

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

SHEILA NEVÁREZ CHICLANA, mother of Javier Cordero Nevárez, in her personal capacity and as his heir, on behalf of her minor son.

Plaintiff,

V.

ANTONIO LÓPEZ FIGUEROA, in his personal and official capacity as the Commissioner of the PRPB; Lieutenant Colonel Juan A. Cáceres Méndez, Field Operations Manager, in his personal capacity; Lieutenant Colonel Roberto Rivera Miranda, in charge of the Superintendency of Criminal Investigations, in his personal capacity; Lieutenant Colonel Gerardo Oliver, in charge of the Stolen Vehicles Bureau, in his personal capacity; Sergeant Ángel Alicea, in his personal capacity as the Officer in charge; Giovanni Santiago Avilés, in his personal capacity as officer of the PRPB; Luis Vélez Mari, in his personal capacity as officer of the PRPB; Carmen Cacho, in her personal capacity as an officer of the PRPB; Félix De Jesús Flores, in his personal capacity as an officer of the PRPB; Roxanne Ruiz Cisneros, in her personal capacity as a police officer of the PRPD; Kevin Meléndez Monsegur, in his personal capacity as a police officer of the PRPD; and Paola Farría Santiago, in her personal capacity as a police officer of the PRPD; Officers John Doe (1) (2), in their personal capacity as police officers and/or officers or supervisors assigned to the PRPB; Insurance Companies A, B, C; and the Commonwealth of Puerto Rico through the

Civil No.

Civil Rights Violation,
Declaratory and Injunctive
Relief, Compensatory and
Punitive Damages
42 USC §§1983; 1988

Plaintiff Demands Trial by Jury

Department of Justice represented by
Secretary of Justice Domingo Emmanuelli.

Defendants.

COMPLAINT

TO THE HONORABLE COURT:

Come now Plaintiff Sheila Nevárez Chiclana, mother of Javier Cordero Nevárez, in her personal capacity and on behalf of her minor son, Javier, deceased, and resident of San Juan at all times relevant hereto, through the undersigned attorneys, and very respectfully states, alleges and prays as follows:

PRELIMINARY STATEMENT

(Suit for civil rights violations and injunctive relief for violation of constitutional rights)

1.1 This is an action for civil rights violations and injunctive relief based on the violation of Plaintiff's federal rights under the Fourth, and Fourteenth Amendments to the United States Constitution. This action concerns the Puerto Rico Police Bureau's (A/K/A Puerto Rico Police Department) arbitrary use of deadly force against Javier Cordero Nevárez in violation of his Fourth and Fourteenth Amendments rights to be free from unreasonable searches and seizures.

1.2 The acts and omissions of each of the Defendants as described herein violated the decedent's federal rights that protect his safety and his bodily integrity, deprived him of his enjoyment of life without due process of law and inflicted cruel and unusual punishment upon him, all in violation of the Fifth, Eighth, and Fourteenth Amendments of the Constitution of the United States. They also violate the rights conferred to the decedent by Article II, §§ 1, 7, and 12 of the Constitution of the Commonwealth of Puerto Rico. Each of the Defendants is jointly and severally liable to the decedent's heirs for these violations.

1.3 The acts and omissions of each of the Defendants as described herein constituted deliberate indifference or reckless disregard toward the inviolability of life, health, safety, and bodily integrity of the decedent in violation of the Civil Rights Act, as amended, 42 U.S.C. §1983. Each of the Defendants is jointly and severally liable to the decedent's heirs for these violations.

1.4 The acts and omissions by each of the Defendants also amounted to fault or negligence under Articles 1536, 1538 and 1540 of Puerto Rico Civil Code, 2020, et seq., 31 LPRA §5141 et seq., which caused the decedent excruciating physical pain and mental anguish until he passed away as the result of severe injuries suffered.

1.5 For decades, the Puerto Rico Police Bureau (PRPB) has exhibited a pattern and practice of excessive and deadly use of force against unarmed persons. It has routinely deployed untrained as well as poorly trained officers to address critical situations, all this in violation of their constitutional rights pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, as documented, evidenced and manifested by the United States Department of Justice¹ as well as civic, media and academic institutions across the Island.

1.6 Plaintiff seeks a Verdict and a Judgment, and a Declaratory Judgment in her favor, pursuant to Section 1983 of the Civil Rights Act of 1964 (“Section 1983”).

1.7 Officers under the direction of, or with the knowledge and acquiescence of Defendants, Commissioner of the PRPB ANTONIO LÓPEZ FIGUEROA, and others, in the instant case employed unnecessary and excessive force against Javier Cordero while he was driving a motor vehicle. PRPB’s unreasonable force was used in this case against Javier after a car chase, using heavy gun power against a minor who was unarmed.

¹ Investigation of the Puerto Rico Police Department, United States Department of Justice Civil Rights Division, September 5, 2011. Available at: https://www.justice.gov/sites/default/files/crt/legacy/2011/09/08/prpd_letter.pdf (Last accessed: July 27, 2023).

1.8 Defendant Antonio López Figueroa, as well as the other supervisors, are responsible for implementing and overseeing the PRPB's policies and practices for engaging in these types of interventions. To the extent of the widespread unconstitutional practices, Defendants have not only ignored this police behavior, but also, upon information and belief, encouraged them as the Commander-in-Chief of the PRPB, and from a supervisory role.

1.9 Plaintiff seeks Declaratory Judgment as to the federal rights herein alleged, and preliminary and permanent injunctive relief requiring that Defendants to implement and comply with the Police Reform Agreement signed in June 17, 2013, by the Commonwealth of Puerto Rico and the United States Department of Justice. In order to comply, the PRPB should meet U.S. constitutional standards of use of force; train PRPB officers to follow the "Use of Force Policy" - General Order 601- created for an effective constitutional policing; and provide adequate supervision and enforcement to be sure that these policies are followed; finally, to take efficient disciplinary actions against those officers that violate federal rights, pursuant to the United States Constitution.

1.10 Plaintiffs also seeks a declaratory judgment that the actions taken by the PRPB and its officers and supervisors are unconstitutional and in violation of the Fourth, and Fourteenth Amendments to the United States Constitution, and a permanent injunction prohibiting Defendants from continuing to incur in this conduct, in violation of Plaintiff's federally guaranteed rights.

II. NATURE OF THE ACTION AND JURISDICTION

2.1 This is a civil action brought under the Fourth and Fourteenth Amendments to the U.S. Constitution, under 42 U.S.C. § 1983 and 1988 for declaratory and equitable relief, monetary damages and attorney's fees, for unlawful and abusive actions taken against Plaintiffs by PRPB, its officers and supervisors.

2.2 Plaintiff Sheila Nevárez Chiclana is a 45 year old single parent, citizen of the United States, mother of Javier Cordero Nevárez whose wrongful death was provoked by the deliberate indifference and reckless disregard of the defendants, and resident of San Juan, Puerto Rico.

2.3 Javier never had any children. Therefore, his mother, Sheila Nevárez, is the heir of Javier Cordero and takes to the court his claims and damages.

2.4 Specifically, as set forth in greater detail below, Plaintiff has suffered enormous physical and mental harm and distress as a direct consequence of Defendants' abusive and unlawful behavior.

2.5 This Honorable Court has jurisdiction over the federal constitutional and statutory claims set forth in this complaint pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1343 (a) (3) (civil rights).

2.6 This Honorable Court is also authorized to order declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Rules 57 and 65 of the Federal Rules of Civil Procedure, as well as pursuant to the broad equitable power of this Court under 42 USC Section 1983.

2.7 Venue properly lies before this Court under 28 U.S.C. § 1391(b). Plaintiff and Defendants are residents of the Commonwealth of Puerto Rico and the acts and/or omissions giving rise to Plaintiff's claims occurred in this district.

2.8 Plaintiff demands trial by jury as to all counts and requests for relief set forth in the instant complaint, except injunctive relief.

III. THE DEFENDANTS

3.1 Defendant **Antonio López Figueroa**, current Commissioner of the PRPB, is responsible for the actions and policies that led to the events described in this complaint.

Defendant is being sued in his individual capacity, for the conduct, misconduct, lack of training and supervision, negligence, deliberate indifference and damages herein asserted and claimed.

3.2 Lieutenant Colonel **Juan A. Cáceres Méndez**, Field Operations Manager, is responsible for the actions and policies that led to the events described in this complaint together with the Commissioner. Defendant is being sued in his individual capacity, for the conduct, misconduct, lack of training and supervision, negligence, deliberate indifference and damages herein asserted and claimed.

3.3 Defendant Lieutenant Colonel **Roberto Rivera Miranda**, Auxiliary Superintendency of Criminal Investigations of the PRPB, who at all times relevant to this complaint, acted under color of law and is responsible for the actions and policies that led to the events described in this complaint. Defendant is being sued in his individual capacity, for the conduct, misconduct, lack of training and supervision, negligence and damages herein asserted and claimed. Upon information and belief, Roberto Rivera Miranda participated in the chain of events that led to the wrongful death of Javier in violation of Plaintiff's constitutional rights under the Fourth and Fourteenth Amendments to the U.S. Constitution.

3.4 Defendant Lieutenant Colonel **Gerardo Oliver**, in his personal capacity, was by August 1, 2022, one of the Supervisors of the Stolen Vehicles Bureau of the PRPB. Defendant acted under color of law, and is being sued in his individual capacity for the conduct, misconduct, lack of training and supervision, negligence and damages herein asserted and claimed.

3.5 As Commissioner of the Puerto Rico Police Bureau (PRPB), defendant López Figueroa is the ultimate authority in the elaboration and execution of PRPB's policies. As such, he executes the laws and regulations of the Commonwealth of Puerto Rico pertaining to law enforcement, and is responsible for the discipline, training and supervision of all the employees and officers of the PRPB. He is also responsible for making and executing policy decisions

regarding training, supervision, discipline and law enforcement practices to be employed by the PRPB according to the Puerto Rico Police Reform.

3.6 All supervisory defendants are jointly the ultimate authority in the elaboration and execution of PRPB's policies according to the PRPB Reform. As such, they execute the laws and regulations of the Commonwealth of Puerto Rico pertaining to law enforcement, and are responsible for the discipline, training and supervision of all the employees and officers of the PRPB. They are also responsible for making and executing policy decisions regarding training, supervision, discipline and law enforcement practices to be employed by the PRPB.

3.7 All Supervisors execute the laws and regulations of the Commonwealth of Puerto Rico pertaining to law enforcement, and are responsible for the discipline, training and supervision of all the employees and officers under their command. Defendants acted under color of law and are also responsible for making and executing, by themselves or through the department's officers and employees, policy decisions regarding training, supervision, discipline and law enforcement practices to be employed by the Bureau.

3.8 Sargent **Ángel Alicea**, in his personal capacity as the Officer in charge, used deadly force against Javier Cordero. These defendants unreasonably and abusively ordered to use and/or used their lethal weapons, firing at Javier Cordero more than 60 times, provoking physical and emotional damages to him and to his mother, resulting in the death of Javier. Javier Cordero Nevárez received approximately 15 gun shots from the police officers' service weapons. Javier was unarmed.

3.9 **Giovanny Santiago Avilés**, in his personal capacity as officer of the PRPB, used deadly force against Javier Cordero. These defendants unreasonably and abusively ordered to use and/or used their lethal weapons, firing at Javier Cordero more than 60 times, provoking physical and emotional damages to him and to his mother, resulting in the death of Javier. Javier Cordero

Nevárez received approximately 15 gun shots from the police officers' service weapons. Javier was unarmed.

3.10 **Luis Vélez Mari**, in his personal capacity as officer of the PRPB, used deadly force against Javier Cordero. These defendants unreasonably and abusively ordered to use and/or used their lethal weapons, firing at Javier Cordero more than 60 times, provoking physical and emotional damages to him and to his mother, resulting in the death of Javier. Javier Cordero Nevárez received approximately 15 gun shots from the police officers' service weapons. Javier was unarmed.

3.11 **Carmen Cacho**, in her personal capacity as an officer of the PRPB, used deadly force against Javier Cordero. These defendants unreasonably and abusively ordered to use and/or used their lethal weapons, firing at Javier Cordero more than 60 times, provoking physical and emotional damages to him and to his mother, resulting in the death of Javier. Javier Cordero Nevárez received approximately 15 gun shots from the police officers' service weapons. Javier was unarmed.

3.12 **Félix De Jesús Flores**, in his personal capacity as an officer of the PRPB, used deadly force against Javier Cordero. These defendants unreasonably and abusively ordered to use and/or used their lethal weapons, firing at Javier Cordero more than 60 times, provoking physical and emotional damages to him and to his mother, resulting in the death of Javier. Javier Cordero Nevárez received approximately 15 gun shots from the police officers' service weapons. Javier was unarmed.

3.13 **Roxanne Ruiz Cisneros**, in her personal capacity as a police officer of the PRPD, used deadly force against Javier Cordero. These defendants unreasonably and abusively ordered to use and/or used their lethal weapons, firing at Javier Cordero more than 60 times, provoking physical and emotional damages to him and to his mother, resulting in the death of Javier. Javier

Cordero Nevárez received approximately 15 gun shots from the police officers' service weapons. Javier was unarmed.

3.14 **Kevin Meléndez Monsegur**, in his personal capacity as a police officer of the PRPD, used deadly force against Javier Cordero. These defendants unreasonably and abusively ordered to use and/or used their lethal weapons, firing at Javier Cordero more than 60 times, provoking physical and emotional damages to him and to his mother, resulting in the death of Javier. Javier Cordero Nevárez received approximately 15 gun shots from the police officers' service weapons. Javier was unarmed.

3.15 **Paola Farría Santiago**, in her personal capacity as a police officer of the PRPD, used deadly force against Javier Cordero. These defendants unreasonably and abusively ordered to use and/or used their lethal weapons, firing at Javier Cordero more than 60 times, provoking physical and emotional damages to him and to his mother, resulting in the death of Javier. Javier Cordero Nevárez received approximately 15 gun shots from the police officers' service weapons. Javier was unarmed.

3.16 All Defendants herein mentioned participated in the violation of the constitutional rights of Javier and his mother and/or knew of these violations and failed to act or prevent them.

3.17 Officers **John Doe (1) (2)**, in their personal capacity as police officers and/or officers or supervisors assigned to the PRPB.

3.18 Officers **John Doe (1) (2)** are citizens of the United States, sued in their personal capacity as police agents and/or supervisors assigned to the PRPB's Unit that used deadly force against Javier Cordero. These defendants unreasonably and abusively ordered the use of and/or used lethal weapons, firing at Javier Cordero more than 60 times, provoking physical and emotional damages to him and to his mother, resulting in the death of Javier. Javier Cordero

Nevárez received approximately 15 gun shots from the police officers' service weapons. Javier was unarmed.

3.19 All Defendants acted with gross disregard for human life, and caused Javier grave physical injuries, as well as severe mental and emotional suffering to him and his mother. Acting under color of law, all Defendants violated Plaintiff's federally protected constitutional rights under the Fourth, and Fourteenth Amendments to the Constitution of the United States, the Civil Rights Act of 1871, 42 USC §1983.

3.20 Upon information, and/or belief, UNKNOWN officers John Doe 1 and 2, are employees, agents and/or supervisory personnel of the PRPB, that were at all times relevant to this complaint, acting in the course and scope of their employment. Upon information and belief, each UNKNOWN officer John Doe 1 and 2, and all Defendants participated in and/or directed the constitutionally unlawful violations alleged herein, or knew of the violations and failed to act or prevent them.

3.21 The true identities of these defendants are unknown to Plaintiff. In due course, Plaintiff will amend the Complaint to include defendants' names, once Plaintiff ascertains their identities, and will serve process.

3.22 At all times relevant to this complaint, Defendants all acted under color of law, violating Plaintiff's constitutional rights by covering up the identity of the unknown agents and police officers listed in this Complaint, and failing to comply with the disciplinary process against police officers for illegal acts against civilians. No Use of Force Report has been produced regarding the use of force incident with Javier Cordero Nevárez.

3.23 All the above named, and unknown Defendants, are sued in their personal capacity. All defendants are jointly and severally liable to Plaintiff for all claims and relief sought in this complaint, as they caused damages to Plaintiff while acting under color of law.

3.24 The Commonwealth of Puerto Rico, through the Department of Justice represented by Secretary of Justice DOMINGO EMMANUELLI, are subject to injunctive relief by this Court.

3.25 Insurance Companies A, B, C are unknown entities with insurance coverage for the conduct described in the instant lawsuit.

IV. FACTS

4.1 Javier Antonio Cordero Nevárez, a sixteen-year-old minor, and neighbor of Caparra Terrace in Puerto Nuevo, was executed inside of an allegedly stolen vehicle after being shot fifteen times by more than seven police officers of Puerto Rico. The event occurred after a Police vehicular pursuit on the night of August 1, 2022. The Police followed the boy because the car he was driving, allegedly stolen, had a GPS and the owner had shared its location with the Police. The minor was unarmed. More than 60 bullets were shot by the Police at the site.

4.2 Javier was born on July 30, 2008. Raised by his mother in San Juan, he was a student of the Special Education Program of the Department of Education of the Commonwealth of Puerto Rico since the first grade. At the moment of the incident Javier was studying in Gabriela Mistral Public School in 11th grade.

4.3 The event occurred in La Riviera, a residential area in Puerto Nuevo, San Juan. The minor Javier Antonio Cordero Nevarez was wounded and died at the scene between 40th SO street and 15th SO street. At no time did Javier represent a threat to the officers or provide a legitimate basis for the discharge of their weapons at this unarmed young man.

4.4 As the allegedly stolen vehicle had a GPS, it could have been easily found by the Police without the necessity of this violent and deadly intervention. The motor vehicle was allegedly stolen some days before the incident.

4.5 Days later, on August 3, 2022, it was revealed that three police patrols were involved in the intervention. The police officers that intervened were identified as Giovanni

Santiago Avilés, Luis Vélez Mari, Carmen Cacho, Félix de Jesús Flores, Roxanne Ruiz Cisneros, Kevin Meléndez Monsegur and Paola Farría Santiago. The Sergeant was identified as Ángel Alicea. These agents belong to the Stolen Vehicles Bureau of Carolina, under the supervision of Lieutenant Colonel Gerardo Oliver and Lieutenant Colonel Roberto Rivera Miranda from the Auxiliary Superintendency of Criminal Investigations.

4.6 When the minor, Javier Cordero, found himself at a dead-end road, between 40th SO street and 15th SO Street, of La Riviera, San Juan, the police officers blocked the exit with at least three official vehicles and got out of them. Instead of conducting an arrest, the officers decided to take justice in their own hands and discharged their weapons against the young, unarmed man.

4.7 Allegedly, Cordero Nevárez put the car in reverse and drove over the sidewalk to try to escape. This was used by the police officers as justification to open fire more than 60 times. Some of the shots fired impacted houses located in the residential area where the incident took place. At no point during this incident was the boy in possession of a weapon. After receiving approximately fifteen shots, Javier Cordero fell dead over the sidewalk. No firearm was found or seized.

4.8 In light of the public outrage motivated by this incident, the Police Commissioner of Puerto Rico, Antonio López Figueroa, was questioned regarding the case. He attempted to justify the police officer's actions stating that the minor could have used the vehicle as a weapon against the officers. These allegations contradict the event's scene inspection and were stated before any proper investigation was conducted.

4.9 The statements were false and irresponsible and sent an erroneous message to the Police about the General Orders applicable when using deadly force, according to the Police

Reform, thereby encouraging and emboldening the members of the force to act in a constitutionally impermissible manner.

4.10 Members of the Criminal Investigations Bureau of San Juan and more members of the Police arrived at the scene. The Prosecutor assigned to the scene, Betzaida Quiñones, asked for the Special Investigations Bureau (NIE) intervention at the beginning of her investigation. Contrary to the normal practice at the Puerto Rico District Attorney's Office, the scene prosecutor was removed from the case.

4.11 An investigation is being held involving the police officers who fired their guns and shot Javier Antonio Cordero Nevárez. Most of the officers under investigation graduated from the last Police Academy. Therefore, they had a year or less as members of the Police Bureau of Puerto Rico. For that reason, they should have been accompanied by a supervisor.

4.12 Although the police officers and sergeant involved in this incident were disarmed and summoned by the prosecutor, the Police Commissioner expressed that they were not suspended. He added that their guns were seized for investigation purposes and as part of the regular protocol, so their weapons would be returned in order for them to continue in their duties.

4.13 The Police of Puerto Rico, its officers and supervisors, are liable for the damages and loss they caused due to their negligence and willful misconduct, (gross negligence or reckless disregard) to Javier's parents and the mental suffering they inherited from Javier. They are also liable for the damages, prejudice, moral damages, and mental sufferings that through their acts or omissions, they caused to Javier Antonio and his mother.

4.14 In this case, the Police acted as law enforcer, judge and perpetrator, making Javier Antonio's death an extrajudicial execution at the hands of the Police of Puerto Rico.

4.15 Defendants Antonio López; Juan Caceres Mendez, Roberto Rivera Miranda, Gerardo Oliver, all of them supervisors, Sergeant Ángel Alicea; Giovanni Santiago Avilés, Luis

Vélez Mari; Carmen Cacho; Félix De Jesús Flores; Roxanne Ruiz Cisneros, Kevin Meléndez Monsegur; and Paola Farría Santiago, John Doe 1 and 2 in this instant case ignored the PRPB General Orders (or protocols), and continued the abusive behavior against Javier, who was by that time cornered in an end road, surrounded by police vehicles and officers, with absolutely no way out to escape.

4.16 All the police officers and Defendants participating in the operation, including John Does 1 and 2, and other unknown police officers, witnessed and observed the illegal actions and behavior perpetrated against Plaintiff. Instead of protecting Plaintiff's constitutional rights, the police officers participating in the operation supported, condoned, and/or endorsed the unlawful and criminal behavior perpetrated against Javier.

4.17 Among other things, all PRPB officers present, including Defendants, failed to prevent and/or intervene with the officers that were incurring in unlawful behavior.

4.18 As a consequence of Defendants' aggressions, Javier, a student of the special education program of the Department of Education, with his sixteen years, insecure, with not much driving experience as he only had a learner's driving license, and surrounded by a police firing squad not trained in the management of people with special conditions, suffered agonizing trauma, and grave physical injuries that caused him his death. Plaintiff, on the other hand, suffered a mental breakdown that required and still requires medical attention.

4.19 Since June 17, 2013, more than nine (9) years prior to the event narrated in this complaint, the United States Department of Justice (US-DOJ) and the government of Puerto Rico entered into a judicial Settlement Agreement in the U.S. District Court for the District of Puerto Rico, known as "Agreement for the Sustainable Reform of the Puerto Rico Police Department" (The Agreement). The Agreement put an end to a civil suit initiated by the US-DOJ on December 2012, to remedy a pattern and practice of police misconduct by PRPD and compel the PRPD to

adopt a far-reaching reform in order to promote constitutional policing, enhance public and officers' safety, and increase community confidence. The Agreement mandates that the PRPD shall ensure that supervisors must provide close and effective supervision to each officer under their command; to provide direction and guidance necessary to improve and develop constitutional police practices; and to identify, correct and prevent police misconduct. PRPD shall develop policies that set out clear requirements for supervisors, consistent with generally accepted policing practices.

4.20 Under the terms of the Agreement, PRPB supervisory personnel are compelled to put into practice through close supervision of actions by police officers under their command, including among other things: close review and reporting in the event of use of force; review and reporting of searches, seizures, stops and detentions; the filing of administrative complaints in the event of unlawful use of force; the facilitation and coordination of trainings on police constitutional practices to the officers under their command.

4.21 Although the Reform provides the tools and administrative framework for supervision of police practices, defendants Antonio López; Juan Cáceres Méndez, Roberto Rivera Miranda, Gerardo Oliver, all of them supervisors, Sergeant Ángel Alicea; Giovanni Santiago Avilés, Luis Vélez Mari; Carmen Cacho; Félix De Jesús Flores; Roxanne Ruiz Cisneros, Kevin Meléndez Monsegur; and Paola Farría Santiago, among other Defendants (herein after the "Supervisory Defendants"), with willful blindness and callous disregard for Javier and Plaintiff's constitutional rights, failed to exercise their duties and directly allowed, permitted, ignored and/or participated in, the incidents of police deadly force narrated in this Complaint, and in the resulting death of Javier Cordero.

4.22 Specifically, Supervisory Defendants, upon information and belief, with deliberate indifference-created the environment for officers under their command to chase and execute Javier

Cordero Nevárez in violation of his constitutional rights and Plaintiff's constitutional rights. Upon information and belief, PRPB's officers involved had not received training in Use of Deadly Force, and if they did, willfully acted contrary to the police reform and its protocols. The Officers in charge of this operation should have deployed more supervisors to the scene. They decided not to do that.

4.23 Supervisory Defendants failed to properly conduct an investigation of any wrongdoing by police officers under their command, and they failed to take immediate corrective measures, as required by the Agreement, and PRPB internal regulations.

4.24 Supervisory Defendants knew, or should have known, about the incidents of police abuse and the abusive behavior of the officers under their command. Yet, Supervisory Defendants allowed, condoned and encouraged field officers to unlawfully use excessive and deadly force against Javier Cordero. Supervisory Defendants are required to closely monitor the actions of police officers under their command; including events involving use of force, arrests, detentions, searches and seizures.

4.25 The violence suffered by Javier Cordero was a direct result of Supervisory Defendants failure to screen, train, supervise and discipline the Defendants under their command. Upon information and/or belief none of the officers involved in these events have been disciplined by PRPB.

4.26 Upon information and belief none of the Defendants had been trained on the General Order, Chapter 600, Section 601 (Use of Force") when the August 1, 2022, events occurred."

4.27 All the injuries, damages, mental anguish and suffering experienced by Javier and his mother were caused by Defendants' deliberate indifference and reckless disregard for Plaintiff's wellbeing and federal rights, including negligence, failure to act properly and failure to

train, supervise and control police officers' procedures and operations. Defendants all acted under color of law in violation of plaintiff's civil, legal and constitutional rights and are therefore jointly and severally liable for said damages, injuries and constitutional violations.

4.28 At all times relevant to this action, defendants' policies and policy decisions resulted in the total inadequate training of police officers. The supervision and supervisory policies of police officers failed to detect or punish incidents of unwarranted physical violence against citizens. They further failed to properly train and teach police officers to exert the high degree of self-control that is required of them when intervening with citizens.

4.29 Supervisory Defendants have ignored the deficiencies in the selection, training and supervision needs of police officers, and the dangers posed by such inefficiencies to the safety and wellbeing of law abiding citizens.

4.30 Additionally, Supervisory Defendants acted with full knowledge that they were violating Javier's rights and Plaintiff's rights, protected by the U.S. Constitution and laws of the United States and the Commonwealth of Puerto Rico, and did so willfully and maliciously. Alternatively, the defendants acted with fault and/or negligence.

4.31 The facts set forth in this complaint constitute violations of Javier and Plaintiff's life, liberty, and privacy rights, protected by the Fourth and Fourteenth Amendments to the United States Constitution and the Civil Rights Act of 1871, 42 USC §1983.

4.32 The facts set forth in this complaint constitute violations of Javier and Plaintiff's rights under the Constitution of the United States.

4.33 As a result of the incident narrated herein, Javier Cordero suffered grave physical injuries, provoking unnecessary suffering and his death.

4.34 As a direct result of the incidents narrated herein, Plaintiff suffers from anxiety, depression, and emotional distress that required, and continues to require, psychological and

psychiatric treatment. The aggressions against her minor son, resulting in his death, provoked post-traumatic stress disorder (PTSD) and other sufferings and moral damages.

4.35 The incidents described above are just a small sampling of the unconstitutional police abuse to which people in Puerto Rico, including Plaintiff and her son, have been subjected to. Indeed, the PRPB's long standing use of excessive force led to the United States Department of Justice ("DOJ") initiating an investigation in July 2008 into the practices of the PRPB. The result was a report ("DOJ Report"), issued on Sept. 5, 2011, which not only condemned the practices of the PRPB, but also found that the PRPB has regularly deprived citizens of Puerto Rico of their constitutional rights, and that the PRPB's policies and practices will continue to lead to constitutional violations, if not addressed.

4.36 The PRPB and its Superintendents (Commissioners) have been depriving citizens in Puerto Rico of their constitutional rights since long before the DOJ first began its investigation. The ACLU Report recounts that "a series of widely reported police killings over a nine-month period in 2007, one of which was captured on film, brought to light the ongoing but partially hidden problem of PRPD officers' unjustified use of lethal force. Unfortunately, PRPD officers continue to use lethal force against unarmed civilians or civilians who do not pose a risk to the life of an officer or other civilian, and against civilians who could have been restrained through non-lethal means." Island of Impunity, p. 31; pp. 12-13; 31-48. In addition, the DOJ Report recounts that "PRPD officers use force, including deadly force, that is unnecessary and unreasonable in the course of arresting or detaining individuals who pose little, if any, risk of harm, or who offer minimal resistance. The use of excessive force includes punching or taking subjects to the ground, as well as striking and jabbing with batons, deploying chemical agents, using choke holds and other neck restraints, and discharging firearms. Many subjects of excessive force were, at the time

of the incident, carrying out ordinary activities or committing minor infractions" Investigation of the Puerto Rico Police Department, p. 20; pp. 20-25.

4.37 Supervisory Defendants without taking any action to change the practices of Use of Force, continue to routinely deploy officers not trained under the reform in the use of deadly force against individuals like Plaintiff's son. By doing so, Supervisory Defendants have knowingly endorsed and encouraged these practices complained of in this action, including the use of violent and excessive force without justification.

4.38 The Police Commissioner Antonio López and the other supervisors have not taken any significant steps to address the repeated findings of excessive use of force. There has not been use of force training for officers who are already in the field, for example. Nor has the PRPB implemented effective reporting and review requirements to ensure that officers use lawful and appropriate force during interaction with civilians. On the contrary, Superintendents have encouraged the now well-settled and widespread use of excessive and deadly force against any suspect of a crime, which constitutes clear evidence of the ongoing systemic malady in the PRPB.

4.39 As a result of Supervisory Defendants' continued support of the PRPB's use of excessive force, Plaintiff's Fourth Amendment rights under the U.S. Constitution have been curtailed. Moreover, the use of excessive and deadly force against Plaintiff's son has resulted in his death. People have the right to be free from unreasonable use of force. The Agreement reached in the Puerto Rico Police Reform has been patently disobeyed by the police officers and their supervisors provoking this longstanding and ongoing deprivation of Plaintiff's and other people's constitutional rights. If this Court were to take a look into these events, it is clear and documented that this story is repeated year after year.

4.40 As a result of the incident narrated herein, Javier Cordero suffered grave physical injuries, provoking unnecessary suffering and his death. Although Javier was mortally wounded

while he was still inside of the vehicle, he did not die immediately. After being shot, Javier exited the car and collapsed, falling on the ground near the car. Plaintiff Sheila Nevárez, mother of Javier, who gave birth and raised Javier during those sixteen years, as his heir inherited all emotional distress, physical injuries, pain, and desperation suffered by Javier at the hands of these police officers until the moment of his death.

4.41 As a direct result of the incidents narrated herein, Plaintiff Sheila Nevárez, suffers from anxiety, depression, and emotional distress that required, and continues to require, psychological and psychiatric treatment. The aggressions against her underaged son, resulting in his death, provoked post-traumatic stress disorder (PTSD) and other sufferings and moral damages that will last for the rest of her life.

**V. FIRST CAUSE OF ACTION UNDER 42 U.S.C. §1983: VIOLATION OF
PLAINTIFF'S FOURTH AMENDMENT RIGHTS – DEFENDANTS BRUTAL
SHOOTING AGAINST PLAINTIFF**

5.1 The allegations contained in all preceding paragraphs are re-alleged as if fully incorporated herein.

5.2 The Fourth Amendment to the United States Constitution protects people from unreasonable searches and seizures, and from other unlawful police misconduct. The Fourteenth Amendment incorporates the Fourth Amendment against the states and the Commonwealth of Puerto Rico.

5.3 It is the well-settled, widespread, and ongoing pattern and practice of the PRPB, to use excessive and deadly force against people and suspects of some illegal action in violation of the due process clause.

5.4 The PRPB routinely uses excessive force against people during their interventions. That was the case of Javier Cordero Nevárez in the instant case, who was unarmed. Javier did not pose a threat to the police or the public; and should have been arrested and taken before a Judge.

5.5 The brutal shooting of Javier by Puerto Rico Police Officers constituted a violation of his physical and emotional integrity and his dignity, protected under the Fourth Amendment of the Constitution of the United States and the Settlement Agreement reached between the U.S. Department of Justice and the Commonwealth of Puerto Rico on June 17, 2013, for a sustainable Reform of the PRPB. The mother of Javier, Sheila, inherited all causes of actions as his heir. The brutal and arbitrary actions and/or omissions of the Police Officers and their supervisors caused and continue causing intense suffering and emotional distress to Sheila Nevárez Chiclana, mother of Javier.

5.6 All supervisory Defendants are responsible, together with the rest of defendants, officers and supervisors, for overseeing the policies and practices of the PRPB that day. By encouraging the use of unreasonable force against Javier, they have deprived him of his right to life without due process of law in violation to the Fourth Amendment to the United States Constitution.

VI. SECOND CAUSE OF ACTION: SUPERVISORY LIABILITY

6.1 The allegations contained in all preceding paragraphs are re-alleged as if fully incorporated herein.

6.2 Supervisory Defendants knew or should have known of the aggressive behavior and propensity for violence of the police officers under their command and failed to properly supervise them and take remedial action.

6.3 Supervisory Defendants failed to properly provide and facilitate training on constitutionally acceptable police practices to the officers under their command.

6.4 As Plaintiff will show, Supervisory Defendants condoned, encouraged and allowed the indiscriminate and unlawful use of force against Javier, causing intense and unnecessary

suffering, provoking his death and emotional distress to his mother, Sheila, in violation to the Fourth and Fourteenth Amendments to the United States Constitution.

6.5 This conduct by supervisory defendants constitutes a reckless or callous indifference to Javier's life and plaintiff's constitutional rights, for which they are liable. All defendants are severely and jointly liable for their actions.

VII. THIRD CAUSE OF ACTION: FAILURE TO TAKE REMEDIAL ACTION

7.1 The allegations contained in all preceding paragraphs are realleged as if fully incorporated herein.

7.2 The facts set forth in this complaint constitute violations of plaintiff's Fourth, and Fourteenth Amendment to the United States Constitution and the Civil Rights Act of 1871, 42 USC §1983.

7.3 Supervisory Defendants were reckless and callously indifferent to the constitutional rights of Javier and his mother, because they failed to take remedial action against the named officers defendants in the instant case and failed to send them to psychological evaluations, failed to order them to retraining, failed to remove them from preventive and control operations in order to prevent the civil rights violations they perpetrated on Plaintiff's son; and failed to suspend or dismiss them from the Puerto Rico Police Bureau. All defendants are severely and jointly liable for their actions.

VIII. FOURTH CAUSE OF ACTION: FAILURE TO PROPERLY TRAIN AND RETRAIN

8.1 The allegations contained in all preceding paragraphs are realleged as if fully incorporated herein.

8.2 The facts set forth in this complaint constitute violations of Javier and plaintiff's Fourth, and Fourteenth Amendments to the United States Constitution and the Civil Rights Act of 1871, 42 USC §1983.

8.3 The Supervisory Defendants were reckless or callous in the lack of training and retraining of police officers, and defendants John Doe 1 and 2; recklessness that brought about the violations of Plaintiff's civil rights complaint in this action. All Defendants are severally and jointly liable for their actions.

IX. FIFTH CAUSE OF ACTION: PUNITIVE AND COMPENSATORY DAMAGES

9.1 The allegations contained in all preceding paragraphs are realleged as if fully incorporated herein.

9.2 The conduct displayed by all Defendants, and the willful, wanton and intentional disregard for Javier's life, dignity, physical integrity and Plaintiff's constitutional rights, and the impunity showed by the Supervisory Defendants, and the officers and/or supervisors named John Doe 1 and 2, mandate the imposition of punitive damages against all defendants in order to deter the conduct and procedures which caused severe injuries and death to Javier Cordero and the damages of the Plaintiff.

9.3 As a result of the incident narrated herein, Javier Cordero suffered grave physical injuries, provoking unnecessary suffering and his death. Although Javier was mortally wounded while he was still inside of the vehicle, he did not die immediately. After being shot, Javier exited the car and collapsed, falling on the ground near the car. Plaintiff Sheila Nevárez, mother of Javier, who gave birth and raised Javier during those sixteen years, as his heir, inherited all emotional distress, physical injuries, pain, and desperation suffered by Javier at the hands of these police officers until the moment of his death.

9.4 As a direct result of the incident narrated herein, Plaintiff Sheila Nevárez suffers from anxiety, depression, and emotional distress that required, and continues to require, psychological and psychiatric treatment. The aggressions against her underaged son, resulting in

his death, provoked post-traumatic stress disorder (PTSD) and other sufferings and moral damages that will last for the rest of her life.

9.5 The negligence displayed by defendants renders them jointly and severally liable for compensatory and punitive damages to Plaintiff as determined by the Jury.

X. SEVENTH COURSE OF ACTION: SUPPLEMENTAL JURISDICTION – VIOLATIONS UNDER THE LAWS AND CONSTITUTION OF THE COMMONWEALTH OF PUERTO RICO

10.1 The allegations contained in all preceding paragraphs are re-alleged as if fully incorporated herein.

10.2 The facts set forth in this complaint constitute violations of Plaintiff's rights by Defendants under the Constitution of Puerto Rico, Article II, Sections 1, and 10 and the Civil Code of Puerto Rico of 2020, Articles 1536, 1538 and 1540 et seq., 31 LPRA §5141 et seq. Supplemental jurisdiction over all claims arising under the Constitution and Laws of the Commonwealth of Puerto Rico arise from the same nucleus of operative facts. 28 U.S.C. §1367.

10.3 The facts alleged in this complaint state a claim under the Constitution of the Commonwealth of Puerto Rico, Articles 1536, 1538 and 1540 of Puerto Rico Civil Code, 2020, et seq., 31 LPRA §5141 et seq. for which defendants, including the Commonwealth of Puerto Rico, are liable.

10.4 Under the Puerto Rico statute that allows claims against the state, the Commonwealth of Puerto Rico is liable to Plaintiff for the unlawful and negligent conduct of its employees acting in their official capacity. Puerto Rico Civil Code, Art. 1536, 1538 and 1540 et als. Id.

10.5 Under Articles 1536, 1538 and 1540 of the Puerto Rico Civil Code, Defendants are liable to Plaintiff, as a direct result of their unlawful and negligent actions.

**XI. EIGHTH CAUSE OF ACTION: ATTORNEY'S FEES AND
PRE-POST JUDGMENT INTEREST**

11.1 The allegations contained in all preceding paragraphs are realleged as if fully incorporated herein.

11.2 All Defendants are jointly liable to Plaintiff for all sums herein requested as well as for all prejudgment and post judgment interest, costs and attorneys' fees as prescribed by law under 42 USC §1988.

11.3 Attorneys' fees and interests are also due under the Commonwealth of Puerto Rico Law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Honorable Court declare that Defendants' conduct was unlawful and in violation of the constitutional provisions and statutes herein pleaded, and that it grant Plaintiff the following remedies:

A. Issue a Declaratory Judgment declaring that Defendants' actions and/or omissions violate the Fourth and Fourteenth Amendments to the Constitution of the United States, and runs afoul of the PRPB Reform Agreement between the United States Department of Justice and the Commonwealth of Puerto Rico.

B. Issue Permanent Injunctive Relief prohibiting Defendants and PRPB officers from incurring in this repeated illegal and unconstitutional conduct;

C. Issue Permanent Injunctive Relief requiring Defendants to implement policies and procedures that will ensure the protection of Plaintiff's rights, as alleged herein, and prevent similar future events as those narrated in this complaint, and as agreed to in the PRPB Reform Agreement between the United States and the Commonwealth of Puerto Rico.

D. Issue an advisory order that the Commonwealth of Puerto Rico negotiate an amendment to the Police Reform Agreement with the United States Justice Department to

incorporate the establishment of a permanent independent civilian oversight mechanism, that would allow independent citizens' participation in overseeing police practices, as has been included in many police reform agreements in the United States after the signing of Puerto Rico's Police Reform Agreement.

E. Award compensatory and general damages against all Defendants sued in their personal capacities, in an amount to be determined according to evidence presented to the Jury, as a remedy for the physical, mental and emotional distress and discomfort that Plaintiff suffered and inherited from her deceased son, as provided by the laws and statutes of the United States and the Commonwealth of Puerto Rico;

F. Award exemplary and punitive damages against all Defendants sued in their individual capacities in an amount to be determined at trial by the Jury, in light of Defendants' willful misconduct, wanton, callous and malicious acts, and reckless disregard and deliberate indifference for Plaintiff's son and Plaintiff's civil rights;

G. Award Plaintiff costs, expenses, and attorneys' fees pursuant to 42 USC Sec 1988;

H. Pre-judgment interests; and

I. Any other relief this Court deems equitable and just.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

RESPECTFULLY SUBMITTED.

(Continue on next page)

In San Juan, Puerto Rico, this 28TH day of July of 2023.

CERTIFICATE OF SERVICE: I hereby certify that a copy of this motion has been electronically filed on this date with the Clerk of the Court using the CM/ECF system.

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