

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT**

FILED 1st JUDICIAL DISTRICT COURT
Santa Fe County
3/4/2026 5:17 PM
KATHLEEN VIGIL CLERK OF THE COURT
Dominique Z Garcia

JOSEPH M. WOJTECZKO and SUSAN T. MILLER,

Plaintiffs,

v.

**THE CITY OF SANTA FE and the SANTA FE
COUNTY REGIONAL COMMUNICATIONS
CENTER,**

Defendants.

Case assigned to Wilson, Matthew Justin

No. D-101-CV-2026-00623

Demand for 6 Person Jury Trial

COMPLAINT FOR DAMAGES

I. Introduction.

1. At approximately 8:56 PM on December 29, 2024, Joseph M. Wojteczko and Susan T. Miller, a married couple in their late 60's, were sitting in their Santa Fe, New Mexico residence talking with two guests when the front door of their home was kicked open without any warning by Defendant Santa Fe Police Dept. Officers ("SFPD"). These officers were not members of the highly trained Special Weapons and Tactics Team ("SWAT"). Defendant officers entered Plaintiffs' home without knocking or identifying themselves as police officers prior to kicking in the door. The officers entered with long guns pointed directly at Plaintiffs and their guests and ordered them to leave their house. Defendant's officers detained Plaintiffs, searched their house, and found no evidence of any criminal activity before leaving.

2. Almost all the 20 SFPD officers on duty in Santa Fe that evening surrounded Plaintiffs' small home. They arrived in response to a fraudulent telephone call received on the non-emergency line by a dispatcher working at the Defendant Santa Fe Regional Emergency Communications Center ("SFRECC") at 8:42 PM. In the call, someone who claimed to be 16 years old falsely said

he was being threatened by his 18-year-old brother in their home at Plaintiffs' address. The call was what is known as a "swatting call."

3. Swatting is a malicious act that involves people making fraudulent calls to the police during which they falsely report serious-level criminal threats or violent situations like bomb threats, hostages, killing, etc., to fool the police into making a S.W.A.T team response and raiding the house or business of somebody who is not actually committing a crime. Swatting calls are often done through non-emergency police numbers. Swatting is not a new threat; it has evolved over the last decade, and it includes a range of tactics and techniques used to cause false public alarm and divert law enforcement resources to a hoax threat. The purpose of these fake calls is to provoke an immediate law enforcement tactical response, including a forcible break into a home by police, causing chaos, potential injury and violence, including, in some instances, use of deadly force against unsuspecting, innocent residents. As the National Association of Attorneys General noted in an August 2025 report: "Doxxing and swatting are no longer isolated or fringe acts—they now represent a broader digital threat paradigm where harassment, misinformation, and real-world violence intersect. These tactics exploit both technological advancements and institutional vulnerabilities, enabling bad actors to target individuals with unprecedented precision and anonymity." *The Escalating Threats of Doxxing and Swatting*, National Association of Attorneys General, August 25, 2025. There are well established methods of detecting swatting calls and a police department with a reasonably adequate training program provides specific training to officers and dispatchers on how to do so.

4. At the time of the forced entry at issue in this case, there were numerous circumstances that should have caused Defendants **not** to engage in a warrantless, SWAT-type forcible entry into Plaintiffs' home. The totality of the circumstances available to officers here did **not** provide Defendant with a reasonable belief that an immediate threat to life was present so as to justify such an entry.

5. As a direct result, Plaintiffs suffered and continue to suffer severe emotional trauma, the violation of their constitutional rights, and thousands of dollars in damage to their property. Plaintiffs contend that Defendant City of Santa Fe and Defendant Santa Fe Regional Emergency Communications Center violated their state constitutional right to be free from unreasonable search and seizure guaranteed by Article II, Sections 10 and 18 of the New Mexico Constitution. This action is brought pursuant to the New Mexico Civil Rights Act, §41-4(A)(3), NMSA (2021), and the New Mexico Tort Claims Act, §§41-4-1, *et seq.*

II. Parties and Jurisdiction.

6. Plaintiff Joseph M. Wojteczko and Plaintiff Susan T. Miller are married and at all times material hereto were present in their residence in Santa Fe, New Mexico. Plaintiffs are in their late 60's.

7. Defendant City of Santa Fe is a municipality located in Santa Fe County, New Mexico. It is a "public body" as defined in the New Mexico Civil Rights Act, §41-4A-2 NMSA (2021). At all times material hereto, all police officers involved in the incident at issue were employed by the City of Santa Fe. Defendant City of Santa Fe is responsible for ensuring that its police officers are adequately trained, including receiving adequate training on identifying potential swatting calls. Defendant City of Santa Fe, along with the Board of Santa Fe County Commissioners, is responsible for the overall operation of the SFRECC. This responsibility includes the hiring, retention, training, and supervision of employees of the SFRECC, including the dispatcher(s) involved in the incident at issue in this case.

8. Defendant SFRECC is a governmental entity and a "public body" created by a Joint Powers Agreement between the City of Santa Fe and Santa Fe County. It is a "public body" as defined in the New Mexico Civil Rights Act, §41-4A-2 NMSA (2021). It is created by statute to provide, *inter alia*, basic safety services for the City of Santa Fe.

9. The SFRECC receives all police, fire, medical and animal control Emergency 911 calls and non-emergency calls for the City of Santa Fe and the County of Santa Fe and dispatches the appropriate agency to the location as needed. The SFRECC is governed by the Santa Fe Regional Emergency Communications Center Board of Directors. The Board of Directors consists of the Santa Fe City Manager, the Santa Fe County Manager, the Santa Fe City Police Chief, the County Sheriff, the Santa Fe City Fire Chief, the County Fire Chief, and one community member appointed by agreement of the City and County Managers.

10. Defendant SFRECC Board is required to provide oversight and direction for the SFRECC. This includes being aware of and approving all operating procedures and policies of the SFRECC. The Board appoints a director for the agency. The director is responsible for the hiring, training, supervision and discipline of SFRECC employees. At all times material hereto, all the dispatchers involved in the incident at issue here were employed by the SFRECC (formally in conjunction with Santa Fe County).

9. Defendant SFRECC's dispatchers work in conjunction with Defendant Santa Fe City police and emergency medical service and have a duty to obtain and then provide the police with all material information that comes to them during a call from a caller. Defendant SFRECC officials are responsible for ensuring that the dispatchers are adequately trained, including receiving adequate training on identifying potential swatting calls.

10. The claims against Defendants are claims for money damages as allowed by the New Mexico Civil Rights Act, §§41-4(A)-1, *et seq.*, NMSA (2021), and the New Mexico Tort Claims Act, §§41-4-1, *et seq.* Under each Act, each Defendant is liable for the acts and omissions of all members of its respective department. Notice of the claims involving acts or omission by Defendant's police department was provided to Defendant by an internal affairs complaint filed with the City of Santa Fe Police Department on December 30, 2024. Notice of the claims against Defendant SFRECC and Defendant City of Santa Fe arising out of the conduct of dispatchers with

the SFRECC was provided by letter to Defendant City and the Board of County Commissioners of Santa Fe County, including the County Manager who sits on the SFRECC board of directors, on or about March 17, 2025, less than ninety days after the incidents that give rise to Plaintiffs' claims.

11. This Court has jurisdiction of the subject matter of this action pursuant to NMSA 1978 §§ 41-4A-3(B) and 41-4-18. Venue is proper in Santa Fe County pursuant to NMSA 1978 §38-3-1(G) and 41-4-18 because Plaintiffs and Defendants are located in Santa Fe County.

III. Statement of Facts.

A. The Non-Emergency Call.

12. On the evening of December 29, 2024, Plaintiffs were at their residence at 1725 Callejon Melinda, Santa Fe, New Mexico with two friends who were visiting over the Christmas-New Year's holidays. At approximately 8:40pm the four adults were sitting in Plaintiffs' living room, quietly talking.

13. At approximately 8:40pm that evening, the SFRECC dispatcher received a call from a young man who claimed to be 16 years old, who said his name was Lucas Smith. He claimed he had seen his brother viewing child pornography on his phone and when he asked his brother about it, the brother, who he claimed was 18 years old, went to his closet, "grabbed his rifle," and threatened to kill him. Significantly, the fraudulent caller ("caller") did not call 911. Rather, he called the SFPD's non-emergency number. The caller claimed that he and his brother were alone at their home with no one else present.

14. The SFRECC dispatcher(s) did not ask the caller why he did not call the 911 emergency number, rather than the non-emergency number. To call the non-emergency number, the caller had to have looked up the number, losing precious time (if the emergency had been real).

15. The caller claimed that after his brother's threat, he had run into his bedroom. He said

that he had locked his bedroom door and claimed that he was “hiding” inside a closet in his bedroom. He falsely gave Plaintiffs’ street address as his home address where he was hiding

16. The caller made many statements to the dispatcher that should have caused Defendants to know this was a fraudulent call.

- He mispronounced the name of the street on which he claimed to live.
- He claimed his parents were out to dinner but denied knowing where they went.
- He said he did not call his parents before calling the non-emergency number.
- When asked, he claimed he did not know his brother’s birthday.
- Throughout the call, the caller repeatedly asked the dispatcher to repeat her questions.
- The caller said that he did not know his mother’s phone number and that he needed to look on his phone for it.
- The caller said his father’s name was DeMarcus Smith and his number was 724-831-1481. In fact, the number the caller gave as his father’s phone number belonged to Celestin Mindcare, PLLC DBA TLC Mindful Solutions, a mental health counseling program located in Harmony, Pennsylvania.
- The dispatcher did not try to call the above number to verify the story being told prior to the forcible entry into Plaintiffs’ residence.
- When asked if there were vehicles in the area, the caller claimed he could see a black car on the street from his closet, a statement that officers could see was false once they arrived at the scene because the street is not visible from Plaintiffs’ home.

17. After asking for the father’s phone number, at about 7 minutes, 45 seconds into the call, dispatcher Giron asked the caller for his own number. The caller hesitated, asked for the question to be repeated and then gave the dispatcher the number 840-201-8138. The dispatcher(s) knew from her caller-ID screen that the call was coming from 689-210-8840. According to the SFRECC Communications Event Report, she received the false number at approximately 8:48 pm. Thus, at 8:48 pm the dispatcher(s) knew the number she had been given by the caller was not the number the caller claimed was his telephone number.

18. Shortly after giving the dispatcher the false phone number, the caller began the process of disengaging from the call. He claimed he heard his supposed brother leave his own room, heard footsteps, and heard his brother walking toward his room. The caller claimed he was able to hear the footsteps although he supposedly was in a closed closet that was located in his locked bedroom.

19. The caller said he was scared. After having told dispatch that his bedroom door was locked, the caller then claimed that his brother had opened his (the caller's) bedroom door and had entered the room. Then the caller disconnected the call.

20. Dispatcher Laur began dispatching officers from the Santa Fe Police Department, including Sergeant Vigil, to Plaintiffs' house around 8:44pm. All of the information set forth above was relayed in real time to Defendant City's officers outside Plaintiffs' house or on their way there.

21. Shortly after the caller disconnected from the call, the dispatcher called the 689-210-8840 number that was on the screen, but was sent to a google voice recording.

22. At 8:51:15pm, dispatcher Giron radioed the police officers and informed them that the caller had made the call on the administrative line. Thus, the officers knew the caller had not called 911. Because they knew that the emergency number can be called without having to take the time to look up the number, that the call could easily be traced, and that a 911 call made from a location outside Santa Fe would not go to the SFRECC dispatch, the officers and dispatcher(s) knew or should have known that there was no emergency, that the caller had falsified his location, and that the caller was attempting to hide his true location by calling the non-emergency number.

23. At 8:51:22pm, dispatcher Giron called 840-201-8138, the number the caller claimed was his phone number. According to Ms. Giron, the phone was answered by "a high squeaky voice" that belonged to a twelve-year-old child named Jeremiah. Jeremiah told the dispatcher that he lives in California and that his parents were at work. The voice on this call did not sound like the original caller.

24. According to the SFRECC Communications Event Report, at 8:53:44, dispatcher Giron radioed the Santa Fe police officers who were at the scene or on their way and told them that the number the caller had given as his own number actually belonged to a 12-year-old child who was located in California.

25. Several dispatchers were working and involved with the caller. The dispatchers failed to have the caller describe what “his” house looked like, so as to assist the police in locating the house. This is an obvious and well-established question used to assist in detecting a swatting call because the question, depending on the manner in which it is answered, can provide considerable information about the validity of the call to the dispatchers and to the police upon arrival at the scene.

B. The Conduct of the Santa Fe Police Department at the Scene.

26. On the basis of the false call, officers from the Santa Fe Police Department, including Sergeant Vigil, were dispatched to Plaintiffs’ home around 8:44 pm. Upon information and belief, Plaintiffs allege there were about 20 officers on duty that evening in the entire City. The first of what would be 17 officers arrived at Plaintiffs’ residence around 8:47 pm. They waited outside.

27. Plaintiffs were in their living room visiting with their friends and had no idea police officers were close by. During the entire time they were outside Plaintiffs’ residence, the police officers did not hear or see any untoward sounds or actions or evidence of any potential danger.

28. At 8:53:44 pm Defendant City of Santa Fe’s police officers, those who were at the scene and those who were on their way, were informed by dispatcher Giron that the number the caller had given as his own belonged to a 12-year-old child who was located in California.

29. Prior to entering Plaintiffs’ home by smashing down the front door (and breaking the door frame), with rifles pointed at Plaintiffs and their guests, Defendant City’s officers knew, *inter alia*, that:

- a) the caller did not make the call on the emergency 911 number;

- b) the caller had given the dispatcher a different phone number than the number that appeared on the SFRECC caller-ID screen;
- c) the caller had claimed he was calling from a locked bedroom and later claimed his brother had opened the door;
- d) the caller had disconnected from the call;
- e) the number the caller gave did not belong to anyone in Santa Fe but belonged to a person in California, and
- f) the caller had lied to the dispatcher.

These facts are all strong indicia, recognized by well-trained police officers, that the call was a swatting call intended and designed to provoke a violent police response and that a far more prudent approach was necessary.

30. Additionally, Defendant City's officers who had been outside Plaintiff's house for many minutes knew that during the approximately six minutes that had gone by since the time they were told that the caller claimed "his brother" had entered his bedroom there had been no untoward sounds or actions observed at Plaintiffs' house by any officer or any evidence whatsoever that anyone inside was in danger of any sort.

31. At approximately 8:56:35pm, almost three minutes after learning the caller had lied to the dispatcher about his phone number, Defendant City of Santa Fe's police officers entered Plaintiffs' home. Instead of knocking and announcing themselves, Defendant's officers kicked down Plaintiffs' front door, smashed the door frame, and burst into the house with long guns pointed at Plaintiffs and their guests without announcing that they were the police.

32. When they heard their front door being smashed in Plaintiffs had no idea or reason to believe the intruders were police officers and were terrified.

33. Upon entry the Defendant City police officers saw four adults in their late 60's sitting in the living room. At this point these officers knew or reasonably should have known the call that sent them to Plaintiffs' home was a swatting call.

34. Nevertheless, the officers seized Plaintiffs in their home and ordered them to go outside while officers conducted a warrantless search of the home.

35. Plaintiffs were detained for a period of approximately 20-30 minutes before they were free to come and go as they pleased.

36. During the time that Plaintiffs and their guests were being detained, several Defendant City of Santa Fe police officers went to the few other homes on Plaintiffs' street. Two officers went to one nearby home. One officer banged on the front door while another officer banged on a side window, frightening the homeowner who was watching television with a friend. Neither officer identified himself until the homeowner went to the front door and demanded to know who it was. An officer asked the homeowner who was in the house with her and she told him. The officer then told her to keep her door locked because he claimed that someone, apparently a suspicious person, was seen walking around the neighborhood. This statement had no basis in fact, as there had been no calls to Defendants claiming that someone had been seen walking around the neighborhood who might create a problem for anyone living there and only served to further frighten this lady.

37. In short, Defendants engaged in a warrantless, no-knock entry into Plaintiffs' home in the absence of probable cause to believe a crime had been committed or was about to be committed. Moreover, at the time of the entry, Defendants lacked specific, articulable facts to justify a reasonable belief that the knock-and-announce requirement for their entry did not have to be followed.

38. In addition, at the time that Defendants smashed down Plaintiffs' door to make their warrantless entry Defendants did not have "credible and specific information" that a victim was in need of emergency aid. No reasonably well-trained officer would have concluded this information gave rise to a strong perception that there was an emergency present. Defendants lacked objectively reasonable grounds to belief that there was an emergency at hand and that there was

an immediate need for their assistance for the protection of life or property. Defendants' warrantless, no-knock entry was not justified under the emergency aid doctrine.

39. At all times material hereto, Defendants who were directly involved in the incident at issue acted in an objectively unreasonable manner.

40. The negligent, grossly negligent and/or reckless failure by both Defendants to provide adequate training and supervision to the officers involved was a direct and proximate cause of the unlawful acts and omissions of the officers at the scene and was in violation of both the New Mexico Civil Rights Act and, regarding Defendant City, the New Mexico Tort Claims Act.

IV. Damages

41. As a direct and proximate result of Defendants' conduct, Plaintiff Joseph M. Wojteczko suffered and continues to suffer serious emotional distress, a loss of his sense of security in his home, medical expenses, damage to his property in an amount exceeding \$5,000.00, embarrassment, shame and humiliation, and the violation of his state Constitutional rights.

42. As a direct and proximate result of Defendants' conduct, Plaintiff Susan T. Miller suffered and continues to suffer serious emotional distress, a loss in her sense of security in her home, damage to her property in an amount exceeding \$5,000.00, embarrassment, shame and humiliation, and the violation of her state Constitutional rights.

COUNT I

PLAINTIFFS' CLAIMS AGAINST ALL DEFENDANTS UNDER THE NEW MEXICO CIVIL RIGHTS ACT

43. Plaintiffs incorporate by reference the allegations contained in all the preceding paragraphs.

44. Article II, Section 10 of the New Mexico Constitution protects citizens, including Plaintiffs, from unreasonable seizures of their person and from unreasonable searches of their

property. Article II, Section 10 has long been interpreted to provide greater protection from unreasonable searches and seizures than its federal counterpart, the Fourth Amendment to the United States Constitution. *See, e.g., State v. Gutierrez*, 1993-NMSC-062 ¶¶50-56.

45. The New Mexico Civil Rights Act (“NMCRA”) was enacted, effective July 2021, to provide additional protection to citizens whose state constitutional rights are violated. In combination, the NMCRA and New Mexico Constitution provide greater protection of citizens’ rights than are provided under the federal constitution for the violation of analogous rights. Under federal law, unlawful search and seizure claims are analyzed under the Fourth Amendment’s “objective reasonableness standard.” *Graham v. Connor*, 490 U.S. 386, 394-95(1989).

46. Defendants entered Plaintiffs’ home without a warrant to investigate a supposed assault and potential aggravated battery by an 18-year-old on his 16-year-old brother. Defendants lacked probable cause to believe that a crime had been or was about to be committed and their warrantless entry violated Plaintiffs’ rights under Article II, Section 10 of the New Mexico Constitution to be free from an unreasonable search of their home and unreasonable seizure of their persons.

47. Further, Defendants’ conduct was also not justified under the emergency aid doctrine because, under the totality of the circumstances, smashing down Plaintiffs’ front door and entering with long rifles pointed at Plaintiffs and their guests was undertaken in the absence of “credible and specific information” that a victim was in need of emergency aid. Because Defendants lacked reasonable grounds to form a strong perception or belief that there was an emergency at hand and that there was an immediate need for their assistance for the protection of life or property, their conduct violated Plaintiffs’ rights under Article II, Section 10 of the New Mexico Constitution to be free from an unreasonable search of their home and unreasonable seizure of their persons.

48. Virtually all Defendant City’s officers outside Plaintiffs’ home that evening were present for at least six minutes prior to the forced entry and some of them had been there for substantially longer than that. They learned that the phone call triggering their dispatch to

Plaintiffs' home was likely a fraudulent call at least three minutes before the time of entry. During the entire time at the house they did not see or hear anything that caused them to believe that exigent circumstances were present that would permit a no-knock entry. Under the totality of the circumstances, Defendants' no-knock entry into Plaintiffs' home without a warrant and without first identifying themselves was done in the absence of exigent circumstances and violated Plaintiffs' rights under Article II, Section 10 of the New Mexico Constitution to be free from an unreasonable search of their home and unreasonable seizure of their persons.

49. Under the totality of the circumstances, Defendants' conduct in seizing Plaintiffs at gunpoint upon entry and then detaining Plaintiffs for 20-30 minutes after they entered Plaintiffs' home when they knew that the information given by the caller was false was not reasonably necessary, was objectively unreasonable, and violated Plaintiffs' rights guaranteed by Article II, Section 10 of the New Mexico State Constitution.

50. In addition, as soon as Defendants entered Plaintiffs' home and saw that four adults in their 60's were present, Defendants should have known that the information relayed to them was without any factual basis, that they had no right to remain inside Plaintiffs' home, and were required to leave. Under the totality of the circumstances the subsequent detention and the subsequent search of Plaintiffs' home were objectively unreasonable and violated Plaintiffs' rights guaranteed by Article II, Section 10 of the New Mexico State Constitution.

51. Defendant City of Santa Fe is liable for these constitutional deprivations because the police officers involved were acting under the color of their authority and within the scope of their authority as City of Santa Fe Police officers within the meaning of NMCRA Section 41-4A-3(B), NMSA (2021), and were, at all times material hereto, acting under of color of state law and/or local ordinance.

52. Defendant SFRECC is liable for these constitutional deprivations because the dispatchers involved were acting under the color of their authority and within the scope of their

authority as SFRECC within the meaning of NMCRA Section 41-4A-3(B) NMSA (2021) and were, at all times material hereto, acting under of color of state law and/or local ordinance.

53. In addition, Defendant City of Santa Fe's and Defendant SFRECC's negligent, reckless and/or willful failure to properly train and/or supervise and/or discipline its officers in search and seizure law directly caused Plaintiffs to incur personal injury and the violation of their constitutional rights set forth above.

COUNT II

PLAINTIFFS' CLAIMS AGAINST DEFENDANT CITY OF SANTA FE UNDER THE NEW MEXICO TORT CLAIMS ACT

54. Plaintiffs incorporate by reference the allegations contained in all the preceding paragraphs.

55. Defendant City, acting through its law enforcement officers, negligently, recklessly and/or intentionally caused Plaintiffs to incur personal injury resulting from assault, false imprisonment and violation of their property rights, including their right to be free from trespass to their property and to be free from unlawful destruction of their property.

56. Defendant City's negligent, reckless and/or willful failure to properly train and/or supervise and/or discipline its officers in search and seizure law directly caused Plaintiffs to incur personal injury resulting from assault, false imprisonment and violation of their property rights, including their right to be free from trespass to their property and to be free from unlawful destruction of their property.

V. Jury Demand

Plaintiffs hereby demand that the claims in this case be tried by a jury of six persons.

VI. Relief

WHEREFORE, Plaintiffs pray that this Court grant them the following relief:

1. Compensatory damages, jointly and severally, in an amount to be determined by the trier of fact;
2. Reasonable attorney fees and costs incurred herein;
3. Trial by a jury of six persons;
4. Interest on the judgment; and
5. For such other and further as the court deems just and proper.

Respectfully Submitted

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