IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

CRYSTEAL DAVIS, DAMON DAVIS, and IISHA HILLMON, Plaintiffs, vs. JEFFREY DAWSON; BRAD YOUNGBLUT; JOSH RHAMY; TREVOR SPEAR; RYAN NEUMANN; LUCAS KRAMER; ROSS KLEIN; PATRICK HICKEY; ROBERT CLOCK; DANA WINGERT; and CITY OF DES MOINES, IOWA, Defendants.	**No. 4:19-cv-00382–JEG-SBJ** **O R D E R**

This matter comes before the Court on Plaintiffs' Motion for Partial Summary Judgment on Liability, ECF No. 15, and Defendants' Motion for Summary Judgment, ECF No. 18, based on qualified immunity as to Plaintiffs' constitutional claims and failure to state a claim on their false arrest claim. The parties have resisted the respective motions, and the motions are fully submitted for review. No party has requested a hearing, and the Court finds no hearing is necessary in resolving the motions.

This case presents a collision between aggressive police investigation of a serious crime and constitutional limits on the methods of that investigation to the extent it involves the rights of witnesses to the crime. Analysis of this inherent legal friction requires a detailed examination of the underlying facts and a careful review of applicable law.

I. BACKGROUND

A. Factual Background[1]

This case arises out of the events surrounding the homicide of Preston Davis in Des Moines, Iowa, on August 5, 2017. Plaintiff Crysteal Davis is a resident of Des Moines

[1] The material facts here are either undisputed or, if genuinely disputed, viewed in the light most favorable to the nonmoving party. See Michael v. Trevena, 899 F.3d 528, 532 (8th Cir. 2018).

and the widow of Preston Davis. Plaintiff Damon Davis is a resident of Des Moines and the brother of Preston Davis. Plaintiff Iisha Hillmon is a resident of Jonesboro, Georgia, and is the cousin of Preston Davis.

Defendants Jeffrey Dawson, Brad Youngblut, Josh Rhamy, Trevor Spear, Ryan Neumann, Lucas Kramer, Ross Klein, Patrick Hickey, and Robert Clock were at all material times employed as law enforcement officers by the Des Moines Police Department. Defendant Dana Wingert was at all material times the Chief of Police for the Des Moines Police Department. Defendant City of Des Moines is a municipal corporation under the laws of the State of Iowa, which operates and maintains the Des Moines Police Department.

In the early morning hours of August 5, 2017, brothers Damon Davis, Preston Davis, and Shawn Davis; along with their cousins Iisha Hillmon, Simmone Shingler, and Angela Nelson; [2] and Preston's wife Crysteal Davis, were gathered at Shawn Davis' home—3949 56th Street, Des Moines, Iowa. Iisha, Simmone, and Angela, who lived out of state, had come to Des Moines for a family reunion and had spent part of the prior evening with Preston and Crysteal at an event in downtown Des Moines.

Shortly before 4:00 a.m., with other family members nearby, Shawn and Preston were outside in the patio area and became embroiled in an argument. Crysteal and Damon were also out on the patio. Shawn became aggressive and punched Preston in the mouth. Preston and Crysteal started to walk toward their car to leave when Shawn charged at Preston. Preston then pinned Shawn on the ground and told him to calm down. When Preston released Shawn, Preston and Crysetal continued walking toward their car. Shawn went inside the house, grabbed a knife, went back outside, and stabbed Preston three times—twice in the right shoulder and once in the left arm. The stab wound to Preston's left arm cut major nerves, blood vessels, and an artery, which caused immediate and substantial blood loss. Shawn also inflicted a nonserious knife injury on Damon.

[2] The record often refers to Iisha, Simmone, and Angela collectively as "the cousins."

After the stabbing, Crysteal moved her vehicle to take Preston to the hospital, but when she went to Preston's side and talked to him, he was unresponsive. At 3:57 a.m., Crysteal called 911; at that time, Crysteal did not identify Shawn as the assailant.[3] Des Moines Police Officers and Des Moines Fire Department Paramedics were dispatched and arrived at the scene at just after 4:00 a.m. Shawn, Crysteal, Damon, Iisha, Preston, Simmone, and Angela were at the house when the police arrived. Crysteal, Damon, and Simmone had rendered aid to Preston and were covered in his blood. Crysteal realized Preston was worse off than she initially believed and told Officer Brian Joseph that Shawn stabbed Preston and that Shawn was inside the house wearing a white-striped shirt. Officers located Shawn, took him into custody, and shortly afterwards Shawn was transported to the Des Moines Police Department headquarters. By 4:05 a.m., the scene had been secured.

Sergeant Spear arrived at the scene at 4:05 a.m. and took over as the officer in charge of the crime scene. Sergeant Spear's direct supervisor on the case was Watch Commander Captain Clock. Other officers arrived at the scene, including Officers Kramer and Neumann. Sergeant Spear was informed that Shawn was already in custody and had been identified as the only suspect responsible for the injuries to Preston. Crysteal, Damon, Iisha, Simmone, and Angela were identified as material witnesses who observed the events leading up to Shawn attacking Preston and the manner in which the attack occurred. Contact information was obtained from all five witnesses.

Preston was transported to the hospital by ambulance. Crysteal told Sergeant Spear, Officer Kramer, Officer Neumann, and other officers that she wanted to go to the hospital; Iisha

[3] At Shawn's criminal trial, when Crysteal was asked why she did not identify Shawn as the person who stabbed Preston to the 911 dispatcher, Crysteal explained:

> Because I knew how much Preston loved his brother and that he wouldn't want to see him get in trouble. And I didn't know [Preston] was that bad off at the time, so I was going to let Preston make that decision, if he wanted to say who did it or not.

Crim. Trial Tr. 131–Defs.' App. 182, ECF No. 18-2.

also said she wanted to go to the hospital. (Spear Body Cam. at 14:15-15:00). Damon asked to retrieve the keys to his vehicle from inside the house so he could drive to the hospital. (Spear Body Cam. at 12:50-13:20). Sergeant Spear and another officer told Damon he could not enter the house because it was a crime scene that had to be preserved for subsequent investigation. (Spear Body Cam. at 12:50-17:50). The family members started walking to Crysteal's Ford Taurus to drive to the hospital, but they were advised the vehicle was part of the crime scene and could not be moved. (Spear Body Cam. at 11:25-12:05, 14:17-15:01). As Crysteal insistently walked toward her vehicle, Sergeant Spear told Crysteal and the family members that the vehicle could not be moved and that he would arrange for officers to take them to the hospital, stating "that's the most important thing, correct? So, I'm going to get you a ride to the hospital." Spear Body Cam. at 14:19-14:42. Sergeant Spear then advised Officers Kramer and Neumann to take the five family members to the hospital in two patrol vehicles and confirmed that the officers should "just sit on them." Spear Body Cam. at 16:51-17:25. It is undisputed that Sergeant Spear intended that Officers Neumann and Kramer would give the family members rides to the hospital and that the family members agreed to that arrangement. (Spear Body Cam. at 16:00-17:50).

Sergeant Spear directed Officer Kramer to take Crysteal and Damon to the hospital and Officer Neumann to take the three cousins to the hospital. (Spear Body Cam. at 16:50-17:50). Officer Neumann was advised that the cousins were "just witnesses" and that they had a total of five witnesses. Spear Body Cam. at 16:50-17:00. Officer Neumann confirmed with Sergeant Spear that all five witnesses would be taken to the hospital and that the officers should "just sit on them." Id. at 17:18-17:25.

At about 4:20 a.m., Officer Kramer directed Crysteal and Damon to his patrol vehicle for the trip to the hospital; Crysteal attempted to sit in the front of the patrol vehicle but Officer Kramer explained Crysteal had to sit in the back seat with Damon as a matter of protocol. (Kramer Car Cam. at 21:31-22:46). Officer Kramer left the scene with Crysteal and Damon at 4:23 a.m. (Kramer Car Cam. at 24:05). Sergeant Spear then told Officer Neumann to take the cousins to the hospital "for now" but that they would probably have to go to the police station

afterwards. (Spear Body Cam. at 21:27-21:51). Sergeant Spear advised Iisha, Angela, and Simmone that Officer Neumann would be taking them to the hospital. (Spear Body Cam. at 21:20-22:50).

At 4:23 a.m., Sergeant Spear contacted dispatch and requested an update on Preston's condition from the paramedics, which he received at 4:24 a.m. At 4:29 a.m., Sergeant Spear contacted Captain Clock and advised him that he was at the crime scene, there had been a stabbing, the paramedics were performing CPR on the victim, and things "didn't look good." Spear Dep. 16–Defs.' App. 208, ECF No. 18-2; Spear Body Cam. at 22:54-23:11. Sergeant Spear also informed Captain Clock that they had five witnesses; however, at that time, Sergeant Spear did not advise Captain Clock that two of the witnesses were en route to the hospital in Officer Kramer's patrol vehicle. (Spear Body Cam. at 22:54-23:51). At 4:29 a.m., Captain Clock advised Sergeant Spear, "I've activated the list." Clock Dep. 13-14–Defs.' App. 236-37, ECF No. 18-2. Activating the list meant that a homicide investigation was opened, and detectives would be alerted to investigate the crime.

At approximately 4:28 a.m., after talking to Captain Clock, Sergeant Spear contacted Officer Kramer, who was in transit to the hospital with Crysteal and Damon, and advised Officer Kramer the witnesses needed to be taken to the police station to be interviewed by the detectives.[4] (Kramer Car Cam. at 31:45-32:15). Officer Kramer, in turn, informed Crysteal and Damon that they had to go to the police station to talk with detectives. (Kramer Car Cam. at 32:15-32:34). Crysteal objected that she first had to go to the hospital to check on Preston's condition and said the detectives could talk to her at the hospital. (Kramer Car Cam. at 32:34-

[4] Captain Clock denied *ordering* that the witnesses be taken to the station, testifying instead that it is standard policy to have witnesses taken to the station for questioning. See Cpt. Clock Dep. 8-9–Plfs.' App. 172-73, ECF No. 15-2 ("[Plfs.' Counsel]: I think that Officer Kramer originally was planning to go to the hospital, but then was given instructions not to. I'm trying to figure out who gave him those instructions." [Cpt. Clock]: I don't know, ma'am. . . . [Plfs.' Counsel]: And in terms of the decision to take people to the station, is that something that comes more from the detective or it's really like you're saying . . . the whole police department knows if you've got a witness in a murder case, take them to the station? [Cpt. Clock]: Yes, ma'am.").

33:26). Crysteal continued to object and raise concerns about her need to be with Preston at the hospital as he was in critical condition and may be dying. (Kramer Car Cam. at 33:26-35:07). Officer Kramer responded that he had been directed by his sergeant to take them to the station. (Kramer Car Cam. at 35:07-35:56). From the back of the patrol vehicle, Crysteal called several family members, protesting that she was not being taken to the hospital as she had been told but was being taken to the police station instead; she asked the family members to check on Preston because she was not able to be there. (Kramer Car Cam. at 32:00-39:00).

As Sergeant Spear finished his phone call to Officer Kramer, the cousins, who had been assured they were being taken to the hospital, were getting into Officer Neumann's patrol vehicle—Iisha in the front passenger seat and Simmone and Angela in the back seat. Sergeant Spear then approached Officer Neumann out of earshot of the cousins and advised Officer Neumann to take the cousins to the station instead of to the hospital. (Spear Body Cam. at 25:55-26:44). When Officer Neumann entered the patrol vehicle, he advised the cousins that he had been instructed to take them to the station, that he knew that was not where they wanted to go but he was being "straight up" with them, and asked if they "would go with [him] please and not have any issues," explaining that he did not usually transport three people at a time or have a front-seat passenger. Neumann Body Cam. 1 at 16:36-16:50, 17:38-17:51. Although the cousins objected to the change of plans and expressed concern about needing to get to the hospital, they assured Officer Neumann there would be no issues; Officer Neumann proceeded to take them to the police station. (Neumann Body Cam. at 17:37-18:08).

At approximately 4:40 a.m., Officer Kramer arrived at the station with Crysteal and Damon. (Kramer Car Cam. at 41:53; Kramer Body Cam. at 00:00-:1:00). Officer Kramer and another officer led Crysteal and Damon inside the station through locked doors to a key-operated elevator. (Id.). Inside the elevator Crysteal said to Officer Kramer: "Can I ask you why you lied to us, though, and said that you (voice trails off)?" Kramer Body Cam. 1 at 1:08-1:11. Officer Kramer responded: "Well, I didn't lie, I didn't. I know I told you [we were going to the hospital] and that was the original plan. Like I said, that was my sergeant that called (voice trails off)."

Id. at 1:07-1:23. Crysteal then asked how long they would be at the station and stated they needed to get to the hospital. After being told the detectives were just waking up and driving to the station, Crysteal asked, "why wouldn't we have just told them I would have done [the interview] at the hospital?" Id. at 1:53-1:56. After exiting the elevator, Crysteal continued to express her objections and said: "Can I ask a question? Are we literally for real like held captive? Like, I'm saying, like if we like tried to walk out, would we be arrested?" Id. at 2:29-2:39. The officer answered: "Yeah, basically you are not free to leave. The detectives want to talk to you." Id. at 2:39-2:43.

At approximately 4:50 a.m., Officer Neumann arrived at the police station with the cousins. (Neumann Body Cam. 1 at 35:00). The witnesses were directed to a hallway to wait for the detectives to interview them. (Neumann Body Cam. 1 at 35:38-38:55; Kramer Body Cam. 1 at 2:45-3:00).

At approximately 4:40 a.m., Detective Youngblut was contacted, informed the list had been activated, and advised about the stabbing. At the time, Detective Youngblut, who was not on duty but was at home asleep, had to dress and drive to the crime scene, and arrived at 5:20 a.m. Detective Dawson arrived shortly after Detective Youngblut. Once activated, the detectives took control of the investigation. Detective Youngblut was the lead investigator and Detective Dawson was the secondary.

When the detectives arrived at the crime scene, Sergeant Spear informed them a suspect was in custody and witnesses had been taken to the station to be interviewed. Detective Youngblut was informed that it was a homicide, the scene had been secured, the suspect and the victim were brothers who had been involved in a fight, the victim had been stabbed in the upper body, and an officer observed a bloody kitchen knife in the kitchen sink while securing the suspect. In observing the home, Detective Youngblut saw a vehicle with the engine running parked over the curb with a blood smear on the rear-passenger side door and a great deal of blood on the ground. Detective Youngblut spoke with Shawn's wife, who arrived at the scene at approximately 5:40 a.m., and then left for the police station.

Back at the station, Officers Neumann and Kramer assisted with guarding the witnesses until they went off duty at approximately 6:15 a.m. (Kramer Body Cam. 1 at 3:00-31:51 and Kramer Body Cam. 2 at 00:00-56:00; Neumann Body Cam. 1 at 48:29-1:15:00). The family members continued to express their desire to get to the hospital and their confusion why they were being detained. (Kramer Body Cam. 2 at 1:15-6:00). At one point, Officer Joseph came into the hallway and spoke with Officer Kramer. (Kramer Body Cam. 2 at 1:27-1:55). Crysteal asked Officer Joseph why she had been given the false expectation that she would be taken to the hospital to be with her husband. (Kramer Body Cam. 2 at 3:30-3:53). Officer Joseph explained that things changed "when the severity of the injury occurs that did occur, that was just by standard criminal investigation law. Parties directly involved are detained and taken to the station." Kramer Body Cam. 2 at 3:54-4:05. Officer Joseph continued, "it's an egregious assault and when we know we're going to be calling in detectives, as opposed to we're just going to write a report and they're going to follow up another day, we bring all parties down to the station at that point." Id. at 4:19-4:31. Officer Neumann also told the family the officers were "doing exactly what we do in every single set of circumstances like this." Id. at 5:21-5:26. Officer Neumann told a captain and other officers at the station that the witnesses wanted to be at the hospital and not at the station. (Neumann Body Cam. 1 at 44:20-44:44, 1:19:40-1:19:53).

Detective Youngblut arrived at the station between 6:05 a.m. and 6:10 a.m. and was advised that the witnesses wanted to go to the hospital. At 6:15 a.m., when Officers Kramer and Neumann were going off duty, Officers Hickey and Klein began guarding the family members as they waited in a hallway. (Klein Body Cam. at 1:15). Before leaving, Officer Neumann apprised Officers Hickey and Klein of the situation, identified Crysteal as the victim's wife, and told them he had been informed that Preston had died but that the family had not been told. (Neumann Body Cam. 2 at 15:10-15:20). While Officer Neumann was talking to Officers Hickey and Klein, Detective Youngblut took Crysteal to the investigation room. (Neumann Body Cam. 2 at 15:25-15:29). Detective Dawson joined Detective Youngblut and Crysteal in the

interview room a few minutes later. Damon and the cousins remained in the hallway and were not told that Preston had died.

At approximately 6:17 a.m., Iisha placed a call to a family member and was told Preston had died. (Klein Body Cam. at 4:11-4:28). On hearing the news, Iisha began crying out, got up from her seat, and started to walk down the hall. (Klein Body Cam. at 4:21-4:28). Officer Klein told her, "ma'am, you're not going anywhere," and told her to give him her phone. Klein Body Cam. at 4:28-4:36. Damon got up from his seat and approached Iisha, but Officer Klein told him to sit back down. (Klein Body Cam. at 4:36-4:41). Damon told Officer Klein "that's my brother," and Officer Hickey responded, "I understand, I'm sorry but right now, we have to do what is best for your brother. . . . [W]e have to keep you separated so we know that this [investigation] isn't compromised in any way." Klein Body Cam. at 4:49-5:00. Officer Hickey continued to explain this to Damon as he led him back down the hallway. (Klein Body Cam. at 5:00-5:18).

At approximately 6:27 a.m., Detective Youngblut stepped out of the interview room and came into the hallway. (Klein Body Cam. at 6:21-6:23). Detective Klein went over to Detective Youngblut, handed him Iisha's phone, and advised him that Iisha had been told over the phone that Preston had died and that the witnesses all knew. Klein Body Cam. at 6:24-6:32. Damon asked Detective Youngblut, "What happened? What's going on?" Klein Body Cam. at 6:39-6:42. Detective Youngblut told Damon that Preston "didn't make it," and Damon began crying out. Klein Body Cam. at 6:39-6:54. Before returning to the interview room, Detective Youngblut handed Iisha her phone and confirmed with Officer Klein that she could have it. Klein Body Cam. at 7:04-7:09. Shortly thereafter, Damon asked Officer Hickey if he could see Crysteal. (Klein Body Cam. at 14:08-14:18). Officer Hickey repeated to Damon:

> Right now, the best thing we can do for your brother, and I am sorry at his passing, is to make sure the integrity of this investigation goes to punish that who is responsible and that the information gets put out in a timely manner. So, it is imperative for your brother's sake, for your family's sake, that these guys actually ask these questions today. I am so sorry that it has to be done at this time but that is the best thing to do for your family.

Klein Body Cam. at 14:26-15:00. At that point, Damon was not allowed to see Crysteal, who was still being interviewed. Damon and the cousins continued to wait in the hallway. Simmone and Iisha began talking about the stabbing, and Officer Hickey reminded them of the importance of not talking about it until they had each been interviewed individually by the detectives. (Hickey Body Cam. at 39:15-41:12).

Crysteal's interview with Detectives Youngblut and Dawson began at approximately 6:18 a.m. and finished at around 7:09 a.m.[5] Immediately thereafter, Crysteal was interviewed by the department's Victims Resource Officer and left the detectives' office about 8:05 a.m. (Hickey Body Cam. at 1:45:55).

Damon was called into the detectives' office at approximately 7:03 a.m. (Hickey Body Cam. at 46:07). At 7:04, with Damon's consent, Detective Rhamy of the detective division had Damon's hands swabbed and had him photographed. Detective Youngblut began interviewing Damon at approximately 7:32 a.m. and concluded the interview at 8:00 a.m.

Detective Dawson interviewed Simmone from approximately 7:32 a.m. until 7:52 a.m.; Angela from approximately 7:56 a.m. until 8:06 a.m.; and Iisha from approximately 8:08 a.m. until 8:32 a.m. During her interview, Iisha detailed to Detective Dawson that after Shawn stabbed Preston, Shawn went inside the house with blood all over his shirt, put the knife down, and told Iisha to call 911. Shawn then took off his bloody shirt, put it in the washing machine, showered, and put on clean clothing before the police arrived.

The duration of Plaintiffs' detentions measured from arrival at the police station to release from interview: Crysteal was detained for over 3 hours, 25 minutes; Damon was detained for over 3 hours, 20 minutes; and Iisha was detained for over 3 hours, 45 minutes.[6]

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[5] Detectives Youngblut and Dawson jointly interviewed Crysteal but individually interviewed the other four witnesses; Detective Youngblut interviewed Damon; and Detective Dawson interviewed Simmone, Angela, and Iisha.

[6] This calculation slightly underestimates the length of each Plaintiff's detention because the record does not provide the exact times Plaintiffs were told they would be going to the station and not to the hospital. Crysteal and Damon arrived at the station approximately five minutes after being told and Iisha approximately fifteen minutes afterward.

The Detectives included the information obtained from the interviews in securing consent forms and search warrants for Shawn's home and property, the Ford Taurus, and Shawn's person. Shawn was charged with murder later in the morning of August 5, 2017.

B. Procedural Background

On August 1, 2019, Plaintiffs filed a seven-count petition in the Iowa District Court for Polk County, naming twelve Des Moines Police Department Officers, Chief Wingert, the City, and John Does 1 and 2 as defendants. Plaintiffs asserted claims for Unreasonable Seizure–Civil Rights Violation Under 42 U.S.C. § 1983 in Violation of the Fourth Amendment to the U.S. Constitution, against all Defendants individually (Count One); Unreasonable Seizure–Civil Rights Violation of article I, § 8 of the Iowa Constitution, against all Defendants individually (Count Two); Conspiracy–Civil Rights Violation Pursuant to 42 U.S.C. §§ 1983 and 1985 for Violation of the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution, against all Defendants individually (Count Three); Conspiracy–Civil Rights Violation of article I, §§ 6 and 8 of the Iowa Constitution, against all Defendants individually (Count Four); Deliberately Indifferent Policies, Practices, Customs, Training, and Supervision–Civil Rights Violation Pursuant to 42 U.S.C. § 1983, for Violation of the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution, against Chief Wingert, individually, and the City (Count 5); Deliberately Indifferent Policies, Practices, Customs, Training, and Supervision–Civil Rights Violation of article I, §§ 6 and 8 of the Iowa Constitution, against Chief Wingert, individually, and the City (Count Six); and False Arrest/Imprisonment, against all Defendants individually (Count Seven).

On October 3, 2019, Plaintiffs filed a pre-service amended petition naming eleven Des Moines Police Department Officers, Chief Wingert, and the City; the claims remained the same.[7] Defendants accepted service of the original notices and petitions on November 19, 2019,

[7] The captions of both the original and amended petitions indicate that "all individual defendants [are] named in their individual and official capacities." Errata, ECF Nos. 2-1–2-3. However, Counts One through Four and Seven of those petitions are brought against all Defendants in their individual capacities, and Counts Five and Six are brought against Chief

and timely filed a Notice of Removal on November 27, 2019, based on federal question jurisdiction. On October 14, 2020, Plaintiffs filed a Second Amended Complaint, removing two officers and adding Captain Clock as a Defendant, ECF No. 20; and on November 3, 2020, the Court granted Plaintiffs' motion to voluntarily dismiss another officer, ECF No. 26.[8]

Plaintiffs filed present motion for partial summary judgment as to liability on Counts One, Two, and Seven, as against Sergeant Spear, Officer Kramer, and Officer Neumann, arguing the undisputed material facts demonstrate those Defendants, acting under color of state law pursuant to an unconstitutional departmental policy, violated Plaintiffs' clearly established right to be free from unreasonable seizure, and that those Defendants falsely arrested Plaintiffs. Pls.' Br. 2, ECF No. 22. Plaintiffs also move for partial summary judgment on the issue of liability on Counts Five and Six, as against Defendants Chief Wingert and the City, arguing the undisputed material facts demonstrate Plaintiffs were illegally seized pursuant to an unconstitutional departmental policy.

Defendants filed the present motion for summary judgment, arguing Defendant Officers are entitled to qualified immunity against Plaintiffs' claims, Defendant Officers did not improperly seize Plaintiffs under either state or federal law (Counts One and Two), Defendant Officers did not conspire to violate Plaintiffs' federal or state constitutional rights (Counts Three and Four), Defendants City of Des Moines and Chief Wingert were not deliberately indifferent and were entitled to immunity (Counts Five and Six), and Plaintiffs failed to establish their false arrest claim (Count Seven). Defs.' Br. 2, ECF No. 18-3.

Wingert, individually, and the City. None of the counts identify that they are brought against Defendants in their official capacities.

The amended petition removed five of the named Defendants, as well as the John Doe Defendants, and added four different officers as Defendants.

[8] By Text Order of October 13, 2020, ECF No. 17, the Court granted Plaintiffs' uncontested motion to remove Officers Chris Hardy and Elliot Ness from the Second Amended Complaint, ECF No. 13; and by Order of November 3, 2020, ECF No. 26, the Court granted Plaintiffs' uncontested motion to voluntarily dismiss Officer Steven McCarville, ECF No. 21.

II. DISCUSSION

A. Standard for the Motion

"The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "The movant 'bears the initial responsibility of informing the district court of the basis for its motion,' and must identify 'those portions of [the record] . . . which it believes demonstrate the absence of a genuine issue of material fact.'" Torgerson v. City of Rochester, 643 F.3d 1031, 1042 (8th Cir. 2011) (en banc) (alterations in original) (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)). If the movant makes such a showing, to avoid summary judgment the nonmovant must "set out 'specific facts showing that there is a genuine issue for trial.'" Id. (quoting Celotex, 477 U.S. at 324). A genuine issue for trial requires more than "some metaphysical doubt as to the material facts." Id. (quoting Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587-88 (1986)). The Court views the facts presented on summary judgment in the light most favorable to the nonmovant. Matsushita, 475 U.S. at 586.

1. Qualified Immunity – Federal Law

Counts One, Three, and Five of Plaintiffs' complaint are claims against individual defendants pursuant to § 1983, which provides:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . , subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law.

"Section 1983 'is not itself a source of substantive rights,' but merely provides 'a method for vindicating federal rights elsewhere conferred.' The first step in any such claim is to identify the specific constitutional right allegedly infringed." Albright v. Oliver, 510 U.S. 266, 271 (1994) (internal citation omitted) (quoting Baker v. McCollan, 443 U.S. 137, 144, n. 3 (1979)). Plaintiffs' § 1983 claims allege their prolonged detention violated their rights under the Fourth, Fifth, and Fourteenth Amendments. Defendants assert they are entitled to immunity from these claims under federal law.

"Qualified immunity shields a government official from suit under § 1983 if his 'conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" Kelsay v. Ernst, 933 F.3d 975, 979 (8th Cir. 2019) (en banc) (quoting Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)). "We often describe the resolution of a qualified immunity issue as involving two questions—whether the official's conduct violated a constitutional or statutory right, and whether that right was clearly established. [The Court] may take up either question first." L.G. through M.G. v. Columbia Pub. Sch., 990 F.3d 1145, 1147 (8th Cir. 2021) (citing Morgan v. Robinson, 920 F.3d 521, 523 (8th Cir. 2019) (en banc)). "The plaintiff has the burden to show that his or her right was clearly established at the time of the alleged violation." Kuessner v. Wooten, 987 F.3d 752, 755(8th Cir. 2021) (quoting Davis v. Scherer, 468 U.S. 183, 197 (1984)).

"[W]hether an official protected by qualified immunity may be held personally liable for an allegedly unlawful official action" is "assessed in light of the legal rules that were 'clearly established' at the time it was taken" and "generally turns on the 'objective legal reasonableness' of the action." Anderson v. Creighton, 483 U.S. 635, 639 (1987) (quoting Harlow, 457 U.S. at 818-19). The Supreme Court has explained that "the same standard of objective reasonableness that we applied in the context of a suppression hearing in Leon defines the qualified immunity accorded an officer." Groh v. Ramirez, 540 U.S. 551, 565 n.8 (2004) (quoting Malley v. Briggs, 475 U.S. 335, 344 (1986) (citing United States v. Leon, 468 U.S. 897, 916 (1984)); see also Gordon ex rel Gordon v. Frank, 454 F.3d 858, 864 (8th Cir. 2006) (reasoning immunity law allows an officer to make a mistake, but the "mistake must be objectively reasonable" (citing Groh, 540 U.S. at 567)).

"A clearly established right is one that is 'sufficiently clear that every reasonable official would have understood that what he is doing violates that right.'" Mullenix v. Luna, 136 S. Ct. 305, 308 (2015) (quoting Reichle v. Howards, 566 U.S. 658, 664 (2012)). "While [the Supreme] Court's case law 'do[es] not require a case directly on point' for a right to be clearly established, 'existing precedent must have placed the statutory or constitutional question beyond debate.'"

White v. Pauly, 137 S. Ct. 548, 551 (2017) (second alteration in original) (quoting Mullenix, 136 S. Ct. at 308). "In other words, immunity protects 'all but the plainly incompetent or those who knowingly violate the law.'" Id. (quoting Mullenix, 136 S. Ct. at 308). The Supreme Court has repeatedly instructed courts "not to define clearly established law at a high level of generality." Ashcroft v. al-Kidd, 563 U.S. 731, 742 (2011) (collecting cases). Rather, "the clearly established law must be 'particularized' to the facts of the case. Otherwise, '[p]laintiffs would be able to convert the rule of qualified immunity . . . into a rule of virtually unqualified liability simply by alleging violation of extremely abstract rights.'" White, 137 S. Ct. at 552 (alterations in original) (internal citation omitted) (quoting Anderson, 483 U.S. at 640). Determining whether a right is clearly established requires "identify[ing] a case where [the official] acting under similar circumstances . . . was held to have violated [a Constitutional right]." Id. "To be clearly established, a legal principle must have a sufficiently clear foundation in then-existing precedent." District of Columbia v. Wesby, 138 S. Ct. 577, 589 (2018). "The rule must be 'settled law,' id. (quoting Hunter v. Bryant, 502 U.S. 224, 228 (1991) (per curiam)), which means it is dictated by 'controlling authority' or 'a robust consensus of cases of persuasive authority,'" id. (internal quotation marks omitted) (quoting al-Kidd, 563 U.S. at 741-42). "It is not enough that the rule is suggested by then-existing precedent. The precedent must be clear enough that every reasonable official would interpret it to establish the particular rule the plaintiff seeks to apply. Otherwise, the rule is not one that 'every reasonable official' would know." Id. (quoting Reichle, 566 U.S. at 666); see also Kelsay, 933 F.3d at 979 ("A plaintiff must identify either 'controlling authority' or 'a robust "consensus of cases of persuasive authority"' that 'placed the statutory or constitutional question beyond debate' at the time of the alleged violation." (quoting al-Kidd, 563 U.S. at 741-42)). "Of course, in an obvious case, these standards can 'clearly establish' the answer, even without a body of relevant case law." Brosseau v. Haugen, 543 U.S. 194, 199 (2004) (citing Hope v. Pelzer, 536 U.S. 730, 738 (2002)).

2. Qualified Immunity – Iowa Law

Counts Two, Four, and Six of Plaintiffs' complaint allege their prolonged detention violated their rights under article I, §§ 6 and 8 of the Iowa Constitution. As with the same claims

brought under federal law (Counts One, Three, and Five), Defendants assert they are entitled to immunity under Iowa law.

The Iowa Supreme Court held that qualified immunity could apply to Iowa constitutional tort claims, such as search and seizure violations, but that the standard differs from the federal qualified immunity standard. See Baldwin v. City of Estherville (Baldwin II), 915 N.W.2d 259, 260-61 (Iowa 2018) (noting that in Godfrey v. State, 898 N.W.2d 844, 846-47 (Iowa 2017), the court first recognized that the State of Iowa and state officials acting in their official capacities could be sued directly for constitutional torts "where state law does not provide an adequate compensatory damage remedy" but did not reach the qualified immunity question).

In determining the proper standard for evaluating qualified immunity under Iowa law, the Baldwin II court concluded that "qualified immunity should be shaped by the historical Iowa common law as appreciated by our framers and the principles discussed in Restatement (Second) of Torts section 874A," which "means due care as the benchmark." Id. at 280. The court established that "a government official whose conduct is being challenged will not be subject to damages liability if she or he pleads and proves as an affirmative defense that she or he exercised all due care to conform to the requirements of the law." Id. at 281.

In processing the Iowa Supreme Court's "all due care" standard, the federal district court in Baldwin v. Estherville (Baldwin III), 333 F. Supp. 3d 817, 844-45 (N.D. Iowa 2018), reasoned the factors a court may consider in determining whether the "all due care" qualified immunity defense applies, include "bad faith," "malice and lack of probable cause," and lack of "reasonable ground" for the conduct in question. In applying this standard, the district court in Baldwin III reasoned that "in the absence of genuine issues of material fact—the question of 'all due care' immunity can be decided by the trial court at summary judgment as a matter of federal law." Id. (citing Cremona v. R.S. Bacon Veneer Co., 433 F.3d 617, 619-20 (8th Cir. 2006)); see also Venckus v. City of Iowa City, 930 N.W.2d 792, 802 (Iowa 2019) ("[T]he all-due-care immunity set forth in Baldwin is a constitutional immunity. It bars suit and damages only for constitutional claims and only when the government official proves 'that he or she exercised all due care to conform with the requirements of the law.' The Baldwin immunity is in addition to

any other common law immunities or defenses available and not a comprehensive substitute immunity." (quoting Baldwin II, 915 N.W.2d at 260-61)). "Because the question is one of immunity, the burden of proof should be on the defendant." Baldwin II, 915 N.W.2d at 280 (citing Anderson v. State, 692 N.W.2d 360, 364 (Iowa 2005)).

B. Seizure Claims under the U.S. and Iowa Constitutions

Counts One and Two of Plaintiffs' complaint allege they were illegally seized in violation of the U.S. and Iowa Constitutions. Defendants deny that at a constitutional violation occurred and even if one did occur, they are entitled to qualified immunity.

Under the circumstances of this case, the Court's initial inquiry must be whether a constitutional violation occurred; that is, whether Plaintiffs were seized within the meaning of the Fourth Amendment of the U.S. Constitution and article I, § 8 of the Iowa Constitution. Morgan, 920 F.3d at 523 (reiterating that "courts are 'permitted to exercise their sound discretion in deciding which of the two prongs of the qualified immunity analysis should be addressed first.'" (quoting Nord v. Walsh Cty., 757 F.3d 734, 738 (8th Cir. 2014) (quoting Pearson v. Callahan, 555 U.S. 223, 236 (2009)))). The Fourth Amendment to the U.S. Constitution and article I, § 8 of the Iowa Constitution guarantee people the right "to be secure in their persons . . . against unreasonable seizures" and that a warrant may only be issued if it is based on "probable cause, supported by oath or affirmation, particularly describing . . . the persons and things to be seized."

In this case, "to establish a § 1983 claim for a Fourth Amendment violation, [Plaintiffs] must demonstrate a . . . seizure occurred, and the . . . seizure was unreasonable." Clark v. Clark, 926 F.3d 972, 977 (8th Cir. 2019). "Reasonableness of a seizure is determined by the totality of the circumstances and must be judged from the viewpoint of a reasonable officer on the scene, irrespective of the officer's underlying intent or motivation." Id. (quoting McCoy v. City of Monticello, 342 F.3d 842, 846 (8th Cir. 2003)).

1. Whether a Seizure Occurred

"A Fourth Amendment seizure occurs when an officer restrains the liberty of an individual through physical force or show of authority." Quraishi v. St. Charles Cty., Mo., 986 F.3d 831,

839 (8th Cir. 2021) (quoting McCoy, 342 F.3d at 846 (citing Terry v. Ohio, 392 U.S. 1, 24 (1968))). "A seizure is an 'application of physical force to restrain movement, even when it is ultimately unsuccessful.'" Id. (quoting California v. Hodari D., 499 U.S. 621, 626 (1991)). "Only when the officer . . . has in some way restrained the liberty of a citizen may we conclude that a 'seizure' has occurred." Id. (alteration in original) (quoting Terry, 392 U.S. at 19 n.16); accord State v. White, 887 N.W.2d 172, 176 (Iowa 2016) (noting that "not all police contacts with individuals are deemed seizures within the meaning of the Fourth Amendment"; rather, "encounters remain consensual [s]o long as a reasonable person would feel free to disregard the police and go about his business." (alteration in original) (citations and quotation marks omitted)). "To be seized, 'a reasonable person would have believed that he was not free to leave.' . . . But where police attempt a show of force and an individual does not submit, the individual has not been seized." Quraishi, 986 F.3d at 839-40 (citation omitted) (quoting United States v. Mendenhall, 446 U.S. 544, 554 (1980)); accord White, 887 N.W.2d at 176 ("We have recognized the presence of several factors that might suggest a seizure has occurred, which include 'the threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person of the citizen, or the use of language or tone of voice indicating that compliance with the officer's request might be compelled.'" (quoting State v. Wilkes, 756 N.W.2d 838, 842 (Iowa 2008))).

Sergeant Spear was in charge of the crime scene. When he arrived, he was advised by officers who arrived approximately five minutes earlier[9] that the only suspect was in custody and that the others at the scene—Crysteal, Damon, Iisha, Simmone, and Angela—were witnesses. Sergeant Spear testified that there was no safety threat "after [the officers] cleared the house and the suspect was in custody." Spear Dep. 7–Defs.' App. 206, ECF No. 18-2. Sergeant Spear acknowledged that contact information had been obtained from the witnesses.

[9] Detective Youngblut's report indicates that the first police officers arrived at the crime scene at approximately 4:00 a.m. Sergeant Spear's Body camera footage shows he arrived at the scene at 4:05 a.m.

After the scene was secured and paramedics transported Preston to the hospital, Sergeant Spear and another officer stopped Damon as he walked toward the house to retrieve his car keys with the intention of driving to the hospital. The officers advised Damon he could not enter the house because it was a crime scene. Sergeant Spear assured Damon he would get Damon a ride to the hospital. As Sergeant Spear discussed having Officers Kramer and Neumann take the witnesses to the hospital in their patrol vehicles, Crysteal and other family members started walking toward Crysteal's car with the intention of driving it to the hospital. Sergeant Spear advised Crysteal that her car was part of the crime scene and it could not be moved. Sergeant Spear then assured Crysteal, Damon, and the cousins he would have officers take them to the hospital in patrol vehicles, reminding them "that's the most important thing, correct? So, I'm going to get you a ride to the hospital." Spear Body Cam. at 14:19-14:42. The family members were repeatedly given assurance that they would be taken to the hospital.

Several significant facts are undisputed: Plaintiffs were not suspected of any wrongdoing; Plaintiffs only agreed to get into Officer Kramer's and Officer Neumann's patrol vehicles because they were told they would be taken to the hospital; Plaintiffs did not consent to being taken to the police station for investigatory purposes; and Plaintiffs were already in the police vehicles when the armed, uniformed officers informed Plaintiffs that they would not be taken to the hospital but were being taken to the police station where they would wait to be questioned by detectives.

Crysteal and Damon were no longer at the crime scene but en route to the hospital when Officer Kramer advised them the destination had changed. Crysteal and Damon immediately objected. Crysteal and Damon were in the "cage" of Officer Kramer's moving patrol vehicle being taken to the police station without their consent and over their repeated objections. Plaintiffs were clearly not free to leave. At the station, when Crysteal asked what would happen if she and Damon tried to leave, she was told by an armed, uniformed officer that they were not free to leave. See Quraishi, 986 F.3d at 839-40; White, 887 N.W.2d at 176.

With regard to Iisha, before she, Simmone, and Angela entered Officer Neumann's patrol vehicle, Officer Neumann asked Sergeant Spear, "we're going to the hospital then, correct?" Spear Body Cam. at 25:33-25:36. Sergeant Spear answered, "yep." Id. As Officer Neumann directed the cousins into the patrol vehicle, Sergeant Spear told Officer Neumann, privately, out of the cousins' hearing range, to "just take them to the station." Id. at 26:03-26:10. Officer Neumann asked why Sergeant Spear had told them they were going to the hospital, and Sergeant Spear responded, "that's the only way to get them into the car, man." Id. at 26:12-26:15. When Officer Neumann got into the patrol vehicle, he advised Iisha, Simmone, and Angela they were going to the police station. Officer Neumann told Iisha, Simmone, and Angela that he knew they did not want to be going to the station but that was where they were going, that he was being honest with them, and that he did not want any issues. The cousins assured him there would be no issues. It was clear from the instructions Sergeant Spear gave to Officer Neumann, which Officer Neumann, who was armed and in uniform, then gave to the cousins as they sat in Officer Neumann's patrol vehicle, that the cousins were not free to leave.

Officer Kramer arrived at the station with Crysteal and Damon at 4:40 a.m., and Officer Neumann arrived at the station with Iisha, Simmone, and Angela at 4:50 a.m. Plaintiffs, Simmone, and Angela were escorted inside the station by Officers Kramer and Neumann, led to a hallway outside the detectives' department, and directed to wait there until the detectives arrived. For the duration of their detention, at least two armed, uniformed officers stood guard over Plaintiffs, Simmone, and Angela. Footage from the officers' body cameras indicate that a key was required to enter or exit the floor where the family was directed to wait. The five witnesses were detained in the hallway until they were individually called into the inter-view rooms.

The undisputed facts show that at the point Plaintiffs were told by armed, uniformed officers that they were being taken to the station and not to the hospital, Sergeant Spear, Officer Kramer, and Officer Neumann knew that the only suspect was in custody, that Plaintiffs were witnesses and not suspected of any wrongdoing, that Plaintiffs did not consent to the detention,

that Plaintiffs got into the patrol vehicles believing the officers were taking them to the hospital, and that Plaintiffs were not free to leave. Based on these undisputed facts, the Court must conclude and Defendants cannot seriously question, when Plaintiffs were told they would be taken to the police station and not to the hospital, they were seized within the meaning of the Fourth Amendment of the U.S. Constitution and article I, § 8 of the Iowa Constitution. See Terry, 392 U.S. at 16 ("It must be recognized that whenever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person."); Seymour v. City of Des Moines, 519 F.3d 790, 797 (8th Cir. 2008) (concluding the plaintiff's "seizure commenced upon his being told that he was not free to leave and did not end until he was allowed to exit [the investigator]'s vehicle"); see also Quraishi, 986 F.3d at 839-40; Magnan v. Doe, Civil No. 11-753 (JNE/SER), 2012 WL 5247325, at *4 (noting that the defendant police officers conceded that a seizure occurred when witnesses to a homicide were detained at the crime scene in patrol vehicles while waiting to be interviewed by detectives); Perkins v. Click, 148 F. Supp. 2d 1177, 1182 (D.N.M. 2001) (finding that a witness who was involuntarily held in a squad car at the scene of a homicide and then involuntarily transported 15 miles and held at the sheriff's offices was seized). Accord White, 887 N.W.2d at 176 (concluding that under the totality of the circumstances the defendant was seized within the Fourth Amendment when the police officer directed him to step off his front porch and onto the driveway).

Crysteal arrived at the police station at 4:40 a.m., was taken to the interview room at 6:18 a.m., and finished her interviews at 8:05 a.m.; Crysteal was detained for over 3 hours, 25 minutes. Damon arrived at the police station at 4:40 a.m., was called into the interview room at approximately 7:03 a.m., and left the interview room at 8:00 a.m.; Damon was detained for over 3 hours, 20 minutes. Iisha arrived at the police station at 4:50 a.m., was called for her interview at approximately 8:08 a.m., and finished her interview at 8:32 a.m.; Iisha was detained for over 3 hours, 45 minutes.[10]

[10] The Plaintiffs were each in a patrol vehicle when told they would be going to the station and not to the hospital. The exact time each Plaintiff was so advised is not provided in the

2. Reasonableness of the Seizure

Having established a seizure occurred, the next question is whether the detention was reasonable. See Clark, 926 F.3d at 977; Seymour, 519 F.3d at 796 ("For an investigative Terry-type seizure to be constitutional under the Fourth Amendment, an officer must be aware of particularized, objective facts which, taken together with rational inferences from those facts, reasonably warrant suspicion that a crime is being committed." (quoting United States v. Donnelly, 475 F.3d 946, 952 (8th Cir. 2007))); see also Walker v. City of Orem, 451 F.3d 1139, 1147 (10th Cir. 2006) ("The question is whether the 'seizure' involved was reasonable for Fourth Amendment purposes. We note, at the outset, that defendants did not have a 'reasonable suspicion' that plaintiffs were involved with any criminal wrongdoing, and therefore had no right to subject them to an investigative detention."). "[I]n judging reasonableness, we look to 'the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty.'" Illinois v. Lidster, 540 U.S. 419, 427 (2004) (quoting Brown v. Texas, 443 U.S. 47, 51 (1979)).

Defendants concede, as they must, that Plaintiffs were "detained" but argue Supreme Court precedent supports police detention of witnesses where societal needs for the detention outweigh its intrusiveness, citing Terry, and that special needs detentions have rules of their own separate and apart from Fourth Amendment detentions of criminal suspects, citing City of Indianapolis v. Edmond, 531 U.S. 32 (2000).

Terry, of course, held that when an officer reasonably concludes criminal activity may be afoot and that the person with whom the officer is dealing may be armed and dangerous, the officer may, after identifying himself and making reasonable inquiries that do not dispel the

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record, so the Court uses the time each Plaintiff arrived at the station and was subsequently released from their respective interview to estimate the duration of each detention. Because the Plaintiffs were advised prior to arriving at the station, the length of each detention is slightly underestimated. Crysteal and Damon were told they were not being taken to the hospital approximately five minutes before arriving at the station, and Iisha was told approximately fifteen minutes before arriving at the station.

officer's reasonable fear for his own or the safety of others, conduct a careful, limited search (pat down) in attempt to discover weapons which might be used to assault the officer. Terry, 392 U.S. at 30-31. In Edmond, the Court "declined to suspend the usual requirement of individualized suspicion where the police seek to employ a checkpoint primarily for the ordinary enterprise of investigating crimes" and refused to "sanction stops justified only by the generalized and ever-present possibility that interrogation and inspection may reveal that any given motorist has committed some crime." Edmond, 531 U.S. at 44. In Edmond, however, the Court qualified that "there are circumstances that may justify a law enforcement checkpoint where the primary purpose would otherwise, but for some emergency, relate to ordinary crime control," such as "an appropriately tailored roadblock set up to thwart an imminent terrorist attack or to catch a dangerous criminal who is likely to flee by way of a particular route." Id. Defendants do not detail how the general propositions identified in Terry and Edmond bear on the detention at issue in this case where it is undisputed Plaintiffs were mere witnesses, were not suspected of criminal activity, and there was no emergency related to crime control.

Defendants also cite a series of other Supreme Court cases but similarly provide no explanation as to how the legal principles adopted in those cases bear on the reasonableness of Plaintiffs' detention in the present case. See New Jersey v. T.L.O., 469 U.S. 325, 341-44 (1985) (holding the legality of the warrantless search of a student by school officials does not require probable cause the student has violated the law, rather its legality depends on the reasonableness of the search under the totality of the circumstances and will generally be upheld where there are reasonable grounds for suspecting that the search will turn up evidence that the student violated the law or a school rule); Mich. State Police v. Sitz, 496 U.S. 444, 450-55 (1990) (upholding the state's sobriety checkpoint as consistent with the Fourth Amendment, reasoning although a seizure occurs when a vehicle is stopped at a checkpoint, the objective intrusion was measured by the seizure's minimal duration and intensity against how it advanced the public interest in curbing the state's drunk driving problem); Chandler v. Miller, 520 U.S. 305, 308-09 (1997) (holding the state's requirement that candidates for state office must submit to and pass a drug

test did not fit within the narrow category of permissible, warrantless searches, reasoning that although the drug test was minimally intrusive, it was not based on individualized suspicion of wrongdoing and failed to show a special need to override the individual's privacy interest); Brown v. Texas, 443 U.S. 47, 50-52 (1979) (holding a seizure occurred when the law enforcement officer detained the plaintiff and required him to identify himself; the officer's conclusion that it looked suspicious for the plaintiff and another individual to be walking away from an alley in a high crime area lacked objective facts and did not constitute reasonable suspicion that the plaintiff was involved in criminal conduct warranting detention for questioning, thus, the officer's lack of reasonable suspicion the plaintiff engaged in criminal conduct and application of the state statute to detain the plaintiff violated the Fourth Amendment); Samson v. California, 547 U.S. 843, 848 (2006) (holding the Fourth Amendment does not prohibit the suspicionless search of a state parolee, reasoning under the totality of the circumstances, the warrantless search of the parolee was reasonable); Skinner v. Ry. Lab. Execs., 489 U.S. 602, 614-34 (1989) (holding although the Federal Railroad Administration's regulations mandating drug and alcohol testing of railroad employees without a warrant or reasonable suspicion the particular employee was involved in criminal activity did constitute searches withing the meaning of the Fourth Amendment, the regulations were reasonable based on the compelling government interest they served, which outweighed the employees' privacy concerns); Lidster, 540 U.S. at 425-27 (holding the checkpoint stop was reasonable, and thus constitutional, because it was set up to ask the vehicle's occupants, as members of the public, for help in providing information about a recent, fatal hit-and-run accident, and concluding the reasonableness of the seizure was based on "the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty" (quoting Brown, 443 U.S. at 51)).

It bears mentioning that in Lidster, the Court's conclusion that the investigatory checkpoint stop did not offend the Fourth Amendment, despite lacking individualized suspicion, was based on rationale and characteristics not present here: (1) the stop involved a motorist and "[t]he

Fourth Amendment does not treat a motorist's car as his castle"; (2) "special law enforcement concerns will sometimes justify highway stops [such as sobriety and border patrol checkpoints] without individualized suspicion"; (3) "the context [in Lidster] (seeking information from the public) is one in which, by definition, the concept of individualized suspicion has little role to play"; (4) "an information-seeking stop [of the general public] is not the kind of event that involves suspicion, or lack of suspicion, of the relevant individual"; and (5) "information-seeking highway stops are less likely to provoke anxiety or to prove intrusive [because] [t]he stops are likely brief [and] [t]he police are not likely to ask questions designed to elicit self-incriminating information." Lidster, 540 U.S. at 424-25. The purpose of the investigatory stop in Lidster was to seek information from the public about the driver at fault in a hit and run accident that killed a bicyclist. Id. at 421-22.

Defendants provide only citations to these Supreme Court decisions and posit that the reasonableness of detaining witnesses for the purpose of providing evidence of criminal conduct depends on "(1) the seriousness of the crime witnessed, (2) the nature of the information the witness can reasonably expect to provide, (3) the level of proof the witness can provide, and (4) whether there are less intrusive methods to obtain the same information." Defs.' Br. 10, 14, ECF No. 18-3.

Referring to their four proposed reasonableness criteria, Defendants assert the first three are met in this case. That is, the crime Plaintiffs witnessed was a homicide, which is the most serious crime that can be witnessed; Plaintiffs each witnessed key moments of the attack and/or of the suspect as the attack unfolded; and the information Plaintiffs provided was necessary to insure the suspect was properly charged and search warrants were obtained. Regarding the fourth proposed criterion—whether there were less intrusive methods to obtain information—Defendants acknowledge that Plaintiffs believe there was a much less intrusive method of obtaining the information they possessed, specifically that the detectives could have interviewed them at the hospital, which Plaintiffs repeatedly requested. Instead of doing so, Defendants detained Plaintiffs at the police station for over three hours and deprived them from being at the

hospital to learn of Preston's condition. Defendants excuse this deprivation by stating that "[t]ragically, the presence of the witnesses at the hospital would not have allowed any final communication [with Preston], nor alter the result of the homicide"; whereas, the witnesses' "ability to give clear preserved accounts *could* greatly assist the police *in apprehending* and lead to the conviction of the perpetrator." Defs.' Br. 11, ECF No. 18-3 (emphasis added).

The cases and criteria Defendants cite and rely on are inapposite to the present case. As an initial matter, Defendants' proposed reasonableness factors are not found in, nor can they be gleaned from, any of the cases cited by Defendants. However, it appears Defendants cite these Supreme Court cases for the proposition that a governmental purpose justifies the detention that occurred here. The Court must disagree.

The detention in the present case cannot be likened to the vehicle checkpoint stops in Sitz and Lidster, which the Court held were justified by their minimal duration and intensity and how they advanced the public interest, see Sitz, 496 U.S. 444, 450-55 (sobriety checkpoint was justified by the state's need to curb its drunk driving problem), and Lidster, 540 U.S. at 425-28 (the tailored-investigatory checkpoint stop of "all vehicles systematically" near the site of a hit and run accident for the purpose of soliciting the public's "help to *find the perpetrator* of a specific and known crime," justified the minimal liberty interference (emphasis added)). Nor were Plaintiffs in a category of persons or places that subjected them to limited expectations of privacy justifying the Fourth Amendment intrusion, see Samson, 547 U.S. at 852-53 (suspicionless search of a state parolee justified by the state's need to reduce recidivism and promote reintegration); T.L.O., 469 U.S. at 341-44 ("[T]he accommodation of the privacy interests of schoolchildren with the substantial need of teachers and administrators for freedom to maintain order in the schools does not require strict adherence to the requirement that searches be based on probable cause to believe that the subject of the search has violated or is violating the law. . . . Under ordinary circumstances, a search of a student by a teacher or other school official will be 'justified at its inception' when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the

school."). Clearly, Defendants' detention of Plaintiffs was neither brief nor unintrusive nor for the purpose of obtaining information about an *unidentified* perpetrator, see Lidster, 540 U.S. at 427.

Unlike any of the cases cited by Defendants, Plaintiffs in this case were each detained to *potentially* provide information *in addition* to the information they provided at the crime scene. Unlike the nonselective, brief, and unintrusive checkpoint stops in Sitz and Lidster, the detentions in the present case were selective, lengthy, and intrusive. For each Plaintiff, the detentions involved being physically transported to the police station against their will; guarded by armed, uniformed police officers; not free to leave; and lasted more than three hours. The Plaintiffs were never suspected of any wrongdoing. The only suspect involved in the crime Plaintiffs witnessed had already been identified and taken into custody at the crime scene prior to the witnesses' detention.

Defendants' conjecture that Plaintiffs' detention in this case is excused by a special need justification misrepresents the undisputed factual record as well as the legal standard. First, although Plaintiffs thoroughly and truthfully answered the detectives' questions at the station, it is undisputed that Plaintiffs' statements *given at the crime scene* led to Shawn's immediate apprehension and arrest. Plaintiffs' cooperation in answering questions after being detained for several hours and told they were not free to leave cannot be misconstrued as consent. At the crime scene, in the patrol vehicles, and while detained at the police station, Plaintiffs repeatedly asked to leave so they could go to the hospital; they were repeatedly told they were not free to leave. The additional statements Plaintiffs provided at the station after three-plus hours of detention were not necessary to apprehend the perpetrator or to thwart an imminent threat or danger; instead, Defendants admit Plaintiffs (as well as Simmone and Angela) were detained to *potentially* provide additional statements to assist in the prosecution of the case. Before Plaintiffs were detained, the crime scene was secure, the suspect was in custody, and there were no exigent circumstances or serious risks that critical evidence would be lost if the witnesses were interviewed either at the hospital, to which they agreed, or at the station of their own volition

after going to the hospital. Moreover, although Defendants proffer that based on the Plaintiffs' cooperation charges were brought and search warrants secured the same day, there is no evidence that without securing the additional statements *before* allowing Plaintiffs to go to the hospital, law enforcement was prevented from bringing charges against Shawn or securing search warrants.

Defendants next suggest the detention was not unreasonable because Plaintiffs "were not treated harshly, they were treated with sympathy by the police, they were not unduly restricted in their movements, and were provided with victim assistance officers." Defs.' Br. 11, ECF No. 18-3. The conditions of detention noted by Defendants—Plaintiffs were not treated harshly and were not unduly restricted in their movements—cannot be considered in isolation as a measure of the reasonableness of the seizure. Rather, the Court determines the reasonableness of the seizure by the "weighing of the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest *and* the severity of the interference with individual liberty." Brown, 443 U.S. at 51 (emphasis added). Indeed, before weighing the severity of the interference with individual liberty, such as the scope, duration, and conditions of the seizure, there must be a demonstrated public concern supporting the seizure. Id. ("[T]he Fourth Amendment requires that a seizure must be based on specific, objective facts indicating that society's legitimate interests require the seizure of the particular individual, or that the seizure must be carried out pursuant to a plan embodying explicit, neutral limitations on the conduct of individual officers.").

Defendants' contention that due to the severity of Preston's injury, Plaintiffs would not have been able to communicate with Preston whether or not they had been at the hospital instead of being detained at the station is an after-the-fact consideration not known to Plaintiffs or Defendants when Plaintiffs were first detained. Moreover, the consequences or losses Plaintiffs suffered as a result of the seizure, such as being unable to see their loved one before he died, are a measure of damages and not relevant to the reasonableness inquiry. See, e.g., Audio Odyssey v. Brenton First Nat. Bank, 286 F.3d 498, 501 (8th Cir. 2002) (plurality opinion) (holding that

the plaintiffs' measure of damages does not "vitiate an underlying Fourth Amendment violation"). Finally, in addition to lacking legal foundation, Defendants' proposed reasonableness criteria are self-serving, as they are deferential to law enforcement at the expense of the witnesses' constitutional rights. The subjectiveness of Defendants' proposed criteria runs afoul of the Fourth Amendment's protection from authoritative overreach. Allowing law enforcement officers to detain witnesses against their will when the officers know the witnesses are not suspected of any wrongdoing, the only suspect in the crime they witnessed is already in custody, and there are no exigent circumstances but nonetheless detain them merely to ask additional questions and to expedite the officers' investigation, is precisely the caprice the Fourth Amendment protects against. See Brown, 443 U.S. at 50-51 ("A central concern in balancing these competing considerations [of the constitutionality of investigatory seizures] in a variety of settings has been to assure that an individual's reasonable expectation of privacy is not subject to arbitrary invasions solely at the unfettered discretion of officers in the field.").

In the Eighth Circuit, in determining the reasonableness of a seizure, "[c]ourts 'must balance the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion.'" Seymour, 519 F.3d at 796 (quoting United States v. Place, 462 U.S. 696, 703 (1983)). "An investigative detention may turn into an arrest if it lasts for an unreasonably long time, or if it is too intrusive." Id. (citations and quotation marks omitted); Waters v. Madson, 921 F.3d 725, 737 (8th Cir. 2019) ("A Terry stop may become an arrest, requiring probable cause, if the stop lasts for an unreasonably long time or if officers use unreasonable force." (quoting United States v. Newell, 596 F.3d 876, 879 (8th Cir. 2010))).

The Eighth Circuit's factual analysis and legal conclusions in Seymour v. City of Des Moines, cited by both parties, are fundamental in the present case and thus warrant an in-depth analysis. In Seymour, Des Moines police officers and emergency medical personnel responded to a 911 call reporting a nonresponsive four-month-old infant. Seymour, 519 F.3d at 793. The infant and the mother were taken to the hospital by ambulance; the plan was for the

father to stay behind until family arrived to care for the couple's other two children and then to go to the hospital. Id. A patrol officer who was dispatched to the home contacted Sergeant Barry Arnold, who was the police department's head of the child abuse investigation, and apprised Arnold that earlier in the day, while in the father's care, the infant had become fussy but eventually fell asleep and was placed in an infant chair where the mother later found the infant not breathing. Id. On being advised that the mother was at the hospital with the infant and the father was at the home with two other children, Arnold instructed the patrol officer to have the father wait at the home and that the investigators would be right there. Id. While en route to the home, Arnold received a call advising that the father's presence was requested at the hospital, the child was not expected to survive, and medical personnel would stop CPR as soon as the father arrived. Id. at 794. Arnold called Detective Danner, who had already arrived at the home, and advised him that they would need to transport the father to the hospital right away. Id. Once Arnold arrived, the father briefly discussed which family member would stay with the children, and the two officers drove the father to the hospital. Id. Once they arrived at the hospital, while they were all still in the patrol vehicle, Arnold asked the father about what happened while caring for the infant, such as whether he accidentally dropped the infant, had become frustrated with the infant's fussiness, or shook the infant. Id. The father responded that nothing out of the ordinary happened while he was watching the infant. Id. Arnold concluded his questioning and released the father from the vehicle. Id. The infant died shortly after the father arrived at the hospital; the most likely cause of death was determined to have been Sudden Infant Death Syndrome. Id. The time from Arnold's instruction to detain the father at the home to the father exiting the patrol vehicle was 45 minutes. Id. at 794 n.2.

The parents filed a § 1983 action against the detectives and the City of Des Moines, alleging the detectives' detention of the father violated his Fourth Amendment right to be free from unreasonable seizure, and arguing the seizure was unsupported by reasonable suspicion of criminal activity, it was unreasonably lengthy, and was tantamount to an arrest without probable cause. Id. at 795. On the Fourth Amendment claim, the district court granted the defendants' motion for summary judgment based on qualified immunity, and the parents appealed. Id.

First addressing whether a seizure occurred, the Eighth Circuit held that "[e]ven if [the father] was unlikely to have used [his] freedom to go to the hospital before neighbors or relatives had arrived [to care for the other children], a reasonable person in [the father]'s position would have believed that he was not at liberty to ignore the officers' instructions to remain at home." Id. at 797. The court "conclude[d] that [the father]'s seizure commenced upon his being told that he was not free to leave and did not end until he was allowed to exit Arnold's vehicle." Id.

Next, addressing whether there was a justification for the seizure, the court first noted the defendants denied that "there were any community caretaking concerns that may have justified the restriction on [the father]'s liberty," so the court's inquiry focused on whether the father's seizure was justified "based upon a reasonable suspicion that [the father] may have committed a crime." Id. at 796-97 (citing Samuelson v. City of New Ulm, 455 F.3d 871, 877 (8th Cir. 2006) (recognizing circumstances under which law enforcement may seize an individual for the protection of others even if there is no suspicion of criminal activity)).

Rejecting the defendants' justification, the Eighth Circuit observed there was nothing inherently suspicious about the father of a fussy baby contacting the mother to request that she return home to feed the baby, and noted Arnold's testimony that there was no indication of child abuse at the time he ordered the detention. Id. at 797-98. The court determined the defendants had "not adequately explain[ed] how their training and experience might have led a reasonable officer to suspect that [the father] had committed a crime." Id. at 798. Based on these facts, the court concluded the father's detention was not supported by a reasonable suspicion of criminal activity and therefore the father's Fourth Amendment rights had been violated. Id. at 798.

The circumstances of the detention in Seymour and the detentions in the present case further demonstrate that the seizures in the present case were not justified. In Seymour, the court rejected the defendants' apparent justification that detaining the infant's father "was based upon a reasonable suspicion [the father] *may* have committed a crime," reasoning that such a justification "require[d] some explanation regarding how the officer's training endowed seemingly innocent facts with criminal significance." Id. at 797-98 (emphasis added).

In the present case, Defendants' apparent justification for detaining the witnesses is that "the police can detain witnesses when there are societal needs for the detention outweighing its intrusiveness." Defs.' Br. 10, ECF No. 18-3. Defendants cite the string of Supreme Court cases discussed above and posit that Plaintiffs witnessed a homicide, which is "the most serious crime an individual can witness," and they had seen the attack and/or "relevant key moments of the suspect with the knife used to attack the victim." Id. at 10-11. Defendants' apparent societal need was that "[t]hese witnesses were necessary to insure [sic] the charging of the suspect and to obtain a search warrant upon the properties relevant to the attack." Id. at 11. The officers at the scene knew Plaintiffs were mere witnesses who were not suspected of any criminal conduct. As in Seymour, Defendants in this case have not pointed to a community concern that justified the detention of the witnesses: the only suspect was already in custody; the knife likely used in the attack had been located in the kitchen sink; and, the crime scene was secure. Any societal need to secure corroborating statements from the witnesses did not outweigh the intrusiveness of Plaintiffs being taken to the station against their will where they were detained for well over three hours. As with the detention in Seymour, Defendants' proffered justification for detaining Plaintiffs in the present case did not outweigh the intrusiveness of the detention. The unjustified detention of Plaintiffs was a violation of their constitutional rights to be free from unreasonable seizure.

3. Clearly Established

Having necessarily concluded Plaintiffs' constitutional rights were violated, the Court must turn to the second question in the qualified immunity analysis: "whether [that] right was clearly established at the time of the deprivation . . . [such] that a reasonable official would understand that what he is doing violates that right." Mountain Pure, LLC v. Roberts, 814 F.3d 928, 932 (8th Cir. 2016) (alteration in original) (quoting Jones v. McNeese, 675 F.3d 1158, 1161 (8th Cir. 2012)).

"To determine whether the right at issue was clearly established, [the Court] appl[ies] "a flexible standard, requiring some, but not precise factual correspondence with precedent, and demanding that officials apply general, well-developed legal principles." Id. (quoting Coates v. Powell, 639 F.3d 471, 476 (8th Cir. 2011)). "In other words, 'existing precedent must have placed the statutory or constitutional question' confronted by the official 'beyond debate.'" Plumhoff v. Rickard, 572 U.S. 765, 779 (2014) (quoting al-Kidd, 563 U.S. at 741). The Supreme Court has "'repeatedly told courts . . . not to define clearly established law at a high level of generality,' since doing so avoids the crucial question whether the official acted reasonably in the particular circumstances that he or she faced.'" Id. (alteration in original) (quoting al-Kidd, 563 U.S. at 742). "This is a 'fact-intensive inquiry and must be undertaken in light of the specific context of the case, not as a broad general proposition.'" Coates, 639 F.3d at 476 (quoting Samuelson, 455 F.3d at 875). "'It is sometimes difficult for an officer to determine how the relevant legal doctrine . . . will apply to the factual situation the officer confronts.' If [the law enforcement officer] made a reasonable mistake in supposing that his actions were legal, he is entitled to qualified immunity." Seymour, 519 F.3d at 798 (first alteration in original) (internal citation omitted) (quoting Saucier v. Katz, 533 U.S. 194, 205 (2001)). As the Supreme Court has held, "[o]fficers sued in a civil action for damages under 42 U.S.C. § 1983 have the same right to fair notice as do defendants charged with the criminal offense defined in 18 U.S.C. § 242," which "makes it a crime for a state official to act 'willfully' and under color of law to deprive a person of rights protected by the Constitution." Hope, 536 U.S. at 739.

In moving for partial summary judgment on their Fourth Amendment claim as to liability, Plaintiffs argue the Eighth Circuit's holding in Seymour is controlling in this case and that Defendants Spear, Kramer, and Neumann were on notice that they could not detain individuals merely because they were present at a crime scene. Plaintiffs point to precedent from the U.S. Supreme Court—Davis v. Mississippi, 394 U.S. 721 (1969), and Dunaway v. New York, 442 U.S. 200 (1979); the Iowa Supreme Court—State v. McCoy, 692 N.W.2d 6, 19-20 (Iowa 2005); the Eighth Circuit Court of Appeals—Seymour, 519 F.3d at 797; other U.S. Courts of Appeals—

Lincoln v. Barnes, 855 F.3d 297, 299 (5th Cir. 2017); Maxwell v. Cty. of San Diego, 708 F.3d 1075, 1083 (9th Cir. 2013); Bletz v. Gribble, 641 F.3d 743, 748 (6th Cir. 2011); and Walker, 451 F.3d at 1144-45; and decisions by district courts—Perkins, 148 F. Supp. 2d at 1179; Magnan, 2012 WL 5247325, at *1. Defendants substantiate their conduct, arguing they followed Des Moines Police Department Standard Operating Procedures (SOPs), which require that homicide witnesses be taken to the station for questioning by detectives, and contend there was a lack of clear authority to put them on notice that their conduct violated clearly defined constitutional rights.

"The key distinction between [the reasonableness inquiry and the one made under the first step of the qualified immunity analysis] is that the right allegedly violated must be defined at the appropriate level of specificity before a court can determine [whether] it was clearly established." See Howard v. Kansas City Police Dep't, 570 F.3d 984, 991 (8th Cir. 2009) (first alterations in original) (quoting Moore v. Indehar, 514 F.3d 756, 763 (8th Cir. 2008)).

In Dunaway, the Supreme Court granted certiorari "to clarify the Fourth Amendment's requirements as to the permissible grounds for custodial interrogation." Dunaway, 442 U.S. at 208. The Court rejected the state's proposal to replace the general rule that custodial investigations be based upon probable cause with a balancing test, as used for investigative stops as in Terry, 392 U.S. at 30 (stop and frisk for weapons), and United States v. Martinez-Fuerte, 428 U.S. 543, 566 (1976) (vehicle stop at fixed border checkpoints), and to hold that seizures "may be justified by mere reasonable suspicion." Dunaway, 442 U.S. at 211-12 (citing United States v. Brignoni-Ponce, 422 U.S. 873, 886 (1975), and noting Terry did not extend to brief vehicle stops at roving border patrol checkpoints based on less than reasonable suspicion). The Court reasoned "[t]he narrow intrusions involved in those cases were judged by a balancing test rather than by the general principle that Fourth Amendment seizures must be supported by the 'long-prevailing standards' of probable cause, only because these intrusions fell far short of the kind of intrusion associated with an arrest." Id. at 212 (citation omitted) (quoting Brinegar v. United States, 338 U.S. 160, 176 (1949)). The Court then contrasted that unlike the "brief and narrowly

circumscribed intrusions involved in those [investigative stop] cases," the detention involved in the case before it, which involved a custodial interrogation, was "indistinguishable from a traditional arrest." Id. at 212. The Court reasoned that instead of being "questioned briefly where he was found," the petitioner was "was taken from a neighbor's home to a police car, transported to a police station, and placed in an interrogation room," and "never informed that he was 'free to go'; indeed, he would have been physically restrained if he had refused to accompany the officers or had tried to escape their custody." Id. at 212-13 ("The mere facts that petitioner was not told he was under arrest [and] was not 'booked, . . . while not insignificant for all purposes, obviously do not make petitioner's seizure even roughly analogous to the narrowly defined intrusions involved in Terry and its progeny." (citation omitted)). The Court reasoned that "any 'exception' that could cover a seizure as intrusive as that in this case would threaten to swallow the general rule that Fourth Amendment seizures are 'reasonable' only if based on probable cause." Id. at 213. In conclusion, the Court held that "detention for custodial interrogation—regardless of its label—intrudes so severely on interests protected by the Fourth Amendment as necessarily to trigger the traditional safeguards against illegal arrest" and held that the "police violated the Fourth and Fourteenth Amendments when, without probable cause, they seized petitioner and transported him to the police station for interrogation." Id. at 216 (citing Davis, 394 U.S. at 727-28 (finding it unnecessary to determine the validity of the fingerprinting procedure because the suspects were not merely fingerprinted but interrogated) and Brown v. Illinois, 422 U.S. 590, 605 (1975) ("The impropriety of the arrest was obvious [and] . . . virtually conceded by the two detectives when they repeatedly acknowledged . . . that the purpose of their action was 'for investigation' or for 'questioning.' The arrest, both in design and in execution, was investigatory . . . [and] embarked upon . . . for evidence in the hope that something might turn up."(footnote omitted))).

The U.S. Supreme Court has found an exception, making it permissible for law enforcement to detain occupants for reasonable amount of time at or near the premises during the execution of the search warrant, see Michigan v. Summers, 452 U.S. 692, 705 (1981)

(identifying law-enforcement interests—promoting officer safety, facilitating the completion of the search, and preventing flight—support the reasonableness of the detention of occupants during the execution of a valid search warrant for contraband); Muehler v. Mena, 544 U.S. 93, 100 (2005) (holding that handcuffing and detaining four occupants of a gang house during the execution of a valid search warrant for dangerous weapons did not outweigh the government's continuing safety interests but remanding to determine whether the detention extended beyond the time it took the officers to complete the search). But see Bailey v. United States, 568 U.S. 186, 200-01 (2013) (holding that the Summers rule allowing detention is spatially constrained and limited to the immediate vicinity of the premises to be searched, qualifying that the three justifications recognized in Summers did not apply when the occupants left the premises prior to the execution of the search noting: (1) occupants that left the scene of the search posed little risk to officer safety and routine precautions could prevent any potential danger caused by their return; (2) damage to the integrity of the search caused by potential flight of occupants at the scene justifies detention; and (3) detention beyond the immediate vicinity gives all appearances and the associated stigma of an arrest).

None of these exceptions apply in the present case as the detention of Plaintiffs was not akin to a minimally intrusive stop as in Terry, 392 U.S. at 21, 30, or Martinez-Fuerte, 428 U.S. at 566, nor was it akin to the detention of occupants during the execution of a valid search warrant of the premises as in Summers, 452 U.S. at 705, or Muehler, 544 U.S. at 100. Rather, like the petitioner in Dunaway, an impermissible custodial interrogation occurred when Plaintiffs were transported by police vehicles to the police station, told they were *not* free to leave, guarded in a secure hallway at the station while waiting for the detectives, and taken to interrogation rooms where they were separately questioned. Cf. Dunaway, 442 U.S. at 212.

The Eighth Circuit has echoed the long-standing precedent set forth in Dunaway, see United States v. Jones, 759 F.2d 633, 636 (8th Cir. 1985) ("'An action tantamount to arrest,' we thus have stated, 'has taken place if the officers' conduct is more intrusive than necessary for an investigative stop.'" (quoting United States v. Rose, 731 F.2d 1337, 1342 (8th Cir. 1984))),

which undeniably provided Defendants notice that detentions, such as those in the present case, constituted a seizure in violation of Plaintiffs' Fourth Amendment rights. In addition, the Eighth Circuit's Seymour decision removed any question in this Circuit that custodial detentions, under substantially similar circumstances without probable cause or justification, violate the Fourth Amendment. In Seymour, the Eighth Circuit unequivocally held a seizure occurred when officers told the father he was not free to leave the home, it did not end until the officers finished questioning the father and allowed him to exit the officer's vehicle, and it was not justified because it was not supported by reasonable suspicion of criminal activity. Seymour, 519 F.3d at 797-98.

In determining whether the law was clearly established, the Eighth Circuit in Seymour first reasoned Arnold, the investigating officer, made a reasonable mistake as to the legality of his conduct, remarking Arnold could have believed (1) the father chose to stay home and the order to detain him was not an unreasonable restraint on the father's liberty; (2) the state had a strong interest in investigating child death cases; (3) because child death cases are difficult to investigate, it was important to interview the person who was caring for the child immediately before the incident; and (4) he was pursuing a useful means of investigation that was fairly unintrusive. Id. at 798-99. That did not end the court's clearly established inquiry, as the court next considered whether the quality and duration of the detention amounted to a de facto arrest. Id. at 799. The court first noted "[t]he police were required to act with diligence and to take reasonable steps to confirm or dispel their suspicions in a timely manner." Id. (citing United States v. Bell, 183 F.3d 746, 749 (8th Cir. 1999)). Remarking that Arnold's "actions [we]re not to be viewed through the lens of judicial hindsight," id. (citing Graham v. Connor, 490 U.S. 386, 396 (1989)), the court reasoned that Arnold believed the intrusion upon the father's interest in getting to the hospital would be minimal and the officers at the scene had not informed Arnold the father wanted to go to the hospital. Id.

The Court concluded that even if the father's 45-minute detention was unduly prolonged and Arnold and the officers at the scene could have done a better job to safeguard the father's

rights, it could not "say that a reasonable officer in Arnold's position would have known that [the father]'s detention was too lengthy or intrusive to pass constitutional muster." Id. at 794 n.2, 799. The court identified as an alternative to detaining the father at the home "the officers at the scene could have questioned the father and then let him proceed to the hospital (accompanied, if necessary, by a police officer), subsequent to which Arnold and Danner could have interrogated him." Id. at 799.

Defendants argue the particular facts of Seymour are quite different, that those officers did not initially believe it was a homicide but instead thought it was an accident that did not involve foul play, the matter involved a child and there was no evidence of abuse, and the court focused on the officers having treated the father as a suspect rather than on the length of the detention. The Defendants misread the facts and holding in Seymour.

The parallels and distinctions between Seymour and the present case underscore that an objectively reasonable officer in the same position as Defendant Officers, namely Sergeant Spear, Officer Neumann, or Officer Kramer, would have understood that what he was doing violated Plaintiffs' Fourth Amendment right to be free from seizure absent probable cause that existing precedent placed beyond debate. Mullenix, 136 S. Ct. at 308. In Seymour, the officer arriving at the scene was confronted with an unresponsive infant being taken to the hospital along with its mother. Seymour, 519 F.3d at 793. After obtaining the details surrounding the discovery of the unresponsive infant, the officer contacted Arnold, who instructed the officer to detain the father at the home. The Eighth Circuit held that the illegal detention began when Arnold gave the instruction to detain the father at home, it continued as Arnold and Danner transported the father in the police vehicle, and it did not end until Arnold completed his questioning and released the father from the police vehicle at the hospital. Id. at 797.

In this case, when Sergeant Spear arrived at the scene, he was apprised of the circumstances: paramedics were taking Preston to the hospital, the only suspect (Shawn) had been identified and taken into custody, the crime scene had been secured, and contact information had been collected from the five witnesses. The witnesses immediately expressed their intentions to

go to the hospital but were prevented from getting to their vehicles because of the crime scene. Sergeant Spear assured the witnesses that he would arrange to get them rides to the hospital. However, shortly after Officer Kramer left with Crysteal and Damon, and as the cousins were about to get into Officer Neumann's vehicle, Sergeant Spear was told the gravity of Preston's condition. He then called Captain Clock, filled him in, declaring that it had become a homicide investigation, the only suspect was in custody, there were five witnesses, the list should be activated, and the homicide detectives should be contacted to take over the investigation. After apprising Captain Clock of the circumstances at the scene, Sergeant Spear made the decision to detain the witnesses and instructed Officers Kramer and Neumann to take the witnesses to the police station, knowing the witnesses entered the police vehicles based on his assurances they were being taken to the hospital. As in Seymour, the officers in this case—Sergeant Spear, Officer Kramer, and Officer Neumann—prevented Plaintiffs from immediately going to the hospital. Plaintiffs' illegal detention began when they were told they were being taken to the police station to await the arrival of homicide detectives who would be questioning them, continued while they waited for the detectives to arrive, and did not end for each one until being released from their respective interrogations. Id. at 799.

As the court reasoned in Seymour, determining that an illegal detention occurred does not end the analysis. The Eighth Circuit listed reasons why Arnold made a reasonable mistake as to the legality of his actions: the officer on the scene had not told Arnold the father wanted to go hospital, therefore it was a reasonable mistake for Arnold to believe the father chose to stay at the home; the state had a strong interest in investigating child death cases, and it was necessary to confirm or dispel any suspicions in a timely manner by interviewing the person who cared for the child immediately before the incident; and a reasonable officer in Arnold's position would not have known the father's 45-minute detention was too lengthy or intrusive to pass constitutional muster. Id. at 799.

The facts known to certain Defendants in this case stand in stark contrast. The officer in charge at the scene, Sergeant Spear, made the decision to detain Plaintiffs and was fully aware

that they naturally wanted to go to the hospital. Unlike Arnold in Seymour, Sergeant Spear did not make a reasonable mistake regarding Plaintiffs' lack of consent. In Seymour, the court reasoned the father's detention—as the person most recently caring for the infant—was reasonable because the cause of the infant's death was unknown, and "[t]he police were required to act with diligence and to take reasonable steps to confirm or dispel their suspicions in a timely manner." Id. Here, the cause of Preston's death was known, the only suspect was in custody, the crime scene had been secured, and the witnesses' information had been gathered. No compelling state interest in this case exceeded Plaintiffs' constitutional rights. Looking at the final Seymour consideration—the quality and duration of the detention—produces the inescapable conclusion that no reasonable officer could have believed it was lawful to transport mere witnesses, none of whom were suspected of any wrongdoing, to the police station, against their will, and detain them for over three hours.

The district court's discussion in Magnan, 2012 WL 5247325, at *6-8, is instructive regarding the conditions and duration of an investigatory detention. In that case, four women walked up to police officers arriving at the scene of a reported shooting and identified themselves as the mother, sister, girlfriend, and family friend of one of the victims. Id. at *1. The officer in charge of the crime scene (Young) ordered an officer (Moore) to place the women into two squad cars and detain them until homicide investigators arrived; Moore did so and collected the witnesses' identification information. Id. Young assigned another officer (Kingsbury) to supervise the outer perimeter of the crime scene, including the two squad cars where the women were detained. Id. The women repeatedly asked to be released, and the mother repeatedly asked to go to the hospital to see her son; their requests went unanswered. Id. at *2. When the homicide detective (Granger) arrived, he evaluated the scene, then took the mother and the sister to a nearby location and began interviewing them; at that point, the mother and the sister had been in the squad car for 90 minutes. Id. During Granger's interview of the mother and sister, he was called away, but before leaving, he arranged to meet the mother the next day for more questioning. Id. The other two witnesses remained in a squad car for over three hours until

Granger instructed an officer to bring them to the police station to be interviewed. Id. The mother, the sister, and the family friend filed a lawsuit against several officers and the city alleging they had been illegally seized in violation of their Fourth Amendment rights. Id. The defendant officers and the city moved for summary judgment, asserting they were entitled to immunity. Id. at *3-4.

In conducting the qualified immunity analysis, the court first determined the initial detention of the plaintiffs at the scene was legal, reasoning a crime had clearly been committed as two people had been shot (one fatally) and therefore the officers had reasonable suspicion to detain the women as their involvement in the crime was unknown and no suspect had been identified. Id. at *5-7 (distinguishing Seymour where it was not apparent a crime had been committed). Next, the court considered the conditions and duration of the extended detention and concluded the officers were not entitled to qualified immunity on that basis. Id. at *6-8. The court reasoned that the witnesses' initial detention furthered the important law enforcement purpose in investigating a homicide, but that reasonable officers would have reassessed the witnesses' status and continued detention in the back seats of squad cars once the scene became less chaotic and would have known that the continued detention of the witnesses in the back seats of squad cars was not the least intrusive means available for the officers to control the witnesses until the detectives could ascertain their roles in the crime. Id. at *7-8.

Of signal importance, in the present case, there was clearly established precedent that held transporting witnesses in police vehicles to the police station against their will, guarding them for hours and then interviewing them, regardless of its label, necessarily triggered safeguards against illegal arrest, see Dunaway, 442 U.S. at 216, and was obviously not the least intrusive means available, see Florida v. Royer, 460 U.S. 491, 500 (1983) ("[A]n investigative detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop. Similarly, the investigative methods employed should be the least intrusive means reasonably available to verify or dispel the officer's suspicion in a short period of time."). The conclusion the officers did not use the least intrusive means available is not the result of 20/20 hindsight Seymour

warned should be avoided in making the reasonableness analysis. Seymour, 519 F.3d at 799. An available, less intrusive option in the present case, which the witnesses suggested, was to have the detectives interview them at the hospital where the transporting officers could have restricted the witnesses from sharing information about the incident. Instead, when Sergeant Spear made the decision to reroute the witnesses from the hospital to the police station to wait for the homicide detectives, he knew the witnesses did not consent to going to the station. In addition, based on established circumstances, Sergeant Spear knew the witnesses would be detained for a long time before the detectives arrived at the station to interview them: it was 4:30 a.m., the detectives had not yet been contacted and were not on duty, they were at their homes likely asleep, and they would need to proceed to the crime scene to gather information before going to the station to interview the witnesses. The Eighth Circuit reasoned in Seymour: "Even if [the father]'s [45-minute] detention was unduly prolonged, however, we cannot say that a reasonable officer in Arnold's position would have known that [the father]'s detention was too lengthy or intrusive to pass constitutional muster." Id. The same reasonableness rationale cannot be said of Plaintiffs' three-plus hour detention in the present case. See Dunaway, 442 U.S. at 213 ("[A]ny 'exception' that could cover a seizure as intrusive as that in this case would threaten to swallow the general rule that Fourth Amendment seizures are 'reasonable' only if based on probable cause."); see also Lincoln, 855 F.3d at 304 (denying qualified immunity to officer who detained a witness to a police-involved shooting at the police station for five hours and subjected her to custodial interrogation, reasoning that "an investigatory detention that, for all intents and purposes, is indistinguishable from custodial interrogation, requires no less probable cause than a traditional arrest," and therefore "police violate the Fourth Amendment when, absent probable cause or the individual's consent, they seize and transport a person to the police station and subject her to prolonged interrogation" (citing Davis, 394 U.S. at 726-27 and Dunaway, 442 U.S. at 216)); Maxwell, 708 F.3d at 1084 (denying qualified immunity to officers who seized witnesses to the fatal shooting of a family member, refused to allow them to go to the hospital, separated them, and detained them for over five hours to be questioned, reasoning

established precedent put the officers on notice that the state's interest in justifying investigative witness detentions are lower than those justifying detention of suspected criminals (citing Lidster, 540 U.S. at 427-28), and that they could not detain, separate, and interrogate the witnesses for hours, where "[t]he crime was solved, and even if it had not been, it [wa]s a 'settled principle that while the police have the right to request citizens to answer voluntarily questions concerning unsolved crimes they have no right to compel them to answer'" (quoting Davis, 394 U.S. at 727 n.6)); Bletz, 641 F.3d at 754 (affirming the denial of qualified immunity, noting it was indisputable that the witness to a fatal, police-involved shooting was seized within the meaning of the Fourth Amendment when the officers handcuffed her and placed her inside a locked police vehicle; that the witness' more than one-hour detention was unreasonable where there was no evidence to suspect her of a crime; and that the "officers were fairly on notice regarding the constitutional violations inherent in subjecting an innocent bystander to a detention that was excessive both in duration and in the manner it was carried out"). The Court must conclude on this record, against the backdrop of a substantial body of law, that the unreasonable seizure of the witnesses to the crime was clearly established to a reasonable law enforcement officer.

4. Iowa's All Due Care Standard

Analyzing qualified immunity under Iowa's all due care standard produces the same result. Plaintiffs assert in McCoy, 692 N.W.2d at 19-20, the Iowa Supreme Court found "no basis to distinguish the protections afforded by the Iowa Constitution from those afforded by the federal constitution under the facts of this case" and found the defendant's claimed seizure violation applied equally under the U.S. and Iowa Constitutions. After Baldwin II, 915 N.W.2d at 281, Iowa courts have applied the general federal framework in determining the *occurrence* of a violation of article I, § 8, Iowa court. See, e.g., State v. Fogg, 936 N.W.2d 664, 667 (Iowa 2019) (reasoning that when the parties fail to suggest a different framework applies, Iowa courts apply the general federal framework in determining whether a seizure occurred but reserve the right to

apply that framework differently (citation omitted)); State v. Brown, 930 N.W.2d 840, 855 (Iowa 2019) (finding no basis "to diverge from the protection afforded by the Iowa Constitution from that afforded by the United States Constitution under the facts of th[e] case" in determining the validity of a traffic stop). However, courts have acknowledged Iowa's standard differs from the federal standard in determining whether state officials that have violated a right under the Iowa Constitution are entitled to immunity. See Brown, 930 N.W.2d at 886 (Appel, J., dissenting) (noting that in Baldwin II, "we developed our own independent approach to immunity for state constitutional tort claims"); Wendt v. Iowa, 971 F.3d 816, 820 (8th Cir. 2020) (noting that in Baldwin II, the Iowa Supreme Court "held that the qualified immunity defense applies to Iowa constitutional claims, but that the standard for it differs from the federal standard"); Lennette v. State, 924 N.W.2d 878, at *3 (Iowa Ct. App. 2018) ("What is clear from Baldwin is that constitutional torts are not strict liability offenses, qualified immunity in constitutional tort cases is an affirmative defense, and a constitutional tort defendant must plead and carry the burden of proof in order to be entitled to the affirmative defense."); Ohlson-Townsend v. Wolf, No. 18-CV-4093-CJW-MAR, 2019 WL 6609695, at *9 (N.D. Iowa Dec. 5, 2019) ("The Court found [the defendant deputy sheriff] was not entitled to qualified immunity under the less stringent federal standard, and for the same reasons he is not entitled to qualified immunity under Iowa's 'all due care' standard.").

Those Defendants that have violated Plaintiffs' clearly established right to be free from unreasonable seizure are not entitled to qualified immunity under either federal or Iowa law.

5. Defendants' Individual Liability

"[T]he doctrine of qualified immunity requires an *individualized* analysis of each officer's alleged conduct." S.M. v. Krigbaum, 808 F.3d 335, 340 (8th Cir. 2015) (quoting Walton v. Dawson, 752 F.3d 1109, 1125 (8th Cir. 2014)). "Government officials are personally liable only for their own misconduct." Id. "Because vicarious liability is inapplicable to . . . § 1983 suits, a

plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution." Ashcroft v. Iqbal, 556 U.S. 662, 676 (2009).

a. Sergeant Spear

Sergeant Spear testified that "based on policies," when officers arrive at a crime scene, they will "round up material witnesses" and typically "from that point on detectives decide if they need to interview them at the station or what happens from there." Spear Dep. 24–Defs.' App. 210, ECF No. 18-2. Sergeant Spear was the officer in charge of the crime scene, he knew the witnesses were not suspected of any criminal activity, their statements and contact information had been gathered by other officers at the scene, and the only suspect was in custody. Unequivocally, Sergeant Spear knew the witnesses wanted to go to the hospital and did not consent to go to the station. It was Sergeant Spear who told the witnesses he would arrange for them to be transported to the hospital. With two witnesses en route to the hospital and the other three sitting in a patrol vehicle believing they were going to be transported to the hospital, Sergeant Spear ordered Officers Kramer and Neumann to take the witnesses to the station. Sergeant Spear testified that Captain Clock *ordered* him to have the witnesses rerouted to the station but also testified that he did so as a matter of department policy. Regardless whether Sergeant Spear was acting under an order or did so based on department custom, his conduct violated Plaintiffs' constitutional rights. When it is clearly established that conduct violates an individual's constitutional right, the officer committing the conduct is not insulated from liability because he was ordered to do so. See S.M., 808 F.3d at 340. Moreover, Sergeant Spear, acting on his own authority, instructed Officers Kramer and Neumann to take the witnesses to the hospital. Using the same authority, he changed that instruction and told Officers Kramer and Neumann to take the witnesses to the station. Cf. Magnan, 2012 WL 5247325, at *8 ("If Young had the authority to detain Plaintiffs due to reasonable suspicion—and the Court finds that he did—then he must also have the authority to release them if, upon further information, that suspicion dissipated."). Neither Officer Kramer nor Officer Neumann questioned Sergeant

Spear's authority when he gave either direction. Sergeant Spear was directly involved in Plaintiffs' illegal detention and is not entitled to qualified immunity.

b. Officer Kramer

Officer Kramer was at the crime scene and, like Sergeant Spear, Officer Kramer knew the witnesses were not suspected of any criminal activity, officers had gathered their statements and contact information, and the only suspect was in custody. Officer Kramer likewise knew the witnesses wanted to go to the hospital and did not consent to go to the police station. At Sergeant Spear's direction, Officer Kramer transported Crysteal and Damon in the rear "cage" section of his patrol vehicle to the station and guarded them until his shift ended at approximately 6:15 a.m. Officer Kramer never asked whether the witnesses should be released. The fact that he was following Sergeant Spear's directions does not insulate him from disregarding clearly established law regarding illegal seizures. See S.M., 808 F.3d at 340; cf. Magnan, 2012 WL 5247325, at *7. Officer Kramer was directly involved in Plaintiffs' illegal detention and is not entitled to qualified immunity.

c. Officer Neumann

Officer Neumann, like Sergeant Spear and Officer Kramer, was at the crime scene and knew the witnesses were not suspected of any criminal activity, their statements and contact information had been gathered by other officers, the only suspect was in custody, and that the witnesses wanted to go to the hospital and did not consent to go to the police station. At Sergeant Spear's direction, Officer Neumann transported three witnesses in his patrol vehicle and guarded them until his shift ended at approximately 6:15 a.m. Officer Neumann similarly never asked whether the witnesses should be released. In fact, with Angela, Simmone, and Iisha sitting in his patrol vehicle, Officer Neumann informed them they would going to the station and not to the hospital, that he knew they did not want to do that but asked for their assurance that there would not be any issues while transporting them. As with Officer Kramer, the fact that Officer Neumann was following Sergeant Spear's directions does not insulate him from

disregarding clearly established law regarding illegal seizures. See S.M., 808 F.3d at 340; cf. Magnan, 2012 WL 5247325, at *7. Officer Neumann was directly involved in Plaintiffs' illegal detention and is not entitled to qualified immunity.

d. Captain Clock

Sergeant Spear called Captain Clock after learning Preston's condition was critical and discussed activating the list. At his deposition in this case, Sergeant Spear initially testified that when he spoke with Captain Clock, "that's when the decision was made to come to the station" and that Captain Clock "told me to take them to the station." Spear Dep. 16-17–Defs.' App. 208, ECF No. 18-2. Sergeant Spear confirmed the witnesses were seized just because they were witnesses and when asked whether it was "what Captain Clock had ordered or [wa]s that just something you know based on what your policies are," he answered that it was "[w]hat I know based on policies." Id. at 210.

At his deposition, Captain Clock confirmed that detectives investigating homicides and police-involved shootings have witnesses sent to the police station to be interviewed. Clock Dep. 6-11–Defs.' App. 235-36, ECF No. 18-2.

> On a homicide we're gonna take those people and get the information we need to question the suspect, search warrants, that kind of stuff. That's usually done, by SOP, down at the station because of cameras, recording devices, and that [type of thing]. . . . Like homicides, we're gonna do that. Police-involved shootings, we're gonna do that. A rape, or something like that, a different list will be called and that is going to be handled differently. Most bad assaults, unless there's great bodily harm and we're worried about them dying, we're not gonna do that.

Id. However, when asked whether he told Sergeant Spear that "these people, instead of going to the hospital, need to go to the police station," Captain Clock answered, "I do not remember that, no, ma'am. I don't think I would say that just because that's what we do." Id. Clock Dep. 7-8. Based on this record, Clock's full understanding or expectation of what was happening in the field leaves a question of material fact whether Captain Clock had a direct role in the witnesses being taken to the station. See S.M., 808 F.3d at 340. Defendant Clock is not entitled to qualified immunity in the context of the current motions.

e. Officers Klein and Hickey

At approximately 6:15 a.m., as Officers Kramer and Neumann were going off duty, Officers Klein and Hickey began guarding some of the witnesses in the hallway. Detective Youngblut had arrived and began calling the witnesses back to the interview room starting with Crysteal. The record shows that Officers Klein and Hickey were informed that Preston had died but that the witnesses did not know. It is undisputed that Officers Klein and Hickey were not at the crime scene and played no role in bringing Plaintiffs to the station. There is no evidence that at the time, Officers Klein and Hickey knew the witnesses' roles, if any, in the homicide, or why the detectives wanted to question them. There is also no evidence they knew how long Plaintiffs had already been detained. Crysteal was called to the interview room shortly after Officers Klein and Hickey arrived, so they had little or no role in guarding her. Officers Klein and Hickey guarded Damon for about 45 minutes and Iisha for about 1 hour and 45 minutes before those witnesses were called back to the interview room. Based on this record, a reasonable officer in Officer Klein's or Officer Hickey's position would not have understood that what he was doing violated Plaintiffs' Fourth Amendment right. Mullenix, 136 S. Ct. at 308; cf. L.G. through M.B., 990 F.3d at 1148 (holding that based on the school resource officer's minimal and ministerial role in the incident not every reasonable officer in her position would have known that she was seizing the plaintiff). Officers Klein and Hickey are entitled to qualified immunity.

f. Detective Youngblut

Detective Youngblut was the lead investigator and Detective Dawson secondary on this homicide investigation. Detective Youngblut reported to Detective Rhamy, who was the sergeant in charge at the time.

Detective Youngblut was contacted and assigned to this case at approximately 4:40 a.m. He testified that after receiving the call, he dressed, drove to the crime scene, and arrived at approximately 5:20 a.m. Once at the scene, Detective Youngblut spoke with Sergeant Spear,

insured the scene was secure and that the suspect was in custody, and spoke briefly with Shawn's wife, who arrived at the crime scene at 5:40 a.m.

Detective Youngblut arrived at the station at 6:05 a.m. and was first advised that the witnesses wanted to go to the hospital at 6:10 a.m. Within 5 minutes of arriving at the station and being told Plaintiffs wanted to be at the hospital, Detective Youngblut brought Crysteal to the interview room. He immediately informed Crysteal that Preston had died and that the crime had become a homicide investigation. Detective Youngblut then asked Crysteal if he could talk to her "quick so that we can gather [information about the incident]." Crysteal Interview Tr. 1–Pls.' App. 89, ECF No. 15-2. Crysteal responded, "Real quick, please." Id. At 6:18 a.m., a few minutes after Crysteal's interview began, Detective Youngblut briefly stepped out of the interview room and went to the hallway to speak to the rest of the family members who had just learned Preston had died. At that point, Detective Dawson entered the interview room and picked up the interview with Crysteal. The transcript reveals that Crysteal took several minutes processing and discussing the news she had received before Detective Dawson started asking his questions. Detective Youngblut reentered the interview room approximately 8 minutes later and jointly questioned Crysteal along with Detective Dawson. As the detectives were concluding the interview, Detective Youngblut provided Crysteal with his contact information and told her he would be in touch with her. He also told Crysteal that a victim's resource officer would be in to talk to her about services available to her and her family. Crysteal asked to use a phone because her cell phone battery had died; Detective Youngblut provided her with a phone. The interview concluded at 7:09 a.m.

The record shows that at 7:03 a.m., Damon was brought back to the interview room. At that point, Damon was aware that Preston had died. Detective Rhamy was in the interview room and asked for Damon's consent to submit to a hand swab and photograph. Damon agreed. Detective Rhamy then recorded Damon's basic information and left the room while personnel obtained the hand swab and photographs.

At 7:32 a.m., Detective Youngblut began his interview of Damon. Damon answered Detective Youngblut's questions about the incident and about the brothers' relationships. Detective Youngblut informed Damon about the process that would take place and provided Damon with his contact information. Detective Youngblut advised Damon that a victim's resource officer was available to Damon and the rest of the family. The interview concluded at 8:00 a.m.

Detective Dawson interviewed the cousins while Detective Youngblut interviewed Damon. Although Detective Youngblut briefly interacted with Iisha in the hallway after the family learned Preston had died, there is no evidence in the record that Detective Youngblut had any other contact with Iisha that morning.

In considering Detective Youngblut's role in Plaintiffs' detention, the Court must consider the facts known to Detective Youngblut at the time, facts which differ from those known to Sergeant Spear, Officer Kramer, and Officer Neumann. Detective Youngblut was contacted and assigned the case at approximately 4:40 a.m. He testified that after receiving the call, he dressed, drove to the crime scene, and arrived at approximately 5:20 a.m. Detective Youngblut spoke with Sergeant Spear, insured the scene was secure and that the suspect was in custody, and spoke briefly with Shawn's wife, who arrived at the crime scene at 5:40 a.m. Sergeant Spear did not apprise Detective Youngblut of the witnesses' requests to go to the hospital or that he had instructed Officers Kramer and Neumann to take them to the hospital, only to change that order and redirect the witnesses to the station over their objections. Rather, it is undisputed that the first time Detective Youngblut was advised that the witnesses wanted to go to the hospital was when he arrived at the station. At that point, the witnesses had been detained for almost 2 hours. Facts known to Detective Youngblut were that Preston had died, the witnesses had not been told, and that some of Preston's other family members were on their way to, or had already arrived at, the station. Damon Interview Tr. 18–Defs.' App. 104, ECF No. 18-2. Based on this knowledge, within minutes of arriving at the station, Detective Youngblut took Crysteal back to the interview room, told her Preston had died, and assured her that they would finish the interview quickly and

then get her where she wanted to go. Crysteal agreed to this. Detective Youngblut concluded his interview with Crysteal within the hour, after which Crysteal met with a victim's resource officer. Without any delay, Detective Youngblut then interviewed Damon, similarly assuring that he would get Damon rejoined with his family quickly. Damon's interview, including the hand swab and photograph, was completed in less than one hour. After Crysteal's interview, Detective Youngblut and Detective Dawson divided up the witnesses, which sped up the interview process. It was Detective Dawson, not Detective Youngblut, who interviewed Iisha. That morning, after completing his interview with Damon, Detective Youngblut had no further involvement with the witnesses.

The information known to others (Sergeant Spear, Officer Kramer, and Officer Neumann) but not disclosed to Detective Youngblut cannot be imputed to Youngblut for purposes of determining the reasonableness of his conduct. Rather, the reasonableness of Detective Youngblut's conduct as it relates to Plaintiffs' detention is measured by his own conduct. See S.M., 808 F.3d at 340. For that portion of Plaintiffs' detention for which Detective Youngblut was personally involved, the Court "cannot say that a reasonable officer in [Detective Youngblut]'s position would have known that [Plaintiffs]' detention was too lengthy or too intrusive." Seymour, 519 F.3d at 799. Detective Youngblut is entitled to qualified immunity.

g. Detective Dawson

At 4:42 a.m., Detective Dawson was contacted and assigned to the case. Detective Dawson left his residence and went to the crime scene, arriving shortly after Detective Youngblut arrived at 5:20 a.m. Detective Dawson spoke with officers, observed that the crime scene had been secured, and witnessed Detective Youngblut's discussion with Shawn's wife. Detective Dawson left the crime scene and went to the station.

Detective Dawson arrived at the station at approximately the same time as Detective Youngblut at 6:05 a.m. Detective Dawson assisted Detective Youngblut in Crysteal's interview from just before 6:18 a.m. until 7:09 a.m. Detective Dawson then interviewed the cousins: Simmone from 7:32 a.m. to 7:52 a.m., Angela from 7:56 a.m. to 8:06 a.m., and Iisha from 8:08

a.m. to 8:32 a.m. After completing his interview with Iisha, Detective Dawson had no further involvement with the witnesses that day.

The information known to others (Sergeant Spear, Officer Kramer, and Officer Neumann) but not disclosed to Detective Dawson cannot be imputed to Dawson for purposes of determining the reasonableness of his conduct. Rather, the reasonableness of Detective Dawson's conduct as it relates to Plaintiffs' detention is measured by his own conduct. See S.M., 808 F.3d at 340. For that portion of Plaintiffs' detention for which Detective Dawson was personally involved, the Court "cannot say that a reasonable officer in [Detective Dawson]'s position would have known that [Plaintiffs]' detention was too lengthy or too intrusive." Seymour, 519 F.3d at 799. Detective Dawson is entitled to qualified immunity.

h. Detective Rhamy

Detective Rhamy had very limited contact with the witnesses. At approximately 7:03 a.m., Detective Rhamy met with Damon in an interview room and asked for Damon's consent to submit to a hand swab and photograph. Damon agreed. Detective Rhamy then recorded Damon's basic information and left the room while personnel obtained the hand swab and photographs. Other than this brief contact with Damon, the record is void of any evidence Detective Rhamy was personally involved in Plaintiffs' detention. Plaintiffs' assertion that Detective Youngblut reported to Detective Rhamy does not suffice to attach liability based on any misconduct Detective Youngblut may have committed "[b]ecause vicarious liability is inapplicable to . . . § 1983 suits." Iqbal, 556 U.S. at 676. For that portion of Plaintiffs' detention for which Detective Rhamy was personally involved, the Court "cannot say that a reasonable officer in [Detective Rhamy]'s position would have known that [Plaintiffs]' detention was too lengthy or too intrusive." Seymour, 519 F.3d at 799. Detective Rhamy is entitled to qualified immunity.

C. Conspiracy Claims Under the U.S. and Iowa Constitutions

Counts Three and Four of Plaintiffs' complaint allege that Defendant Officers conspired to deprive Plaintiffs of their civil rights in violation of the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution pursuant to 42 U.S.C. §§ 1983 and 1985 and article I, §§ 6 and 8

of the Iowa Constitution. Defendants argue Counts Three and Four should be dismissed as there is no evidence Defendants conspired to deprive the Plaintiffs of their Federal or State civil rights.

To prove a civil rights conspiracy under § 1983,[11] Plaintiffs must demonstrate:

> (1) that the defendant[s] conspired with others to deprive [them] of constitutional rights; (2) that at least one of the alleged co-conspirators engaged in an overt act in furtherance of the conspiracy; and (3) that the overt act injured the plaintiff[s]. The plaintiff[s] [are] additionally required to prove a deprivation of a constitutional right or privilege in order to prevail on a § 1983 civil conspiracy claim.

Burton v. St. Louis Bd. of Police Comm'rs, 731 F.3d 784, 798 (8th Cir. 2013) (internal citations omitted) (quoting White v. McKinley, 519 F.3d 806, 814 (8th Cir. 2008)). "[T]he plaintiff[s] must allege with particularity and specifically demonstrate with material facts that the defendants reached an agreement." Holmes v. Slay, 895 F.3d 993, 1001 (8th Cir. 2018) (first alteration in original) (quoting Bonenberger v. St. Louis. Metro. Police Dep't, 810 F.3d 1103, 1109 (8th Cir. 2016)). Plaintiffs "can satisfy this burden by pointing to at least some facts [that] would suggest the defendants reached an understanding to violate [their] rights." Id. (first alteration in original) (quoting Bonenberger, 810 F.3d at 1109).

In resisting summary judgment on the conspiracy claims, Plaintiffs assert "the named defendants *played a role* in detaining Plaintiffs against their will." Plfs.' Resist. 8, ECF No. 23 (emphasis added). Plaintiffs list each Defendant Officer's individual role in Plaintiffs' detention and recite the elements of civil conspiracy, that is: Defendants committed an overt act in furtherance of the conspiracy and had a common purpose to hold Plaintiffs against their will until they had been interviewed. Id. at 9.

Plaintiffs have demonstrated, and the Court has found, Sergeant Spear, Officer Kramer, and Officer Neumann violated Plaintiffs' Fourth Amendment rights. However, "[t]o prove a constitutional conspiracy, [Plaintiffs] must prove an agreement between the conspirators, by pointing to at least some facts which would suggest that [Sergeant Spear, Officer Kramer, and Officer Neumann] reached an understanding to violate [their] rights." Jensen v. Henderson, 315

[11] Plaintiffs do not assert a different standard for civil rights conspiracy under Iowa law, therefore the Court considers both Counts Three and Four under the § 1983 standard.

F.3d 854, 862 (8th Cir. 2002). Plaintiffs have pointed to no evidence of an agreement between those Defendants. White, 519 F.3d at 816 (holding that to prevail on their conspiracy claim, Plaintiffs "need not show that each participant knew 'the exact limits of the illegal plan,'" but Plaintiffs "must show evidence sufficient to support the conclusion that the defendants reached an agreement to deprive the plaintiff[s] of constitutionally guaranteed rights" (quoting Larson by Larson v. Miller, 76 F.3d 1446, 1458 (8th Cir. 1996)). Sergeant Spear initially instructed Officers Kramer and Neumann to take Plaintiffs to the hospital, to which Plaintiffs agreed. Based on information Sergeant Spear received about Preston's condition that transformed the incident into a homicide investigation, Sergeant Spear changed his instructions and directed Officers Kramer and Neumann to take Plaintiffs to the police station. Plaintiffs have not specified any "material facts that the defendants reached an agreement" Holmes, 895 F.3d at 1001. Defendants are entitled to summary judgment on Plaintiffs' conspiracy claims.

D. Municipal Liability Claims Under U.S. and Iowa Constitutions

Counts Five and Six of Plaintiffs' complaint argue Chief Wingert in his individual capacity and the City as a municipality are responsible for establishing, maintaining, and enforcing deliberately indifferent policies, practices, customs, training, and supervision that resulted in the violation of Plaintiffs' rights under the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution and under article I, §§ 6 and 8 of the Iowa Constitution. At times relevant to this litigation, Chief Wingert was ultimately responsible for the policies, training, and supervision of Des Moines Police Department employees and had final policymaking authority.

Plaintiffs argue they are entitled to summary judgment on the claims against Chief Wingert and the City because the undisputed facts demonstrate the illegal seizure of Plaintiffs was undertaken pursuant to an unconstitutional policy or custom. Defendants argue they are entitled to summary judgment on those claims because Defendant Officers did not violate Plaintiffs' constitutional rights; Defendants alternatively argue Chief Wingert and the City are immune from suit.

1. Standard for Municipal Immunity Under Federal Law

"Local governing bodies . . can be sued directly under § 1983 for monetary, declaratory, or injunctive relief where . . . the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." Monell v. Dep't of Soc. Servs. of City of New York, 436 U.S. 658, 690 (1978). However, "a municipality cannot be held liable *solely* because it employs a tortfeasor—or, in other words, a municipality cannot be held liable under § 1983 on a *respondeat superior* theory." Id. at 691; see also Robbins v. City of Des Moines, 984 F.3d 673, 681 (8th Cir. 2021) (same). A plain language reading of § 1983 imposes liability on a municipality "that, under color of some official policy, 'causes' an employee to violate another's constitutional rights," but "cannot be easily read to impose liability vicariously on governing bodies solely on the basis of the existence of an employer-employee relationship with a tortfeasor." Monell, 436 U.S. at 692 ("Indeed, the fact that Congress did specifically provide that A's tort became B's liability if B 'caused' A to subject another to a tort suggests that Congress did not intend § 1983 liability to attach where such causation was absent."). Therefore, "[a] municipality may only be liable for a constitutional violation resulting from (1) an official municipal policy; (2) an unofficial custom, or (3) failure to train or supervise." Robbins, 984 F.3d at 681-82.

> To establish a claim for "custom" liability, [Plaintiffs] must demonstrate: (1) the existence of a continuing, widespread, persistent pattern of unconstitutional misconduct by the governmental entity's employees; (2) deliberate indifference to or tacit authorization of such conduct by the governmental entity's policymaking officials after notice to the officials of that misconduct; and (3) that plaintiff[s] w[ere] injured by acts pursuant to the governmental entity's custom, i.e., that the custom was a moving force behind the constitutional violation.

Snider v. City of Cape Girardeau, 752 F.3d 1149, 1160 (8th Cir. 2014). "It is difficult to establish a municipality's culpability based on failure to train, which must amount to 'deliberate indifference to the rights of persons with whom the [untrained employees] come into contact.' Deliberate indifference requires proof the municipality disregarded a known or obvious consequence of its action or inaction." Robbins, 984 F.3d at 682 (alterations in original) (internal

citation omitted) (quoting Connick v. Thompson, 563 U.S. 51, 61 (2011)). "Under § 1983 jurisprudence, the term [deliberate indifference] is simply the threshold for holding a city responsible for the constitutional torts committed by its inadequately trained agents." Marsh v. Phelps Cty., 902 F.3d 745, 752 n.5 (8th Cir. 2018) (citing Collins v. City of Harker Hts., Tex., 503 U.S. 115, 124 (1989); City of Canton v. Harris, 489 U.S. 378, 388 n.8 (1989)). "'This rigorous standard requires proof that the supervisor had notice of a pattern of conduct by the subordinate that violated a clearly established constitutional right' and 'allegations of generalized notice are not sufficient.'" Nader v. City of Papillion, No. 8:17CV83, 2018 WL 10195797, at *6 (D. Neb. Jan. 29, 2018) (quoting S.M., 808 F.3d at 340), aff'd, 917 F.3d 1055 (8th Cir. 2019).

To succeed on their claims against the City and Chief Wingert, Plaintiffs must "create a genuine issue of material fact regarding the existence of a policy or failure to train that actually caused a constitutional violation; that is, the policy or failure to train must have actually caused [Plaintiffs] to be arrested without probable cause." Schaffer v. Beringer, 842 F.3d 585, 596 (8th Cir. 2016).

2. Standard for Municipal Immunity Under Iowa Code Chapter 670

The Iowa Municipal Tort Claims Act (IMTCA), Iowa Code § 670.4(c), referred to as the discretionary function exception, provides that a municipality shall be immune from liability for:

> Any claim based upon an act or omission of an officer or employee of the municipality, exercising due care, in the execution of a statute, ordinance, or regulation whether the statute, ordinance or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the municipality or an officer or employee of the municipality, whether or not the discretion is abused.

Goodman v. City of Le Claire, 587 N.W.2d 232, 233 (Iowa 1998); see also Baldwin v. City of Estherville (Baldwin IV), 929 N.W.2d 691, 697-98 (Iowa 2019). "Immunity is based upon the desire to 'prevent judicial "second-guessing" of legislative and administrative decisions grounded in social, economic, and political policy through the medium of an action in tort.'"

Graber v. City of Ankeny, 656 N.W.2d 157, 160-61 (Iowa 2003) (quoting Goodman, 587 N.W.2d at 237 (quoting Berkovitz v. United States, 486 U.S. 531, 536-37 (1988)).

Under the IMTCA, "a municipality can be 'vicariously immune' from liability for its employees' constitutional torts when the employees would be immune from personal liability." Baldwin IV, 929 N.W.2d at 696. "If the officers exercised due care in executing an ordinance, the City would be immune pursuant to section 670.4(1)(c)." Id. at 698.

The Iowa Supreme Court adopted the two-step test set forth in Berkovitz in determining whether the discretionary function immunity applies. Goodman, 587 N.W.2d at 237 (citing Berkovitz, 486 U.S. at 537-37). First, the court must "examin[e] the nature of the challenged conduct [and] . . . consider whether the action is a matter of choice for the acting employee. . . . [I]f the employee's conduct cannot appropriately be the product of judgment or choice, then there is no discretion in the conduct for the discretionary function exception to protect." Id. Second, the "court must determine whether that judgment is of the kind that the discretionary function exception was designed to shield," that is, whether "the action challenged in the case involves the permissible exercise of policy judgment." Id. at 237-38 (citing Berkovitz, 486 U.S. at 536-37).

The SOPs Defendants argue authorized the seizures in this case state that when investigating homicides, witnesses are "[t]ransport[ed] to Investigative Division *as soon as possible to* . . . [c]onduct follow up interview(s)" and "*[w]henever possible*, conduct interviews at the police station." DMPD SOP Chap. 7-1.B.3.d.(2)(a)-(3)–Defs' App. 200, ECF No. 18-2 (emphasis added).

The SOPs are not facially unconstitutional. Given a plain language reading, the SOPs neither require nor authorize the seizure of mere witnesses to a homicide as occurred in the present case. As an initial matter, to "transport" a witness to the "investigation division" is a jurisdictional move, not necessarily or solely a physical one. When a crime is reported, as in this case, most often patrol officers are the first to report to the crime scene. If it becomes apparent a serious crime has been committed, as occurred in this case, the matter is referred or "transported"

to the investigation division. In this case, the "transport" occurred when Sergeant Spear recognized the gravity of Preston's condition and notified Captain Clock to "activate the list," which meant the investigative division would be notified and the case would be turned over to that division.

Next, the SOP language is permissive not mandatory. The time frame used is "as soon as possible" not "immediate." Flexibility is necessary for obvious reasons. Crime scenes, especially those involving the loss of life, can be chaotic and certain actions take precedence. Also, by including the word "possible," the SOPs acknowledge there is something required for a witness to be taken to the station, such as probable cause, consent, or a subpoena.

Finally, and most telling, the SOPs do not state that interviews *must* be conducted at the station; rather, they are conducted at the station "whenever possible." Whether it is possible is a determination made by the officer in charge at the scene; in this case because the detectives had not yet been activated and were not on the scene, the decision was made by Sergeant Spear and/or Captain Clock. Sergeant Spear first exercised this authority when he ordered the witnesses to be transported to the hospital where Officers Kramer and Neumann would "sit on them" while awaiting detectives to interview them. Sergeant Spear next used this discretionary authority when he changed his instruction and told Officers Kramer and Neumann to instead take the witnesses to the station.

Plaintiffs assert it was Defendants' policies, procedures, customs, and/or practices and Defendants' failure to train and supervise Defendant Officers that caused the violations of their constitutional rights. In defense of all claims, Defendants assert no constitutional violation occurred because the Defendant Officers were following the SOPs *as generally practiced*.

The three officers deposed in this case each testified that in homicide cases all material witnesses were brought to the station for interview whether or not the witnesses were suspected of any wrongdoing or gave consent. Captain Clock testified "everybody knows that's what's done . . . from the time we're in the academy" and that policy has been in place for the Des Moines Police Department for "as long as I can remember." Clock Dep. 7–Defs.' App. 235,

ECF No. 18-2. While denying that he ordered the witnesses to be taken to the station for investigative interviews, Captain Clock said that it was standard procedure to do so. See Cpt. Clock Dep. 8-9–Plfs' App. 172-73, ECF No. 15-2.

During his deposition, Detective Youngblut stated that he had worked sixty to seventy homicide cases and had been lead detective on at least two dozen. He testified that in homicide investigations, witnesses would not be allowed to leave until they had been interviewed, that the need to interview witnesses trumps their interest in leaving, and that witnesses to a homicide are taken to the police station to give a statement even if they do not want to be detained or to talk. Detective Youngblut said that this has been the procedure in the nine years he has been a detective. He explained that "most officers know that in a serious crime you need to identify the witnesses and hold on to them until detectives get there." Youngblut Dep. 20, 29-30–Defs.' App. 222, 224-25, ECF No. 18-2. When asked whether an officer would be reprimanded for releasing homicide witnesses instead of having them taken to the station, Detective Youngblut responded, "Most likely." Id. at 225. Detective Youngblut confirmed that the Des Moines Police Investigations Division SOPs authorize that witnesses are to be "[t]ransport[ed] to investigative divisions as soon as possible to conduct follow-up interview." Id. at 224.

Likewise, Sergeant Spear testified, "[w]hat I know based on policies," the witnesses were seized just because they were witnesses. Spear Dep. 24–Defs.' App. 210, ECF No. 18-2. When Sergeant Spear was asked, "Is it common that people are taken to the station?" he answered, "Yes." Id. Sergeant Spear was asked, "where [do] you come up with your opinion that you think it is policy for people to be taken [to the station] even if they don't want to [be]?" Id. Spear Dep. 25. Sergeant Spear answered, "I'm saying it's policy for the detectives to interview them at the station." Id. Sergeant Spear was then asked if there was "a standard practice on [sic] if somebody doesn't want to go that they have to go?" Id. Sergeant Spear answered, "I'm not aware of a standard practice, no," adding "[c]ircumstances changed and, unfortunately, they were required [to go] to the station." Id. Sergeant Spear denied having any training on seizing witnesses, stating that "[i]t's not commonplace. A lot of times we get cooperation and---like I

said, I've never personally arrested anybody for [being] a material witness." Id. Spear Dep. 29–Defs.' App. 211.

At the station, when Crysteal asked why she was falsely told she was being taken to the hospital, Officer Joseph explained that to "bring all parties down to the station" in cases in which a severe injury has occurred "was just by standard criminal investigation law." Kramer Body Cam. 2 at 3:54-4:31. Officer Neumann reinforced Officer Joseph's statement, telling the family that the officers had done "exactly what we do in every single set of circumstances like this." Id. at 5:21-5:26.

While the testimonies and statements given by the officers involved in this case point to a disconnect between the language in the SOPs and what the officers believed the SOPs authorized, in order for Plaintiffs to make a submissible case for municipal liability, there must be "evidence the municipality '[r]eceived notice of a pattern of unconstitutional acts committed by [its employees].'" Atkinson v. City of Mountain View, Mo., 709 F.3d 1201, 1216-17 (8th Cir. 2013). Plaintiffs have pointed to no such evidence. As Sergeant Spear admitted in his deposition, he had never faced the situation where a material witness did not consent to go to the station. "Absent some form of notice, the city cannot be deliberately indifferent to the risk that its training or supervision of [its officers] would result in 'a violation of a particular constitutional or statutory right.'" Id. at 1217 (quoting Bd. of Cnty. Comm'rs of Bryan Cnty., Okla. v. Brown, 520 U.S. 397, 411 (1997)). Because no reasonable jury could find the City liable under § 1983, Defendants are entitled to summary judgment on municipal liability claim (Count Five). Similarly, because the decision to transport the witnesses to the station was the exercise of a discretionary function, the City is immune from liability under the IMTCA. See Goodman, 587 N.W.2d at 233. Defendants are entitled to Summary Judgment on Count Six.

E. False Arrest Claim

Count Seven of Plaintiffs' complaint alleges as the direct and proximate result of Defendant Officers' unlawful and unjustifiable detention, they were injured and are entitled to

damages. Plaintiffs move for summary judgment on this claim as against Sergeant Spear and Officers Kramer and Neumann, arguing there is no dispute of fact that they were detained against their will and that the detention was unlawful. Defendants argue Plaintiffs have failed to establish their claim of false arrest or imprisonment as they were not in custody under Iowa law, they were told they were being interviewed as witnesses and were never considered to be suspects, and they were cooperative in providing statements.

Under Iowa law, a false arrest "claim has two elements: '(1) detention or restraint against one's will, and (2) unlawfulness of the detention or restraint.'" Thomas v. Marion Cty., 652 N.W.2d 183, 186 (Iowa 2002) (quoting Kraft v. City of Bettendorf, 359 N.W.2d 466, 469 (Iowa 1984)). "A Terry stop may become an arrest, requiring probable cause, if the stop lasts for an unreasonably long time or if officers use unreasonable force." Waters, 921 F.3d at 737 (quoting Newell, 596 F.3d at 879). As set forth above, Plaintiffs were seized when they were transported to the station against their will. Sergeant Spear, Officer Kramer, and Officer Neumann were responsible for those seizures. Although Defendants argue Plaintiffs were detained, not seized, and the officers were following SOPs, "detention for custodial interrogation—regardless of its label—intrudes so severely on interests protected by the Fourth Amendment as necessarily to trigger the traditional safeguards against illegal arrest." Dunaway, 442 U.S. at 216. Plaintiffs are entitled to summary judgment on their false arrest claim as against Sergeant Spear, Officer Kramer, and Officer Neumann.

III. CONCLUSION

Based on the forgoing, Plaintiffs' Motion for Partial Summary Judgment, ECF No. 15, must be **granted in part and denied in part**; Defendants' Motion for Summary Judgment, ECF No. 18, must be **granted in part and denied in part**.

Plaintiffs' Motion is **granted** as to liability on the illegal seizure claims (Counts One and Two) and false arrest claim (Count Seven) against Sergeant Spear, Officer Kramer, and Officer

Neumann. Plaintiffs' Motion is **denied** as to Plaintiffs' municipal liability claims (Counts Five and Six).

Defendants' Motion is **granted** as to Detective Dawson, Detective Youngblut, Detective Rhamy, Officer Klein, and Officer Hickey on the illegal seizure claims (Counts One and Two); as to all Individual Defendants on the conspiracy claims (Counts Three and Four); and as to Chief Wingert and the City on the municipal liability claims (Counts Five and Six). Defendants' Motion is **denied** as to Sergeant Spear, Officer Kramer, Officer Neumann, and Captain Clock on the illegal seizure claims (Counts One and Two) and as to Sergeant Spear, Officer Kramer, Officer Neumann, and Captain Clock on the false arrest claim (Count Seven).

IT IS SO ORDERED.

Dated this 17th day of June, 2021.

JAMES E. GRITZNER, Senior Judge
U.S. DISTRICT COURT