly visible apartment number on the door they were ramming (utterly central to their arrest assignment), did not process what it said or disregarded what they saw and knew about #307 being the location of Mr. Garcia with a balcony facing North East towards Washington Street<sup>2</sup>, failed to sufficiently consider this obviously case-critical information, failed to sufficiently or timely communicate or share the suspect’s known location, and/or were consciously indifferent to their own widespread knowledge that the target of this raid was in #307, not #306.

50. While this was happening, Defendant Portillo was apparently contacted about the location that he had had a “constant view” of as #307 but, with additional objective unreasonableness, did nothing to intervene to stop this raid of #306.

51. Defendants all unconstitutionally participated in the raid on these Plaintiffs, and/or did nothing to intervene to prevent the complained-of incident from happening, despite opportunity and a legal duty to do so under the ELEIA.

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<sup>1</sup> The City & County of Denver has refused to disgorge this additional evidentiary document, which it has provided in other cases, despite CORA requests.

<sup>2</sup> Plaintiffs’ apartment did not face Washington Street. It faced a dog park.



52. By means of threatened deadly excessive force, deploying assault rifles, Defendants unconstitutionally seized, and for a significant time thereafter, continued to unreasonably confine and restrain the freedom of all Plaintiffs, and/or failed to intervene to stop this conduct despite realistic opportunities and duties to do so.

53. Defendants also illegally searched and swept Plaintiffs' apartment without a warrant, or consent, or failed to intervene to stop this unlawful conduct.

54. After Plaintiffs were unlawfully seized and removed from their home and apartment building, they were all unlawfully held in custody and confined in a police car by at least Defendant Portillo, while the other Defendants did nothing to stop it.

55. More particularly, Defendant Portillo locked them all in his car such that they could not get out, told them they had to stay there, and that they could not leave. This continued for a significant period of time until the children had to go to the bathroom so badly, Defendant Portillo, and/or others, finally allowed them out to do so.

56. While Plaintiffs were so confined against their will, held without charge, and held without a warrant or consent, despite their then known complete innocence, Defendants unconstitutionally commandeered or failed to intervene to stop the commandeering of Plaintiffs' apartment. Many of the Defendants in fact conducted their continuing operations in part therefrom.

### **The Unconstitutional Invasion, Assault, Search and Seizure of Plaintiffs and Their Apartment**

57. The officers body cams unequivocally reveal that, with objective unreasonableness, Defendants indeed first banged and rammed on the door to #306 while screaming very loudly at these Plaintiffs that they knew Danny Garcia was inside, despite their above shown knowledge that in fact he was not.

58. The following portrait of this unconstitutional search, seizure, commandeering, and excessive use of threatened deadly force includes several still images taken from body worn camera footage of the Defendants and other Officers, as well as Plaintiffs Ring Camera system.

59. Before beginning to ram the door to Plaintiffs' apartment #306, Defendants Gruenther, Tak, Pietrafeso, Bollwahn and Carrigan, *among others*, pointed their assault weapons at the door of #306, as partially captured by Plaintiffs' Ring Camera.<sup>3</sup>

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<sup>3</sup> Undersigned counsel has repeatedly requested that the City identify each of the officers who pointed guns at these Plaintiffs in or by Apartment #306, or at that Apartment's windows from the outside. These officers include Defendants Gruenther, Bollwahn, Pietrafeso, Tak, Carrigan, who pointed or brandished weapons inside the apartment, as well as the still-undisclosed others who were seen pointing guns at Plaintiffs' apartment windows from the outside.

60. As they all did so, the placard identifying the target apartment #307 was obviously and clearly publicly displayed on the other side of the hall as pictured below:



61. Defendants repeatedly banged and damaged the front door of Plaintiffs' apartment with devices for that purpose. As they did, they yelled at Plaintiffs that they knew Danny Garcia was in their apartment and to come out with their hands up.

62. From inside her apartment, Plaintiff Sharon Shelton-Knight told Defendants that they were at the wrong apartment and that Danny Garcia was in #307.

63. The device used to hit Plaintiffs' door caused the below pictured damage, for which Denver has not repaired despite requests by the family:



64. The SWAT team would not listen to Ms. Shelton-Knight, persisting on banging and/or ramming on the door and pointing their guns, until these terrified Plaintiffs opened the door.

65. Defendants, including at least Defendants Gruenther, Tak, Pietrafeso, Bollwahn and Carrigan, then ordered Plaintiff Sharon Shelton-Knight out of her apartment, and further terrorized her by pointing assault rifles, at least one of which she thought had a laser, directly at her chest. This caused her to fear for her life, her heart to race and her legs to tremble, as she obeyed their commands to put her arms up, and continued telling them, to no avail, that they were at the wrong apartment and there were little girls inside.

66. Below are two still images from Defendants' bodycam footage, showing a deadly assault weapon being pointed at Plaintiff Sharon Shelton-Knight:





67. The SWAT team member(s) nonetheless commanded Ms. Shelton-Knight to keep her hands up, which she did. She was then rushed down the stairs, sustaining physical bruising from the way she was handled.

68. Ms. Shelton-Knight is diabetic and thus needs to wear shoes, but she was forced to walk out of her apartment in pajamas and painfully without shoes, in front of her neighbors, and without her medicine for diabetes or high blood pressure. Ms. Shelton-Knight felt very faint and her heart continued to rapidly palpitate. She also heard neighbors talking about Plaintiffs being the ones they were after, and like her daughters, felt severely humiliated.

69. As she was hustled out, she also saw many SWAT members with assault weapons, along with an officer with a police dog who nearly bit her right calf.

70. At that time, there were 10-15 or more SWAT or FAST Team members in the immediate environs (from around 40 such involved members overall), several of whom entered Plaintiffs apartment to illegally sweep it without consent or a warrant, while pointing or menacingly brandishing assault weapons.

71. Several Defendants, including Defendant Gruenther and others named in footnote 3, next aimed their assault rifles at Kirsty Shelton, thereby terrifyingly seizing her, and also made her come out at gun point with her arms up. Below is a still image from the body worn camera footage:



72. After illegally seizing Ms. Shelton-Knight and Ms. Shelton, these Plaintiffs once again told officers that the suspect Danny Garcia was not in their apartment, that he was in #307, and that there were children still in #306.

73. With objective unreasonableness, despite all then knowing they lacked probable cause or reasonable suspicion to assault, seize and take Plaintiffs from #306 into custody, or to search people and things in that wrong apartment, multiple officers, again including but not limited to, Defendants Gruenther, Bollwahn, Carrigan, Piatrefeso and Tak, entered apartment # 306, with assault weapons brandished, which terrorized the minor Plaintiffs who they knew were still inside in a back room.

74. Before entering their apartment, Plaintiffs Shelton and Shelton-Knight asked Defendant Officers to let them back into the unit with them, so that they could calm the children down and ensure that they would not be further scared by the police. The officers refused.

75. They instead entered #306 alone with their guns ready, and the children inside, as depicted below:







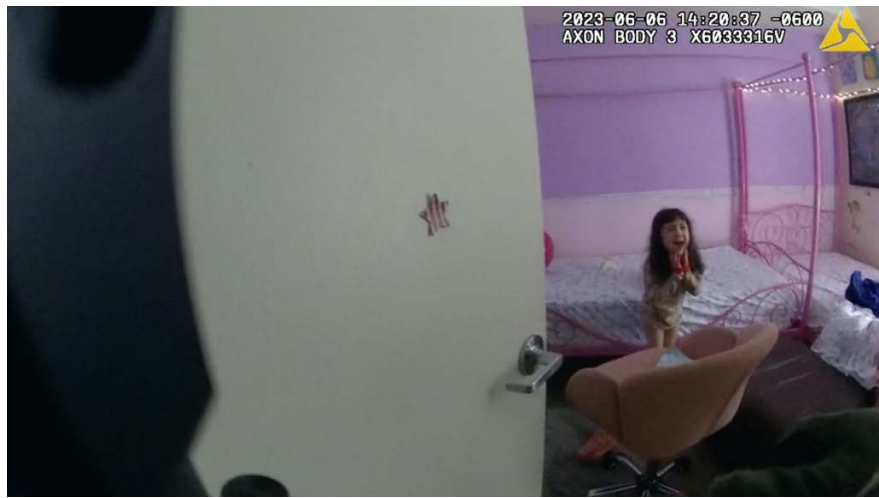
### **The SWAT Team Foreseeably Terrorized the Plaintiff Children and Brittany Shelton**

76. After refusing to bring the children's mother or grandmother to comfort and reassure them, and after stolidly refusing to even consider what they were repeatedly told about being in the wrong apartment, the officers swept the apartment to the room with the children in the back, with assault rifles out and brandished at the least in low ready positions.

77. They found the children covering in their bedroom, extremely frightened by this SWAT team who had just rammed their door very loudly while screaming. The children immediately began loud and prolonged screaming.

78. Below is a series of body worn camera still images, from Defendants Gruenther and Bollwahn:









79. The children repeatedly said to these officers: “Don’t hurt us.”

80. Confronted so starkly with what they had done, too late, these officers changed their tone and unsuccessfully tried to calm the children down.

81. Only after so needlessly further terrifying the children, did the SWAT team bring the girls’ mother back to the apartment, who was forced to keep her arms up despite her known innocence:



82. Plaintiff Brittany Shelton also fully experienced this terrifying event, coming out of her room into the scene, hearing and seeing the children repeatedly screaming, and standing by as the officers began commandeering their apartment, with their assault rifles out, as shown below:



83. Plaintiffs' ordeal was still not over. Defendants next took all Plaintiffs into custody for 1-to-2 hours and unreasonably restricted their freedom to move or leave by confining and locking them in an unmanned police car, despite their requests to go to a relative's home. Defendant Portillo and other Defendants carried out this restraint of Plaintiffs, unlawfully confining them in his vehicle, and leaving them there.

84. These Officers then unlawfully commandeered apartment #306, without a warrant or consent, in peacetime, while seeking to arrest suspect Garcia in #307.

85. Plaintiffs submitted a complaint to Internal Affairs, and DPD Internal Affairs completed its report.

86. Likewise, the Office of the Independent Monitor also completed its review.

87. Yet despite record and CORA requests, interviews by all the officers, including a number of involved officers who apparently did not write initial reports, are still being withheld and suppressed. A complaint amendment adding more Defendants and/or additional detail is anticipated once this core witness evidence stops being fraudulently concealed.

88. At this point, this lawsuit currently names only the most obviously involved officers. As this suit is filed, the statute of limitations extending fraudulent concealment by Denver of the identities and precise acts of all the involved SWAT team members who subjected Plaintiffs to this unconstitutional conduct, is continuing.

### **Multiple Defendants Covered up and Attempted to Conceal Their Liability**

89. The police reports submitted by Defendants and other officers deliberately fail to describe the interactions and terrorization of Plaintiffs, or fabricate altogether a much more pleasant, normal and lawful, interaction with the residents of apartment #306.

90. Not only did Lt. Smith, who was the supervising "Incident Commander" in charge, personally fail to ensure that the known Unit #307 location of the suspect was properly communicated and understood by his fellow SWAT Officers, he then overtly distorted and covered up what happened.

91. In his AFTER ACTION REPORT, Incident Commander Defendant Smith reported that they had a tactical briefing meeting before initiating their plan: "METRO responded to a predetermined staging area and met with the SSTF defectives. . . The tactical plan was briefed to all involved METRO personnel, and it was ensured that everyone understood their role in the plan."

92. In his report, however, Defendant Smith falsely claimed that the complained of events with Plaintiffs were just part of some pre-determined tactical plan to simply help the

residents in #306 be evacuated for their own protection and safety, given the location of the target suspect in #307.

93. He crafted this falsehood in his own words as follows:

The tactical plan was initiated, and the location was contained. Due to the layout of the 3<sup>rd</sup> floor, occupants in apartment #306 were contacted, advised of the situation, and evacuated for their safety.

94. Plaintiffs were not “advised of the situation” or “evacuated for their safety.”

95. Rather, as all these reporting officers knew, Defendants repeatedly rammed the door of Plaintiffs’ apartment #306, while yelling for them to come out with their hands up and that they knew suspect Garcia was inside their apartment. They were forced to leave their apartment at gunpoint with their minor terrified children alone in a room inside. Defendants continued to sweep the apartment with brandished assault rifles, while terrorized children watched and screamed. They were then locked inside a police car unable to leave for a significant period of time.

96. Defendants’ actual actions are not reconcilable with the official concoction/invention that Plaintiffs were invited out of their apartment, advised of the dangers, and evacuated for their safety.

97. Defendant Anthony Tak joined in this effort to rewrite the history of this unconstitutional raid, falsely reporting that, as Defendants were supposedly carrying out their plan with the suspect target’s apartment, #307: “An elderly female exited 306 and **was advised of the situation**. We then evacuated her and two adult females and two young children from their apartment due to the suspects apartment directly across the hallway.” (emphasis added).

98. Defendant Carrigan, in a variant of the main coverup, overtly falsified his report by claiming that the *Detectives* “on the scene determined the apartment number to be #306.”

99. However, Defendant Carrigan’s own partner, Defendant Pietrafeso, and the detectives, and many other officers, documented that they knew they had been dispatched to raid apartment #307. As Defendant Pietrafeso wrote:

While working with Tech S. Carrigan . . . Responded to 2381 Cleveland PI # 307 to assist Safe Streets on a fugitive pickup. The suspect was contacted verbally through the door but refused to come out.

100. Although Defendant Pietrafeso appears to be one of the officers ramming Plaintiffs’ door multiple times and yelling commands with pointed guns, Defendants Pietrafeso and Carrigan, make no mention in their reports of their central roles in the events with Plaintiffs in Unit #306.

101. Defendant Gruenther acknowledges in his report that he too responded to “2381 Cleveland Pl. #307.” This Defendant was the officer who first terrified the Plaintiff children with his brandished assault rifle out and at the least in the low ready position.

102. Defendant Gruenther makes no reference in his statement to any of his actions with Plaintiffs or in apartment #306. Rather than straightforwardly reporting what happened, Defendant Gruenther describes himself as merely assisting with “containing unit 307”. He misleadingly states that: “we knocked on the door and identified ourselves as Denver police Officers and that had a warrant for the suspect and he needed to exit the apartment.”

103. Defendant Bollwahn was closely following Defendant Gruenther. Defendant Bollwahn likewise labors in his report to undo on paper what he did in real life. Body worn camera footage clearly captures him in Plaintiffs’ apartment *before* any contact with apartment #307. But in Defendant Bollwahn’s after-incident reporting, his entire interactions and brandishing of assault weapons at the screaming children are entirely omitted from his narrative in the report.

104. Thus, involved bodycam captured ramming of Plaintiffs door, and the pointing or brandishing of assault weapons at these five innocent people, has become in several Defendants writings just another exercise in covering up unconstitutional conduct, here by pretending this team just politely contacted Plaintiffs, “*advised*” them, and then kindly escorted to safety.

105. DPD’s long and disturbing history of such coverups is again maliciously present in this case. Plaintiffs are not even treated as regrettable collateral damage; they are entitled to a truthful account.

### **Plaintiffs’ Injuries, Damages and Losses**

106. The Plaintiff family has been traumatized by these assaultive events causing them physical injuries, personal physical sickness and physical pain and suffering, including personal sickness in the form of PTSD, or its exacerbation in the adults and a collage of such PTSD symptoms and related tangible objective physical PTSD manifestations and symptoms in the children. These variously include for all of them excessive fear, hypervigilance, exaggerated startle response, anguish, shattered nerves from noises, flashbacks, severe fear, loss of trust in law enforcement, nightmares, insomnia, and cold sweats.

107. Sharon Shelton-Knight was terrorized by these events. As afore-alleged, she was forced out of her apartment at gun-point by SWAT Officers. While at gun point, she felt that if she moved, she would be shot dead as officers yelled at her to put her hands up. She was rushed down the stairs in her pajamas, seeing numerous SWAT officers with assault weapons at the ready in hand. She was forced out without her keys, shoes, medications, or her purse. As a diabetic, she needed to have her shoes on to walk and it was painful for her to do so without them as her heart raced. She was not initially able to access or take her meds for diabetes or high blood pressure and became faint. She was physically bruised by the way she was handled. She felt defiled,

embarrassed, powerless and horrified. She has had horrible insomnia and nightmares of the SWAT team raiding them again or hurting her family. She has experienced PTSD from this event, and/or its exacerbation and has been repeatedly paranoid and edgy from this incident.

108. Brittany Shelton was taking a shower and had just gotten out and into a slip dress when she heard the ring notification on her phone. She watched as the SWAT team rushed into their home, which caused her severe stress as she worried about her mother, sister and nieces. She was very afraid to open her bedroom door because she was afraid the SWAT team would shoot her. Her heart raced as she encountered these police with all their deadly assault rifles. She heard her two nieces screaming in fear, and followed police orders while afraid they were going to shoot and kill her. This Plaintiff is also diabetic, and also didn't have her shoes on or her medication when she was seized and forced to leave her apartment.

109. Before leaving, Plaintiff Brittany Shelton went into Kirsty Shelton's room and saw her oldest niece crying and reporting she was seeing police outside their window. She went to see what she was saying and realized their whole apartment was surrounded with SWAT team members outside, pointing their assault rifles at them in their apartment. She told Kirsty Shelton and the girls to get down as they trembled from the events, including assault rifles pointed at them from outside.

110. Brittany Shelton was forced to go outside in just her slip dress holding one of the children, and then baselessly held in custody in a police car. Preexisting PTSD, which has been aggravated, led her psychiatrist to prescribe medications to lower her heart rate because she has since experienced panic and anxiety attacks from these events. She also has nightmares from these events and experiences startle reactions from loud noise. She is easily frightened by ring camera notifications if someone is at the door. She is terrified of being alone in her apartment. She has required psychiatric care to manage her resulting PTSD symptoms.

111. The adult Plaintiffs continue to relive the trauma from these events when they enter or leave their apartment.

112. Plaintiff children continue to experience noise sensitivity, fear and terror at loud noise like sirens from police, ambulances or fire trucks, resulting in crying spells, sleep difficulties, nightmares, and fairly significant enuresis for one of them, separation anxiety, and intrusive thoughts, necessitating considerable counseling treatment. The children recount nightmares involving the SWAT team, including killing their mother which made one of them inconsolable. The children hear noises and ask if the SWAT team is outside. They remain traumatized to the point that they do not like to go to sleep and will not sleep in their own room, sleeping in their mother's room since the events.

113. Plaintiff Kirsty Shelton was watching a kid show with her daughters when she heard three loud consecutive bangs on her door. She sent the children to the backroom, noting their eyes

were big as saucers. Banging continued. She heard her mother telling the team Danny Garcia did not live here.

114. Plaintiff Kirsty Shelton put her therapy dog in her kennel and told her mother to open the door. Having a history of experiencing a stroke, this disabled Plaintiff uses walkers and wheelchairs and has physical pain when she walks. As set forth further above, when she exited the door, she was met with an assault weapon pointed at her and commanded to put her hands up. She tried to pull her dress down in back but was yelled at again to keep her hands up. She was painfully forced to walk down the stairs, seeing many officers with assault rifles and a snarling police dog. To no avail, she told the officers that her daughters were in the apartment. When she was finally allowed back in, she saw her screaming children being escorted out of the bedroom with SWAT team members. She too was required to leave without her medications for high blood pressure, severe pain, migraines, depression and anxiety.

115. At this point, the girls again burst into tears and were screaming. The officer directed them to go again in one of the back rooms. When they looked out the window, they could see police on the ground with their assault rifles pointed at their window. Plaintiff Kirsty Shelton also told her girls to get low because of this gun pointing.

116. With her girls still crying at the sight of the SWAT team members, she tried to calm them down. Plaintiff Kirsty Shelton experienced the SWAT members getting agitated with her girls crying and making upset/angry looks at her as she tried to quiet the children.

117. Once the children quieted, Kirsty Shelton had to carry her youngest in her arms, but she cannot pick up more than 10 pounds without excruciating pain. She also cannot walk or climb down stairs without experiencing excruciating pain, but was not allowed to take the elevator. When she finally got to the second floor and put her daughter down, she nearly collapsed out of pain.

118. The Plaintiffs were next confined and their freedom to move or leave unreasonably restrained in a police car by Defendant Portillo. There, Plaintiff Kirsty Shelton experienced an anxiety attack as she realized she could have lost her children if they shot her or her daughters.

119. When they were finally released to go to her aunt's house, Kirsty Shelton had to be treated with pain patches that did not help. When she was able to get home by a friend driving them, she was doubled over in pain and unable to walk but a few inches at a time.

120. Upon entering her apartment, Kirsty Shelton realized an explosive had been used to get the door off of #307.

121. After they were allowed to return to their apartment, all Plaintiffs experienced the effects of tear gas that had been discharged into #307. There was glass in the kitchen from the

explosive shattering a picture. The Plaintiff children were still crying and yelling out as they were all exposed to the tear gas the officers used, and which spread in their house.

122. The SWAT team had moved Kirsty Shelton's therapy dog into her sisters' room, which also reeked with the smell of the tear gas. All Plaintiffs experienced their eyes burning and they all were coughing. J.S.1 threw up twice from the tear gas. The Plaintiffs continued to deal with the effects of this tear gas for days, coughing and experiencing having their eyes burn. No Defendant or other agent from DPD advised them of this problem or did anything to assist them.

123. In amounts still being ascertained, Plaintiffs have required counseling and treatment from these events. They are entitled to all special damages for all charges for care and treatment, to all other losses they have incurred from these events and to statutory attorneys' fees, costs and interest in addition to full compensatory damages for their resulting respective personal physical illness, physical injuries and personal sickness including PTSD or PTSD related physical and emotional pain and suffering. They are also entitled to punitive damages.

**CLAIM FOR RELIEF:**  
**Excessive Force, Unreasonable Seizure and Search – Colorado Constitution,**  
**Article II, Section 7,**  
**Colo. Rev. Stat. § 13-31-131**  
**(Against Individual Police Defendants)**

124. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if they were fully set forth again herein.

125. Plaintiffs brings this action against these Defendants in their individual capacities.

126. At all times relevant hereto, all Defendants were acting under the color of law in their capacities as police officers working for the City and County of Denver and the Denver Police Department ("DPD").

127. At all times relevant hereto, Individual Defendants acted within the course and scope of their employment as DPD law enforcement officers.

128. Article II, section 7 of the Colorado Constitution forbids unreasonable searches and seizures and the use of excessive force by law enforcement officers.

129. Plaintiffs bring their claim under the Colorado Constitution and §13-21-131, C.R.S., enacted in 2020 as the Enhanced Law Enforcement Integrity Act ("ELEIA") to actualize the right of Coloradoans to be secure from unreasonable searches and seizures and the attendant use of excessive force.



130. The liability provision of § 13-21-131 (1), C.R.S., which also expressly authorizes failure-to-intervene claims, states as follows:

A peace officer, [] who, under color of law, subjects or causes to be subjected, including failing to intervene, any other person to the deprivation of any individual rights that create binding obligations on government actors secured by the bill of rights, article II of the state constitution, is liable to the injured party for legal or equitable relief or any other appropriate relief.

131. At all times relevant hereto, all Defendants were “peace officers” under C.R.S. § 24-31-901(3) and therefore subject to C.R.S. § 13-21-131.

132. The complained-of unlawful search, seizure, use of excessive force, and failure to intervene to stop such unlawful conduct, subjected Plaintiffs to violation of their specified Colorado constitutional rights.

133. Individual Defendants did not have a warrant authorizing any search of Plaintiffs or their residence, any seizure of Plaintiffs or any commandeering of their apartment. Individual Defendants did not seek or obtain any consent for such search and seizure.

134. Individual Defendants did not, at any time during their encounter with Plaintiffs, have probable cause or reasonable suspicion to believe that any Plaintiffs had committed, were committing, or were about to commit any violation of the law.

135. Individual Defendants had no legally valid basis for their unconstitutional search of Plaintiffs’ apartment, their unconstitutional seizure of Plaintiffs, or for their unconstitutional commandeering of Plaintiffs’ apartment.

136. Individual Defendants further unconstitutionally and intentionally assaulted Plaintiffs by threatening them with excessive force when they were suspected of no crimes, engaged in no resistance or attempt to flee, were not armed or suspected of being armed, and in fact were defenseless.

137. Individual Defendants’ threatened use of deadly force against Plaintiffs, and their complained of actions as described herein, were objectively unreasonable in light of the circumstances confronting them before and during the encounter with Plaintiffs.

138. There was also plenty of time, exceeding an hour, for Defendants to deliberate, think, assess and plan to raid and attack the known correct apartment location #307 prior to attacking these Plaintiffs in the #306.

139. A division of the Colorado Court of Appeals has held that objective unreasonableness is the standard for Colorado constitutional claims of excessive force against police. *Woodall v. Godfrey*, 2024 COA 42, ¶ 18, 553 P.3d 249, 257.

140. Individual Defendants thereby violated Plaintiffs' state constitutional rights by using objectively unreasonable and excessive force against Plaintiffs in seizing them, unreasonably restricting their freedom, taking them into custody for a significant period of time without legal basis and subjecting them and their residence to unlawful and unreasonable searches, including commandeering without consent, a warrant or exigent hot pursuit circumstances during peacetime.

141. Individual Defendants, with objective unreasonableness, all also failed to intervene to stop the afore-alleged unconstitutional search and commandeering of Plaintiffs' apartment and the unconstitutional seizure and use of excessive force on Plaintiffs, in violation of all Defendants' clear duty under § 13-21-131, C.R.S.

142. Individual Defendants engaged in an individual and collective plan or effort(s) and actions to use unreasonable and excessive force against Plaintiffs, and each Defendant also failed to take reasonable steps to intervene in the other Officer Defendants' unlawful use of force and other complained of unconstitutional actions against Plaintiffs, despite being in a position, and having the opportunity and the legal duty, to do so.

143. Each Defendant is therefore personally, and jointly and severally liable for Plaintiffs' injuries, damages and losses resulting from the unconstitutional search and seizure of, and excessive use of force against these Plaintiffs, as well as the unconstitutional search of their home and the commandeering of their apartment.

144. The complained-of violations by Individual Defendants proximately caused Plaintiffs damages, injuries, and losses, entitling them against each of these Defendants individually and collectively to all their resulting past, ongoing and future general, compensatory, special, economic, non-economic and punitive damages, statutory attorneys fees and costs under the ELEIA and in this claim.

145. The City and County of Denver is liable for the acts and omissions of its agents and/or employees, and for the herein described acts by Individual Defendants, who were acting within the scope and course of their employment.

146. Under § 13-21-131, C.R.S. the Defendant City and County of Denver is expressly required to indemnify all the Defendant peace officers for all Plaintiffs' injuries, damages and losses.

147. Individual Defendants are not immune from this lawsuit. The CGIA does not apply to this claim, and there is no statutory or common law qualified immunity for this ELEIA claim because the Colorado legislature has abolished all such defenses.

148. Specifically, § 13-21-131(2), C.R.S. expressly abolishes qualified immunity and statutory immunities to these claims as follows:

(a) Statutory immunities and statutory limitations on liability, damages, or attorney fees do not apply to claims brought pursuant to this section. The “Colorado Governmental Immunity Act”, article 10 of title 24, does not apply to claims brought pursuant to this section; (b) Qualified immunity is not a defense to liability pursuant to this section.

149. The Individual Defendants’ conduct, and other involved Defendants not yet identified, was attended by circumstances of malice, fraud or willful and wanton conduct, which the Individual Defendants must have realized was dangerous, or that was done heedlessly and recklessly, without regard to the consequences, or of the rights and safety of others, particularly Plaintiffs. Plaintiffs are therefore entitled to punitive/exemplary damages against each Individual Defendant.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully requests this Court enter judgment in their favor and against Defendants, and award them all relief and damages as allowed by law and equity, including, but not limited to:

- a. All appropriate relief at law and equity;
- b. Declaratory relief and other appropriate equitable relief;
- c. Actual economic damages as established at trial;
- d. Compensatory damages, including but not limited to, those for past and future pecuniary and non-pecuniary losses for physical sickness, physical personal injuries, physical pain and suffering including for PTSD and PTSD related symptoms, and other non-pecuniary losses;
- e. Punitive or exemplary damages against all defendants as allowed by law in an amount to be determined at trial;
- f. Pre-judgment and post-judgment interest at the highest lawful rate as provided by Colorado law;
- g. Attorney’s fees and costs under ELEIA and Colorado law;
- h. Indemnity by the City & County of Denver as provided by the ELEIA; and
- i. Any other appropriate relief at law and equity that this Court deems just and proper, including with regard to the fraudulent concealment additional joinder of parties issue identified in this complaint.

**PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE.**

DATED this 25<sup>th</sup> day of February 2025.

HOLLAND, HOLLAND EDWARDS, & GROSSMAN, LLC

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