

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

BLACK & BROWN LIBERATION,)	
<i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:20-cv-240-DRL-SLC
)	
CITY OF FORT WAYNE, <i>et al.</i> ,)	
)	
Defendants.)	

**City of Fort Wayne’s Response to First Amended Complaint
for Declaratory and Injunctive Relief and Damages**

City of Fort Wayne, (“City”) by its attorneys, and in Answer to Plaintiffs’ Amended Complaint, states as follows:

Introduction

1. In the days following the murder of George Floyd in Minneapolis, numerous persons have come together to attempt to engage in peaceful protest in downtown Fort Wayne, in front of and near the Allen County Courthouse. Peaceful protesters have repeatedly been met by members of the Fort Wayne Police Department and the Allen County Sheriff’s Department who have engaged in a range of unreasonable and inappropriate behaviors designed to prevent the persons from engaging in lawful protest. These behaviors have included the use of tear gas, pepper spray, flash grenades, and rubber bullets and other policing tactics designed to remove peaceful protesters from public spaces. This behavior by law enforcement violated, and continues to violate, both the First and Fourth Amendments to the United States

Constitution. The plaintiffs wish to continue to engage in their constitutional right of assembly and protest, but justifiably fear that the above behaviors will be repeated by the agents, employees, and officers of Fort Wayne and the Allen County Sheriff's Department. The plaintiff organizations have members in the same position as the plaintiffs. The plaintiffs seek declaratory and injunctive relief to ensure that the constitutional violations are not repeated, and the individual plaintiffs also seek their damages.

ANSWER: City denies the allegations in paragraph 1.

Jurisdiction, venue, cause of action

2. This Court has jurisdiction of this case pursuant to 28 U.S.C. §§ 1331, 1343.

ANSWER: City admits the allegations in paragraph 2.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

ANSWER: City admits the allegations in paragraph 3.

4. Declaratory relief is authorized by 28 U.S.C. §§ 2201, 2202 ad Rule 57 of the Federal Rules of Civil Procedure.

ANSWER: City admits the allegations in paragraph 4.

5. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.

ANSWER: City admits the Plaintiffs filed this action pursuant to 42 U.S.C. § 1983 to redress the alleged deprivation, under color of state law, of rights secured by the Constitution of the United States. City denies any such deprivation has occurred and further denies the Plaintiffs are entitled to any of the relief sought.

Parties

6. Black & Brown Liberation is a membership organization located in Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 6 and therefore denies them.

7. The Indiana Civil Liberties Union Foundation, Inc., d/b/a ACLU of Indiana, is a domestic nonprofit corporation incorporated under the laws of the State of Indiana. Its principal and sole office is located in Indianapolis.

ANSWER: City admits the allegations in paragraph 7.

8. Alisha Rauch is an adult resident of Allen County, Indiana.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City, on information and belief, admits the allegations in paragraph 8.

9. Taylor Raymond Crane is an adult resident of Allen County, Indiana.

ANSWER: On information and belief, City admits the allegations in paragraph 9.

10. Kendall Dimond is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 10 and therefore denies them.

11. Matt Carmer is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 11 and therefore denies them.

12. Janet Badia is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 12 and therefore denies them.

13. Ben Schoch is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 13 and therefore denies them.

14. Nancy Virtue is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 14 and therefore denies them.

15. Francisco Navarro is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 15 and therefore denies them.

16. Kayla Harrington is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 16 and therefore denies them.

17. Emma Baker is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 17 and therefore denies them.

18. Skyler Darnell is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 18 and therefore denies them.

19. Nicole Labossier is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 19 and therefore denies them.

20. Amanda Joseph is an adult resident of Allen County, Indiana.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 20 and therefore denies them.

21. The City of Fort Wayne is a municipality located in Allen County, Indiana.

ANSWER: City admits the allegations in paragraph 21.

22. The Allen County Sheriff is the county-wide law enforcement officer for Allen County, Indiana.

ANSWER: City admits the allegations in paragraph 22.

Facts

Introductory facts

23. Following the murder of George Floyd in Minneapolis on May 25, 2020, protests have erupted throughout the United States as persons have demonstrated against systemic racism and the manner in which systemic racism has negatively influenced police actions towards persons and communities of color.

ANSWER: City admits that following the murder of George Floyd in Minneapolis on May 25, 2020, protests and riots have both erupted throughout the United States. City further admits that some protestors are motivated by bringing attention to issues of racism and police actions toward persons of color. City denies the remaining allegations in paragraph 23.

24. The protesters have demanded changes in policing practices and the structure of police forces.

ANSWER: City admits that some protestors and others have demanded changes in policing practices and the structure of police forces but denies the implications that protestors are unified in the message and/or the delivery. City denies any remaining allegations in paragraph 24.

25. In Fort Wayne there have been protests directed to institutional racism and policing practices beginning on May 29, 2020, and continuing through today's date with more protests to be held in the future.

ANSWER: City admits that beginning on May 29, 2020, there have been protests in Fort Wayne. City denies the remaining allegations in paragraph 25.

26. These protests have been located at or near the Allen County Courthouse in downtown Fort Wayne.

ANSWER: City admits the allegations in paragraph 26.

27. The protests have been almost entirely peaceful.

ANSWER: City admits several protests in downtown Fort Wayne have been almost entirely peaceful. City denies that all protests have been almost entirely peaceful. City specifically denies the protests addressed in the context of this Amended Complaint were almost entirely peaceful.

28. The protests have been marred by officers of the Fort Wayne Police Department and deputies from the Allen County Sheriff's Department taking violent and inappropriate actions against peaceful protesters who were engaging in legitimate protest activities on public property.

ANSWER: City denies the allegations in paragraph 28.

29. Unreasonable force has been utilized against protesters.

ANSWER: City denies the allegations in paragraph 29.

30. Among other things, protesters have been teargassed, pepper sprayed, attacked with rubber bullets, and pushed away from public areas by inappropriate shows of force by police authorities. The police have also used stun grenades to force peaceful protesters to disperse.

ANSWER: City denies the allegations in paragraph 30.

31. Tear gas consists of aerosolized chemicals that cause severe irritation in the eyes, mouth, lungs, and nose. It causes difficulty in breathing, pain and uncontrollable watering in the eyes, and coughing.

ANSWER: City admits that Oleoresin Capsicum (OC) and Chlorobenzylidene Malononitrile (CS) gas, commonly referred to by laypeople as pepper spray or tear gas, cause irritation of the eyes, mouth, lungs and nose and that these can cause temporary difficulty breathing, coughing, and pain and watering in the eyes. City denies any remaining allegations in paragraph 31.

32. It is painful to be hit by a tear gas container and being hit by one may cause serious injury, particularly if an individual is struck in the head or neck with the device.

ANSWER: City admits it could be painful to be hit by a tear gas container and further admits that being struck with any item (gas canister, water bottle, rock, chunks of concrete, etc.) in the head or neck could cause serious injury depending on the circumstances.

33. Pepper-spray contains a chemical that irritates the eyes, nose, skin, and respiratory system.

ANSWER: City admits that pepper spray can irritate the eyes, nose, skin and respiratory system. City denies that pepper spray contains a “chemical” that causes these symptoms.

34. In addition to the tearing of eyes, blurred vision, respiratory difficulties, and burning and irritation caused by tear gas and pepper spray, these common side effects are particularly dangerous during the current pandemic as they promote the spread of the disease by causing sneezing and coughing that propel droplets into the air.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 34 and therefore denies them, specifically the City lacks knowledge and information to opine whether the side effects of tear gas and pepper spray exposure are “particularly dangerous” as compared to shouting and chanting while in close proximity to dozens of other people doing the same.

35. The 1993 Chemical Weapons Convention, signed by the United States, explicitly forbids the use of “riot control agents” like tear gas and pepper balls, “as a method of warfare.” Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Art. I(5), *opened*

for signature Jan. 13, 1993, 1874 U.N.T.S, available at https://treaties.un.org/doc/Treaties/1997/04/19970429%2007-52%20PM/CTC-XXVI_03_ocred.pdf (last visited June 15, 2020).

ANSWER: The City cannot link to the referenced document even to admit or deny the quoted language. Thus, the City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 35. City expressly denies that this allegation concerning rules of engagement for warfare has any applicability to domestic police force and munitions used for purposes of crowd control during rioting and mass illegal activity.

36. It is painful to be struck by rubber bullet, which are rubber-coated projectiles. They may cause serious injury depending on where the person is struck.

ANSWER: City admits it could be painful to be struck by any kinetic munition including those that are rubber, just as it could be painful to be struck with rocks, water bottles and other items and that nearly any projectile object could cause serious injury depending on where the person is struck.

37. Stun grenades area also called flash or flashbang grenades. These are explosive devices that emit an extremely loud sound and bright light upon detonation. They can cause temporary loss of sight and temporary hearing loss and are designed to disorient persons.

ANSWER: City admits that flashbang or distraction munitions are designed to startle and temporarily disorient persons by emitting a loud sound and bright light. City denies the remaining allegations in paragraph 37.

38. Stun grenades may cause permanent hearing loss. They can also cause serious burns and injuries to persons struck by them.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 38.

39. Stun grenades can be as loud as 175 decibels when they are detonated. A jet engine at 100 feet is only 140 decibels.

ANSWER: City denies the allegations in paragraph 39.

May 29, 2020

40. On May 29, 2020, protesters gathered on the Courthouse Green, the one-acre public park area in front of the Allen County Courthouse and they also gathered on the public sidewalks near the Courthouse.

ANSWER: City admits the allegations in paragraph 40.

41. A group of protesters marched from this area on Clinton Street to the nearby Martin Luther King Bridge and then back to the Courthouse Green.

ANSWER: City admits the allegations in paragraph 41 and states that such marching in the street without permission is a violation of state and local laws.

42. Some persons were on the sidewalks and some were in the street.

ANSWER: City admits the allegations in paragraph 42.

43. As the protesters walked back towards the Courthouse, a large number of officers of the Fort Wayne Police Department came out of the police headquarters in the Rousseau Building on Clinton Street. At that point there were also protesters on the public sidewalk and the Courthouse Green.

ANSWER: City denies that officers were deployed as the protestors walked back towards the Courthouse as these officers were deployed in response to observations and several 911 emergency calls indicating that a large group of protestors were now rioting in the streets and endangering the safety of themselves and others. City denies it was a large number of officers from the Fort Wayne Police Department, particularly considering the number of rioters in the street significantly outnumbered the number of officers from the Fort Wayne Police Department. City admits that while the police were arriving on the scene to address the rioters and the public safety issues, there were also protestors on the public sidewalk and the Courthouse Green. City denies any remaining allegations in paragraph 43.

44. The police officers proceeded to move toward the Courthouse Green where there were peaceful demonstrators.

ANSWER: City denies the allegations in paragraph 44.

45. Without warning, the police officers began to indiscriminately shoot off dozens of tear gas canisters. They were shot into the Courthouse Green and the public sidewalks near the Courthouse where demonstrators had gathered as well as into the street where there were demonstrators.

ANSWER: City admits its officers deployed chemical munitions, but denies they did so without warning. City denies the remaining allegations in paragraph 45.

46. One of the tear gas canisters broke a window of the Courthouse.

ANSWER: City admits the allegations in paragraph 46.

47. After the initial volley of tear gas, the police created a line and pushed forward across South Clinton Street.

ANSWER: City denies the allegations in paragraph 47.

48. Police officers sprayed any person with pepper spray who did not fall back off of the public space they were previously occupying to engage in peaceful protest.

ANSWER: City denies the allegations in paragraph 48.

49. A number of protesters were on the public sidewalks that bounded the nearby Freimann Square, a 4.6-acre public park diagonally across from the Courthouse Green, and a number where [sic] in Freimann Square.

ANSWER: City admits there were protesters and rioters on the public sidewalks and in Freimann Square, some of whom were gathering large rocks to throw. City lacks knowledge to know how many protesters and rioters were in those areas.

50. Officers from the Fort Wayne Police Department indiscriminately shot tear gas into the protesters on the sidewalks and those in Freimann Square.

ANSWER: City denies the allegations in paragraph 50.

51. Deputies from the Allen County Sheriff's Department assisted in creating the line of officers that pushed protesters out of the public areas.

ANSWER: City denies the allegations in paragraph 51.

52. Law enforcement officers fired rubber bullets into the crowds of persons who were peaceably assembled in the public areas.

ANSWER: City denies the allegations in paragraph 52.

53. The protest lasted into the night and despite some isolated incidents of property destruction by a few protesters, remained largely peaceful despite indiscriminate attacks by law enforcement.

ANSWER: City denies the allegations in paragraph 53.

May 30, 2020

54. Another protest was planned for the environs near the Allen County Courthouse on May 30, 2020.

ANSWER: City admits the allegations in paragraph 54.

55. Deputies of the Allen County Sheriff's Department had lined up their vehicles near the entrance to the Courthouse, forming a barrier.

ANSWER: City admits the allegations in paragraph 55.

56. A number of deputies from the Allen County Sheriff's Department were accompanied by police canines and were present on the Courthouse Green.

ANSWER: City admits the allegations in paragraph 56.

57. However, the large majority of the Courthouse Green was open, and the protesters gathered there.

ANSWER: City admits the allegations in paragraph 57.

58. A number of protesters entered the street, although the majority remained on the Courthouse Green and on public sidewalks.

ANSWER: City admits protesters entered the street without permission and in violation of state and local laws while some protesters remained on the Courthouse Green and public sidewalks. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 58.

59. Nevertheless, Fort Wayne Police Department officers joined by Allen County Sheriff Department deputies again formed a line and moved toward the peaceful protesters on the public spaces.

ANSWER: City denies the allegations in paragraph 59.

60. There was a quiet announcement that persons had to disperse, although it could not be heard by protesters who were not immediately next to the law enforcement officer who made the announcement. There was no lawful basis for this order.

ANSWER: City denies the allegations in paragraph 60.

61. Ten seconds later, again, without further warning, Fort Wayne Police Department officers fired tear gas indiscriminately towards persons in the Courthouse Green and on the public sidewalks.

ANSWER: City denies the allegations in paragraph 61.

62. Again, officers from the Fort Wayne Police Department indiscriminately shot tear gas into the protesters on the sidewalks and those in Freimann Square.

ANSWER: City denies the allegations in paragraph 62.

63. Tear gas was sprayed at a three-year old whose mother was taking her home. She was two blocks from the protest scene. While street medics attempted to administer first aid to her, law enforcement officers shot another tear gas canister from a moving vehicle directly into the group helping the child.

ANSWER: City denies the allegations in paragraph 63.

64. Persons in public areas were pepper sprayed.

ANSWER: City admits the allegations in paragraph 64.

65. Rubber bullets were shot by law enforcement officers at demonstrators who were in public places.

ANSWER: City admits it used kinetic munitions as a deterrent to persons in public places engaged in illegal conduct and otherwise denies the allegations in paragraph 65.

66. Stun grenades, causing loud explosions and brilliant flashes of light, were also deployed against the protesters.

ANSWER: City denies the allegations in paragraph 66.

67. A number of protesters had marched on the street and neighboring sidewalks to the nearby Martin Luther King Bridge.

ANSWER: City admits that without permission and in violation of state and local laws protestors marched in the street including to the Martin Luther King Bridge and that some protestors marched on the sidewalks.

68. Without warning, officers of the Fort Wayne Police Department descended on the persons on the bridge and sidewalks and started shooting teargas into the crowd, including into those persons on sidewalks. Law enforcement personnel blocked protesters from leaving the bridge in either direction, or then shot tear gas canisters at them. The protesters were given no opportunity or time to safely disperse.

ANSWER: City denies the allegations in paragraph 68.

69. Law enforcement officers travelled near the Courthouse, and if they saw persons on the sidewalk, they would shoot tear gas or pepper spray at them.

ANSWER: City denies the allegations in paragraph 69.

Further demonstrations

70. On May 31, 2020, protesters again gathered on the Courthouse Green to engage in peaceful protest.

ANSWER: City admits the allegations in paragraph 70.

71. Again, police authorities used tear gas, rubber bullets, pepper spray, and stun grenades to prevent persons from engaging in peaceful protest in public spaces including on public sidewalk.

ANSWER: City denies the allegations in paragraph 71.

72. Persons have continued thereafter to engage in protests activity on the Courthouse Green and nearby areas.

ANSWER: City admits the allegations in paragraph 72, more specifically admitting that persons, including some of the Plaintiffs in this case, have continued thereafter to engage in protest activity on the Courthouse Green and nearby areas.

73. On June 14, 2020, a group of protesters marched in the street towards the Martin Luther King Bridge blocking the street.

ANSWER: City admits that on June 14, 2020, a group of protestors marched in the street, without permission and in violation of state and local laws, toward the Martin Luther King Bridge and blocked the street.

74. After protesters refused to clear the road, Fort Wayne Police Department officers responded and shot rubber bullets into the crowd, which dispersed.

ANSWER: City admits that it used kinetic munitions to clear the road when protestors illegally refused to clear the road, but denies the remaining allegations in paragraph 74.

75. Police pursued the demonstrators, even after they left the street, shooting rubber bullets at that them.

ANSWER: City denies the allegations in paragraph 75.

76. As protesters dispersed to get away from the weapons being deployed, police went into private businesses and dragged out protesters who were just trying to get away from rubber bullets.

ANSWER: City denies the allegations in paragraph 76.

77. On this date, officers of the Fort Wayne Police Department also attacked persons who were peacefully protesting on the Courthouse Green, a number of blocks away from the bridge, shooting rubber bullets at them.

ANSWER: City denies the allegations in paragraph 77.

78. Law enforcement officers ordered the peaceful protesters to disperse. There was no lawful cause to do so.

ANSWER: City denies the allegations in paragraph 78.

79. On June 15, 2020, protesters gathered peacefully on the Courthouse Green.

ANSWER: City admits the allegations in paragraph 79.

80. Around 6:00 p.m., without warning, Fort Wayne Police Department officers started arresting persons without stating any charges and without reading them their rights. Weapons were pointed at other persons and they were threatened with arrest.

ANSWER: City admits that on the evening of June 15, 2020, it began effectuating arrests of persons identified from video evidence and other evidence as having engaged in various illegal activities on earlier dates. To the extent any arrestee was not read his or her rights it is because he or she was not being questioned incident to the arrest. City denies the remaining allegations in paragraph 80.

81. The police sprayed persons on the Courthouse Green with pepper spray.

ANSWER: City denies the allegations in paragraph 81.

82. This compelled persons to leave the Courthouse Green, even though they were peaceably assembled.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 82 and therefore denies them.

83. At no point was a curfew established in Fort Wayne.

ANSWER: City admits the allegations in paragraph 83.

The plaintiffs

Black & Brown Liberation

84. Black & Brown Liberation is a membership organization that was started approximately three months ago.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 84 and therefore denies them.

85. The purpose of the organization is to engage in organized activities to combat racial bias in the United States and in Allen County, including systemic racism in policing that negatively affects persons and communities of color.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 85 and therefore denies them.

86. The group started out with 67 members and now has approximately 500 members of all races.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 86 and therefore denies them.

87. The group has an active Facebook page that it utilizes to inform members of protests, meetings, and other activities germane to its purpose.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 87 and therefore denies them.

88. The murder of George Floyd galvanized the group and its members and many of the members of the group participated in the demonstrations on the Allen County Courthouse Green and in other public places near the Green as described above.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 88 and therefore denies them.

89. These protests, seeking an end to the systemic racism that infects policing, are at the core of the mission of Black & Brown Liberation.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 89 and therefore denies them.

90. Its members were attacked by law enforcement with tear gas, other chemical weapons, and by the shows of force as described above.

ANSWER: City denies the Fort Wayne Police Department attacked anyone. City admits its officers deployed chemical munitions. City denies the remaining allegations in paragraph 90.

91. Its members wish to continue to engage in peaceful protest on the Courthouse Green and nearby public places, but do not want to be exposed to the violence that law enforcement unleashed on the organization's members and other persons at the earlier protests.

ANSWER: City denies its officers engaged in violence. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 91 and therefore denies them.

92. There are members of Black & Brown Liberation who wish to be able to exercise their right to engage in peaceful and lawful protest, but do not want their names publicized because of fear of adverse consequences.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 92 and therefore denies them.

ACLU of Indiana

93. The ACLU of Indiana is one of the preeminent civil rights organizations in the State of Indiana.

ANSWER: City admits the allegations in paragraph 93.

94. It is the Indiana affiliate of the American Civil Liberties Union.

ANSWER: City admits the allegations in paragraph 94.

95. The ACLU of Indiana and its more than 14,000 members are dedicated to advocating for the constitutional rights of Hoosiers and to advance these goals the ACLU of Indiana and its employees engage in, among other things, community education, legislative and administrative advocacy, and litigation.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 95 and therefore denies them.

96. This case involves the essential rights of protest against the government and free expression that are at the heart of the First Amendment and that are extremely germane to the purposes of the ACLU of Indiana.

ANSWER: City denies the allegations in paragraph 96.

97. The case also concerns ensuring that the agents of government do not use unreasonable force against the public. Preventing this abuse of power is also at the heart of the ACLU of Indiana's purpose and mission.

ANSWER: City denies the allegations in paragraph 97.

98. The ACLU of Indiana has members who reside in Allen County and who have participated in the above peaceful protests in Fort Wayne where they have attempted to exercise their fundamental rights to speak out against systemic racism and its effects on police practices in Fort Wayne and the United States.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 98 and therefore denies them.

99. Its members have been exposed to the teargassing and other aggressive law enforcement practices noted above that violate both the First Amendment and the Fourth Amendment.

ANSWER: City denies the allegations in paragraph 99.

100. The ACLU of Indiana has members who reside in Allen County who wish to protest for racial justice in the future on the Allen County Courthouse Green and nearby public places, but who do not want to be exposed to tear gas, pepper spray, rubber bullets or other aggressive and improper law enforcement practices described above.

ANSWER: City denies its officers employed improper law enforcement practices in this case. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 100 and therefore denies them.

101. A number of the members do not want their names to be publicized because of fear of retribution or other adverse actions by the defendants.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 101 and therefore denies them.

Alisha Rauch

102. Following the murder of George Floyd, Alisha Rauch set out to organize a protest and rally addressing systemic racism and policing practices in the United States and Fort Wayne.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 102 and therefore denies them.

103. She therefore announced on her Facebook account that there would be a rally on the Allen County Courthouse Green at 5:00 p.m. on Friday, May 29, 2020.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 103 and therefore denies them.

104. On May 29, 2020, she travelled to the Courthouse Green and briefly spoke to the close to 300 persons who were peacefully assembled on the Courthouse Green.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required,

City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 104 and therefore denies them.

105. Later in the evening, while she was there, a number of the persons entered into the street and kneeled.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City admits a number of persons entered into the street and kneeled, violating state and local laws, impeding traffic and creating a dangerous situation for themselves and others. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 105 and therefore denies them.

106. They then proceeded to march toward the Martin Luther King bridge and then returned.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City admits the allegations in paragraph 106 and states that marching in the street without permission or a permit was a violation of state and local laws.

107. She remained on a street corner, not blocking traffic, and observed what was happening.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 107 and therefore denies them.

108. Many persons remained on the Courthouse Green and the sidewalks near the Courthouse.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City admits the allegations in paragraph 108.

109. She heard someone yell, as they ran by, that SWAT was coming, and as more people ran by, she felt the effects of teargas that was being deployed and she proceeded to run away from the clouds of tear gas.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City admits its officers used chemical munitions. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 109 and therefore denies them.

110. She ran to the sidewalk outside the Hoppy Gnome on the corner of Berry and Clinton Streets.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 110 and therefore denies them.

111. While she was attempting to catch her breath, she was hit with more waves of tear gas.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 111 and therefore denies them.

112. She has asthma and was having difficulty breathing.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 112 and therefore denies them.

113. She ran to her car that was parked in the public parking lot at Citizen's Square so she could use her inhaler.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required,

City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 113 and therefore denies them.

114. From there she could see the Courthouse Green and she saw Fort Wayne Police Department officers move through this public area and spray people with pepper spray who were on the Green and were behaving peacefully.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City denies the allegations in paragraph 114.

115. She saw people who were kneeling on the grass on the Green who were sprayed with pepper spray, even though they were doing nothing wrong.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City denies the allegations in paragraph 115.

116. She saw a line of SWAT officers marching toward where she was, and she left.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 116 and therefore denies them.

117. On May 30 she returned to the Green with her children and everything was peaceful.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City admits the protest on May 30 began peacefully. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 117 and therefore denies them.

118. She returned, by herself, around 9:00 p.m.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 118 and therefore denies them.

119. She stayed in her car to observe.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 119 and therefore denies them.

120. She saw Fort Wayne Police Department officers arresting people who appeared to be doing nothing wrong.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City denies its officers arrested anyone without probable cause. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 120 and therefore denies them.

121. She also saw police shooting tear gas canisters at persons who were on sidewalks or on the Courthouse Green who were behaving peacefully.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City admits its officers used chemical munitions. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 121 and therefore denies them.

122. She also saw the police walk up to persons on the Courthouse Green and sidewalks and spray them in the face with pepper spray.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City denies the allegations in paragraph 122.

123. She has returned to other protest activities on and near the Courthouse Green. However, she is extremely concerned and anxious about again being attacked and would like to be able to engage in peaceful protest without fear of a violent and inappropriate response by law enforcement.

ANSWER: No response to this allegation is necessary as Alisha Rauch has voluntarily dismissed her claims in this case. To the extent a response is required, City denies its officers attacked anyone. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 123 and therefore denies them.

Taylor Raymond Crane

124. On May 29, 2020, Taylor Raymond Crane went to the protest taking place on the Courthouse Green around 4:30 p.m.

ANSWER: City admits Crane went to the protest on May 29, 2020. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 124 and therefore denies them.

125. He walked with protesters to the Martin Luther King Bridge.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 125 and therefore denies them.

126. As he walked back, he saw Fort Wayne Police officers leave their headquarters.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in 126 and therefore denies them.

127. He saw the police launch tear gas into the crowd on the Courthouse Green and sidewalks, as well as persons in the street.

ANSWER: City admits its officers used chemical munitions. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 127 and therefore denies them.

128. He was on the Courthouse Green and got teargassed.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 128 and therefore denies them.

129. The persons on the Courthouse Green and sidewalks were not doing anything unlawful.

ANSWER: City denies the allegations in paragraph 129.

130. Nevertheless, Fort Wayne Police Department officers, in riot gear, again began to indiscriminately shoot tear gas everywhere.

ANSWER: City denies the allegations in paragraph 130.

131. He was again teargassed.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 131 and therefore denies them.

132. He witnessed police spray persons with pepper spray who were on the Courthouse Green and on the sidewalks.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 132 and therefore denies them.

133. He watched police officers proceed on the lawn with batons, pushing back protester while spraying them.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 133 and therefore denies them.

134. He eventually went to a public parking lot to try to avoid the tear gas. He was there with a number of media personnel. Nevertheless, the police launched tear gas into the sidewalk by the parking lot, and he again was engulfed by tear gas.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 134 and therefore denies them.

135. He was present on May 30, 2020, while 200-300 persons were on the Courthouse Green.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 135 and therefore denies them.

136. Again, law enforcement came onto the lawn, firing tear gas indiscriminately.

ANSWER: City denies the allegations in paragraph 136.

137. Although he remained on the sidewalk and the Courthouse Green, he was again teargassed.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 137 and therefore denies them.

138. He also witnessed concussion grades being employed.

ANSWER: City denies the allegations in paragraph 138.

139. Although he was peaceably protesting, he was shot in the back by a rubber bullet. He believes it was shot by Allen County Sheriff's Department deputy.

ANSWER: The City denies plaintiff was peaceably protesting. The City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 139 and therefore denies them.

140. He was present on May 31 near the Courthouse.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 140 and therefore denies them.

141. He saw law enforcement personnel fire rubber bullets at peaceful protesters on May 29, 20 and 31.

ANSWER: The City denies that the Fort Wayne Police Department used kinetic munitions on peaceful protestors on May 29, 30 and 31 or at any other time. The City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 141 and therefore denies them.

142. He is aware that protests are continuing. He has checked in on them, but he has not stayed as he is fearful of being exposed to further violence by law enforcement officials.

ANSWER: City denies the allegations in paragraph 142.

143. He wants to be able to engage in peaceful protest without fear and without needing to be hypervigilant.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 143 and therefore denies them.

Kendall Dimond

144. On May 29, 2020, Ms. Dimond joined other persons engaging in peaceful protest near the Allen County Courthouse.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 144 and therefore denies them.

145. During the afternoon she was on the sidewalk near the headquarters of the Fort Wayne Police Department when numerous police officers, dressed in riot garb, left the building heading towards the Courthouse.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 145 and therefore denies them.

146. She was instructed to get out of the way and she and other persons on the sidewalk moved so that they were pressed against a retaining wall, allowing the officers to pass.

ANSWER: City denies the allegations in paragraph 146.

147. As the officers walked by a number of them sprayed her and others with pepper spray.

ANSWER: City admits the allegations in paragraph 147.

148. She suffered intense discomfort, burning in her eyes and on her face, and respiratory difficulties.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 148 and therefore denies them.

149. The officers then proceeded to fire canisters of tear gas at protesters who were in the intersection of Main and Clinton Streets as well as firing into the crowds of protesters in the Courthouse Green and on neighboring sidewalks.

ANSWER: City admits that after warnings its officers deployed chemical munitions in an effort to clear the intersection of Main and Clinton Streets of a large crowd that was not only illegally blocking traffic but also was throwing objects at police and the traffic behind them. City denies the remaining allegations in paragraph 149.

150. The teargas directed to the protesters in the intersection resulted in all protesters except one leaving the intersection.

ANSWER: City denies the allegations in paragraph 150.

151. Members of the Fort Wayne Police Department proceeded to fire tear gas canisters directly at this man. He collapsed as he was apparently overcome by the tear gas.

ANSWER: City denies the allegations in paragraph 151.

152. Ms. Dimond was on the sidewalk and she and a number of persons entered the intersection and dragged the man to the sidewalks. As she did this the law enforcement officers fired numerous canisters of tear gas at them as they rescued this man.

ANSWER: City admits that Ms. Dimond can be seen on video dragging a protestor who had fallen in the street but otherwise denies the allegations in paragraph 152.

153. Much like the pepper spray, the tear gas caused intense discomfort. She had difficulty breathing and suffered pain in her face and eyes.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 153 and therefore denies them.

154. Law enforcement then started firing rubber bullets at persons on sidewalks as well as on the Courthouse Green.

ANSWER: City admits its officers deployed kinetic munitions. As written without reference to time, specific location or identification of the persons, the City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 154 and therefore denies them.

155. Although at one point, after she was initially sprayed with pepper spray, she heard an announcement that the protest had been declared to be an unlawful assembly, this was quickly followed, without warning, with cascade of tear gas.

ANSWER: City admits its officers deployed chemical munitions, but denies they did so without warning. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 155 and therefore denies them.

156. Persons were never instructed by law enforcement where they should go to safely leave the areas.

ANSWER: The City denies the allegations in paragraph 156.

157. On May 30, 2020, she arrived in the early evening and travelled to the area near the Martin Luther King bridge, where protesters were on the sidewalk.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 157 and therefore denies them.

158. She briefly left and by the time she came back Fort Wayne Police Department Officers were shooting tear gas canisters into crowds of persons in Freimann Square and in the Courthouse Green.

ANSWER: City admits its officers deployed chemical munitions. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 158 and therefore denies them.

159. People had gone into Freimann Square to try to escape the violent responses of police authorities directed to persons on the Courthouse Green. But law enforcement, from outside of Freimann Square, just launched multiple volleys of tear gas into the area.

ANSWER: City denies the allegations in paragraph 159.

160. Since that time she has returned to protests in and around the Courthouse Green only intermittently and only for brief periods of time. She generally just drives by.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 160 and therefore denies them.

160. She would like to be able to continue with protesting on the Courthouse Green and surrounding sidewalks. However, she is extremely fearful of being exposed to more violence from law enforcement.

ANSWER: City denies its officers used violence. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 160 and therefore denies them.

Matt Carmer

161. On May 29, 2020, Matt Carmer travelled to the Allen County Courthouse to participate in the peaceful protest that was ongoing.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 161 and therefore denies them.

162. He took his young child with him as he wanted to teach the child about the rights that all persons have in the United States to engage in peaceful protest.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 162 and therefore denies them.

163. He also wanted to teach the child about racism and the need for persons to stand up against it and its influences and effects.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 163 and therefore denies them.

164. He and his child participated in the peaceful protest for a period of time.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 164 and therefore denies them.

165. It started to rain, and he and his child went into Freimann Square to get under the trees there.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 165 and therefore denies them.

166. From there he saw the line of officers from the Fort Wayne Police Department leave police headquarters.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 166 and therefore denies them.

167. No demonstrators were behaving violently, but the police immediately began to deploy chemicals, indiscriminately, at protesters.

ANSWER: City denies the allegations in paragraph 167.

168. Almost immediately he saw plumes of smoke and persons being sprayed.

ANSWER: City denies the allegations in paragraph 168.

169. He heard people screaming.

ANSWER: City admits that the noise level in downtown Fort Wayne was extremely loud with lots of shouting and screaming at various times beginning around 5:00 p.m. on May 29, 2020, and that assuming Matt Carmer was downtown he most likely did hear a fair amount of screaming from the protestors. However, the

City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 169 and therefore denies them.

170. Shortly thereafter, the chemical clouds that the police had caused descended on him and his child in Freimann Square.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 170 and therefore denies them.

171. His child started coughing and while Mr. Carmer attempted to tend to the child Mr. Carmer felt the effects of the gas—his eyes started to water, and he began to cough.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 171 and therefore denies them.

172. He and his child ran to the far end of Freimann Square, attempting to get as far away from the Courthouse Green as possible.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 172 and therefore denies them.

173. His child was terrified and stated that that the police were coming to kill them.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 173 and therefore denies them.

174. He would like to go back to engage once again in peaceful protest, but he is unwilling to do so given the reaction of law enforcement on May 29. He would also like to teach his child that persons have the right to engage in peaceful protest.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 174 and therefore denies them.

175. If law enforcement is enjoined to allow peaceful protests he will return to protest, as from what he saw protesters were all peaceful before they were attacked.

ANSWER: City denies that Matt Carmer's professed observations that all protestors were peaceful and that they were attacked. City further denies that law enforcement must be enjoined to allow peaceful protests. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 175 and therefore denies them.

Janet Badia

176. On May 30, 2020, she participated in the protest for Black Lives Matter at the Allen County Courthouse, arriving in the late afternoon.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 176 and therefore denies them.

177. The protests were peaceful, and she left for a brief period to get dinner.

ANSWER: City admits the protest began peacefully. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 177 and therefore denies them.

178. Around 7:00 p.m. she received frantic texts from a group of friends who alerted her that law enforcement were teargassing people; a short time later, she received another text from those same friends saying they were trapped in a parking garage where they had sheltered to try to get away from the tear gas and to try to wash their eyes.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 178 and therefore denies them.

179. She and her partner went back downtown to try to get to their friends and provide them assistance.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 179 and therefore denies them.

180. They parked blocks from the Courthouse area and proceeded on foot.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 180 and therefore denies them.

181. While they walked near an area called The Landing, she passed a group of Fort Wayne Police Department officers who were standing outside their parked cruiser in the middle of the street. The police did not stop her and her partner from continuing to walk in the direction of the Courthouse.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 181 and therefore denies them.

182. As they approached the corner of Clinton and Main streets, they saw persons running towards them being followed by uniformed law enforcement officers. One of the persons was tackled by the police under the railroad bridge that bears a sign that says, "Welcome to Fort Wayne."

ANSWER: City lacks knowledge and information sufficient to form a belief as to truth of the allegations in paragraph 182 and therefore denies them.

183. She and her partner were on a street corner, at a distance from the officers.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 183 and therefore denies them.

184. They took videos of the police with their phones but did not, in any way, obstruct the police officers.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 184 and therefore denies them.

185. Nevertheless, several of the officers turned towards them and threw a tear gas canister at them and two other persons on the street corner, even though they were on a public sidewalk and were doing nothing illegal.

ANSWER: City denies the allegations in paragraph 185.

186. At no time did the police order them to disperse or make any comments at all.

ANSWER: City denies the allegations in paragraph 186

187. They ran and suffered only slight effects of the tear gas, but she did suffer some of the effects.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 187 and therefore denies them.

188. She has returned to the protests at and around the Courthouse on two to three occasions since that time.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 188 and therefore denies them.

189. When she returned, she was concerned about again being attacked without justification by law enforcement.

ANSWER: City denies its officers attacked anyone or took any actions without justification. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 189 and therefore denies them.

190. She would like to be able to engage in peaceful protest without fear of chemical and other attack by law enforcement.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 190 and therefore denies them.

Ben Schoch

191. On May 29, 2020 he was present on and around the Courthouse Green to participate in peaceful protests against racism and policing.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 191 and therefore denies them.

192. He took video of the events.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 192 and therefore denies them.

193. He witnessed members of the Fort Wayne Police Department in a line approach protesters.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 193 and therefore denies them.

194. Two officers threw tear gas canisters at the protesters and this was followed by numerous canisters being launched at protesters by mechanical means.

ANSWER: City admits its officers deployed chemical munitions. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 194 and therefore denies them.

195. There was absolutely no warning given to the protesters before the tear gas started.

ANSWER: City denies the allegations in paragraph 195.

196. He was on the Courthouse Green and tear gas canister after tear gas canister was launched at peaceful protesters.

ANSWER: City denies the allegations in paragraph 196.

198. He suffered the full effects of the tear gas – including tearing, itching, and burning eyes and skin on the face. He suffered intense burning sensations in his lungs.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 198 and therefore denies them.

199. Later that evening he returned to the Courthouse Green and its immediate vicinity to help pick up trash. There were hundreds of tear gas canisters on the ground.

ANSWER: City deny that there were hundreds of tear gas canisters on the ground in the Courthouse Green. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 199 and therefore denies them.

200. On May 30 he returned and engaged in peaceful protest on the sidewalks next to the Courthouse.

ANSWER: City admits the protest began peacefully on May 30. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 200 and therefore denies them.

201. He heard a warning from law enforcement to disperse and immediately thereafter law enforcement officers began to shoot volleys of tear gas at peaceful protesters on the sidewalks and the Courthouse Green.

ANSWER: City admits its officers made announcements and subsequently deployed chemical munitions. City denies the remaining allegations in paragraph 201.

202. He and a friend left to walk to where they had parked their cars.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 202 and therefore denies them.

203. Their path was blocked by a deputy sheriff who indicated they had to take another route.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 203 and therefore denies them.

204. They therefore walked down an alley to get to their cars.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 204 and therefore denies them.

205. They heard a group of young persons running behind them in the alley, and he saw law enforcement officers who gave no warning and said nothing, but who

proceeded to shoot tear gas canisters at them. One of the canisters hit him directly in the foot.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 205 and therefore denies them.

206. This was extremely painful.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 206 and therefore denies them.

207. He continues to return to the protests but is concerned about being again attacked with chemicals and suffering other harm from law enforcement. He is also concerned about being arrested even though he is engaged in peaceful protest.

ANSWER: City denies that its officers attacked anyone. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 207 and therefore denies them.

Nancy Virtue

208. On May 30, 2020, she and her partner, Steven Carr, participated in the peaceful protest against systemic racism on the Courthouse Green.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 208 and therefore denies them.

209. They left before there was any violence from law enforcement.

ANSWER: City denies there was violence from law enforcement. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 209 and therefore denies them.

210. However, they received messages about the teargassing and the other actions that were occurring and decided to return with supplies for persons who were suffering the effects of being teargassed and pepper sprayed.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 210 and therefore denies them.

211. They returned with their supplies and parked and began walking towards the Courthouse Green.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 211 and therefore denies them.

212. They passed a number of Fort Wayne Police Department officers who had parked their cars in the streets.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 212 and therefore denies them.

213. At no point did any of the officers indicate that they should turn back.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 213 and therefore denies them.

214. Nevertheless, as they walked on the sidewalks on Barr Street (the side street between Berry and Main Streets) Fort Wayne Police Department cars were stationed at both ends of Barr Street on Berry Street and Main Street.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 214 and therefore denies them.

215. Without saying anything the officers either threw or shot tear gas cannisters into Barr Street from both directions.

ANSWER: City denies the allegations in paragraph 215.

216. Initially, there were only a few people on the sidewalks on Barr Street and there was no one in the street. But once police began firing tear gas, people began to run down Barr Street to escape being hit.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 216 and therefore denies them.

217. She received a direct hit of tear gas to her face. This caused her to start coughing and her eyes burnt.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 217 and therefore denies them.

218. They ran into the parking garage to get out of the way and to try to tend to the effects of the teargas.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 218 and therefore denies them.

219. This was extremely painful and discomforting.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 219 and therefore denies them.

220. They remained in the parking lot but could hear the sounds of the disturbance at and near the Courthouse Green.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 220 and therefore denies them.

221. She has returned to participate in the protests but is extremely concerned about again being attacked with chemical weapons with no provocation.

ANSWER: City denies its officers attacked persons with no provocation. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 221 and therefore denies them.

Francisco Navarro

222. On May 30, 2020, Mr. Navarro arrived downtown at approximately 7:30 p.m. and travelled to the corner of Clinton and Berry Streets, where he met a crowd of peaceful protesters. He stood on the sidewalk along Clinton Street.

ANSWER: City denies the allegations in paragraph 222.

223. At the time that he arrived, there was a line of police standing in the middle Clinton Street, facing the protesters on Berry Street, but they were not engaging the protesters in any way.

ANSWER: City denies the allegations in paragraph 223.

224. After approximately 10-15 minutes, without warning or any other communication, police started shooting canisters of tear gas and rubber bullets into the assembled crowd.

ANSWER: City admits its officers deployed chemical and kinetic munitions, but denies its officers did so without warning or communication and denies the remaining allegations in paragraph 224.

225. Mr. Navarro ran with a group of other protesters for approximately one block, and then began rendering assistance to those who were overcome by the tear gas.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 225 and therefore denies them.

226. Before even being able to catch his breath, police again began firing tear gas and rubber bullets into the crowd.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 226 and therefore denies them.

227. As the group again attempted to flee, they rounded the corner of a building and were stopped by another line of police, who began tear gassing and shooting rubber bullets into the crowd.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 227 and therefore denies them.

228. At this point, the protesters were being shot with tear gas and rubber bullets from multiple sides.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 228 and therefore denies them.

229. The group then turned back, and ran along Berry Street, still being shot by tear gas and bullets, by both lines of officers.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 229 and therefore denies them.

230. At some point during these events, Mr. Navarro was hit by some sort of projectile, which left a bruise on his side.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 230 and therefore denies them.

231. He sprained both of his feet while running and was taken to the hospital for treatment. He had to use crutches to walk for approximately two weeks after the incident.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 231 and therefore denies them.

232. He felt the physical effects of the tear gas, including burning in his nose, throat, mouth, and eyes.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 232 and therefore denies them.

233. He has also witnessed police arresting peaceful protesters.

ANSWER: The City denies that it has ever arrested anyone for peacefully protesting. City admits that on June 15 during a protest, it effectuated arrests of

persons identified from video evidence and other evidence as having committed various infractions on the days prior. The City lacks knowledge and information sufficient to form a belief as to the truth of allegations of what Mr. Navarro did or did not witness. The City denies any remaining allegations in paragraph 233.

234. He has not engaged in any protest activities since mid-June, although he would like to, as he is extremely fearful of being exposed to more violence or arrest from law enforcement.

ANSWER: City denies the allegations in paragraph 234 and specifically notes that on August 24, 2020, the date of this Answer, Mr. Navarro was shown on video engaging in protest activities on or around the Courthouse Green.

235. He continues to suffer emotional injuries, as he is still afraid of police while he conducts his daily activities, and he has flashbacks to these events.

ANSWER: City denies the allegations in paragraph 235.

Kayla Harrington

236. On May 30, 2020, Ms. Harrington arrived downtown at approximately 6:30 p.m. and travelled to Freimann Park, where she joined a group of protesters who were peaceably assembled there.

ANSWER: City denies the allegations in paragraph 236.

237. After approximately ten minutes, she heard several boom sounds coming from the direction of the courthouse, where another group of protesters was located. She perceived that police were launching canisters of tear gas into that group of protesters. The people assembled around her started to shout “tear gas!”.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 237 and therefore denies them.

238. She then realized that tear gas was also being launched into the group of people where she was standing, and it appeared to be coming from both north and south of them.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 238 and therefore denies them.

239. She heard no warnings or any other communications from police before the tear gas canisters were launched at them.

ANSWER: City admits its officers deployed chemical munitions, but denies they did so without issuing warnings. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 239 and therefore denies them.

240. Police also began shooting rubber bullets indiscriminately into the crowd.

ANSWER: City denies the allegations in paragraph 240.

241. She and others in the group began to run to avoid the effects of the tear gas and being hit by the canisters and rubber bullets as they flew.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 241 and therefore denies them.

242. It was difficult to run, because her vision and breathing were impaired by the effects of the tear gas, including burning, watering of her eyes, and coughing.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 242 and therefore denies them.

243. As a result, she twisted her ankle trying to step around obstacles as she fled.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 243 and therefore denies them.

244. Police continued to chase her and the group of protesters, indiscriminately firing tear gas and rubber bullet into the crowd, which numbered over 100, east to the St. Mary River, then north to Headwaters Park, and then east over a bridge into the old fort.

ANSWER: City denies the allegations in paragraph 244.

245. Ms. Harrington witnessed police pepper spraying the fleeing protesters.

ANSWER: City denies the allegations in paragraph 245.

246. As she attempted to find a safe location, she witnessed three young adults trapped in a parking structure called Clinton Street Parking. Police were firing tear gas into the parking structure, and then pepper spraying the individuals as they attempted to leave.

ANSWER: City denies the allegations in paragraph 246.

247. Ms. Harrington witnessed police arresting individuals who were peacefully protesting on the Courthouse Green.

ANSWER: The City denies that it has ever arrested anyone for peacefully protesting. City admits that on June 15 during a protest, it effectuated arrests of persons identified from video evidence and other evidence as having committed various infractions on the days prior. The City lacks knowledge and information sufficient to form a belief as to the truth of allegations of what Ms. Harrington did or did not witness. The City denies any remaining allegations in paragraph 247.

248. As a result of seeing police arrest peaceful protesters, even away from protest sites, she has not participated in any protest activities.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 248 and therefore denies them.

249. She would like to be able to continue protesting, however, she is extremely fearful of being exposed to more violence or arrest from law enforcement.

ANSWER: City denies its officers used violence. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 249 and therefore denies them.

250. She continues to be afraid of police as he conducts her daily activities.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 250 and therefore denies them.

Emma Baker

252. On May 29, 2020, Ms. Baker arrived downtown at approximately 10:00 p.m. and travelled toward the Courthouse Green with the goal of documenting peaceful protect activities.

ANSWER: City denies the allegations in paragraph 252.

253. As she approached the intersection of Calhoun and Berry Streets, she noticed a group of police standing in a line opposite a group of protesters, who were standing in the street holding hands.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 253 and therefore denies them.

254. Ms. Baker stopped at that intersection, on the sidewalk of Calhoun Street, in order to begin documenting these activities using the camera on her phone. There were approximately 6-7 people assembled on the sidewalk alongside her.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 254 and therefore denies them.

255. Without warning, police officers then launched a tear gas canister into the group of protesters in the street, with the cloud overtaking the individuals both in the street and on the sidewalk.

ANSWER: City admits its officers deployed chemical munitions, but denies they did so without issuing warnings. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 255 and therefore denies them.

256. One of the officers then said, "Do you want some more?"

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 256 and therefore denies them.

257. As a result of being hit with the tear gas, Ms. Baker turned and attempted to leave.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 257 and therefore denies them.

258. Officers then launched another canister, effectively blocking the path of those attempting to escape.

ANSWER: City denies the allegations in paragraph 258.

259. Ms. Baker felt the physical effects of the tear gas, including difficulty breathing, and burning eyes, throat, and lungs.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 259 and therefore denies them.

260. Ms. Baker no longer felt safe participating in the protest activities, and she left the area.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 260 and therefore denies them.

261. On May 30, 2020, Ms. Baker travelled downtown to the Courthouse Green at around 1:00 p.m. to participate in peaceful protest activities.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 261 and therefore denies them.

262. At around 3:00 p.m., she viewed a group of protesters move into the road at the corner of Clinton and Main Streets.

ANSWER: City admits that at some point in the afternoon of May 30, 2020, after 1:00 pm, protesters, without permission and in violation of state and local laws, moved into the road and began blocking traffic and eventually intimidating people who were lawfully driving in the City streets. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 262 and therefore denies them.

263. Police began to launch tear gas canisters both into the group of protesters in the road and those peaceably assembled on the Courthouse Green and surrounding sidewalks.

ANSWER: City admits that at some point on the afternoon of May 30, 2020, Fort Wayne Police Department deployed chemical munitions. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 263 and therefore denies them.

264. Ms. Baker remained on the sidewalk, and was hit by the clouds of tear gas.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 264 and therefore denies them.

265. Ms. Baker again left the area after being affected by the tear gas fired indiscriminately into the crowd.

ANSWER: City denies that tear gas was fired indiscriminately into the crowd. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 265 and therefore denies them.

266. She would like to be able to continue protesting, however, she is extremely fearful of being exposed to more violence from law enforcement.

ANSWER: City denies its officers used violence. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 266 and therefore denies them.

Skyler Darnell

267. On May 30, 2020, at approximately 3:00 p.m., Ms. Darnell travelled to the Courthouse Green and joined a group of protesters who were peaceably assembled there.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 267 and therefore denies them.

268. She positioned herself on the sidewalk at the intersection of Main and Clinton Streets. She stayed in that area for approximately 90 minutes.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 268 and therefore denies them.

269. One group of protesters was assembled in the road, engaging in peaceful protest.

ANSWER: City admits that protestors, without permission and in violation of state and local laws, moved into the street. City denies the remaining allegations in paragraph 269.

270. They appeared to be attempting to disperse, when police began firing tear gas canisters into the crowd.

ANSWER: City denies that the protestors appeared to be attempting to disperse. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 270 and therefore denies them.

271. Ms. Darnell ran from the sidewalk onto the Courthouse Green, but police continued shooting tear gas canisters onto the lawn, with the cloud of tear gas hitting Ms. Darnell.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 271 and therefore denies them.

272. She ran to an unused parking lot in order to escape the tear gas.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 272 and therefore denies them.

273. Later in the day she decided to head home, and she walked to Freimann Park, as she was waiting on her brother to retrieve the family's car.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 273 and therefore denies them.

274. She noticed that police appeared to be lining up near the park, so she decided to try to document the peaceful protest activities using the camera on her phone.

ANSWER: City denies that at the point in time referenced there were peaceful protests occurring. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 274 and therefore denies them.

275. Without warning, police began to shoot tear gas canisters into the groups of people peacefully assembled in Freimann Park. On one side of the park, police were also shooting rubber bullets into the crowd.

ANSWER: City denies the allegations in paragraph 275.

276. She saw a man yelling at the police to stop teargassing peaceful protesters, who was positioned a short distance in front of her.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 276 and therefore denies them.

277. The police then shot tear gas canisters in the direction of that man and the group of protesters that Ms. Darnell was positioned with.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 277 and therefore denies them.

278. One of those canisters hit Ms. Darnell in the ankle.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 278 and therefore denies them.

279. In order to escape the tear gas, Ms. Darnell ran to a train track bridge that crosses Clinton Street. She attempted to hide under that bridge, where she continued to be pummeled with tear gas from multiple sides, trapping her in.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 279 and therefore denies them.

280. A police officer pointed a gun at her and told her to leave.

ANSWER: City denies the allegations in paragraph 280.

281. She responded that she was trying to leave, but she was blocked by police and the tear gas from reaching her car.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 281 and therefore denies them.

282. The officer responded that this was not his problem, and that she should call an Uber.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 282 and therefore denies them. However, the City states that this would be a perfectly reasonable response under the circumstances.

283. After she was able to leave the bridge, she was crossing Berry Street in order to reach her vehicle.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 283 and therefore denies them.

284. A black sport utility vehicle containing law enforcement officers then pulled up alongside her. Without stopping, the passenger opened the window, threw a tear gas canister at her, and laughed.

ANSWER: City denies the allegations in paragraph 284.

285. She felt the negative effects of the tear gas, including difficulty breathing, and burning in her eyes, throat, and mouth.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 285 and therefore denies them.

286. Due to lingering pain in her throat, she was not able to eat solid food for almost a week after this incident.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 286 and therefore denies them.

287. She also suffered a bruise on her ankle from being hit with the tear gas canister.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 287 and therefore denies them.

288. She would like to be able to continue protesting, however, she is extremely fearful of being exposed to more violence from law enforcement.

ANSWER: City denies the allegations in paragraph 288.

Nicole Labossier

289. On May 29, 2020, Ms. Labossier arrived downtown at approximately 6:00 p.m. and travelled to the Courthouse with her husband and her fifteen-year old son, where she joined a group of protesters who were peaceably assembled there.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 289 and therefore denies them.

290. Her group peacefully protested on the Courthouse Green, then a number of persons marched to the Martin Luther King, Jr. bridge and back toward the Green. This march back and forth happened a couple of times.

ANSWER: City admits that without permission and in violation of state and local laws, persons marched to the Martin Luther King, Jr. Bridge and back toward the Green. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 290 and therefore denies them.

291. As she stood on the west side of the intersection of Clinton and Main Streets alongside her family and several reporters, she saw police, dressed in riot gear, advancing toward them along Clinton Street along the edge of the street and on the sidewalk, spraying protesters with a chemical who were peaceably assembled on the sidewalk.

ANSWER: City denies the allegations in paragraph 291.

292. Police then lined up across Clinton Street at the intersection with Main Street, approximately 15 feet away from where Ms. Labossier was standing.

ANSWER: City admits its officers lined up across Clinton Street at the intersection with Main Street. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 292 and therefore denies them.

293. At that time, a group of protesters was peacefully assembled in the intersection, approximately eight feet away from the line of police.

ANSWER: City denies the allegations in paragraph 293.

294. Ms. Labossier was standing at the southwest corner of Clinton Street and Main Street, on the sidewalk.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 294 and therefore denies them.

295. Without warning or any other communication, police then released tear gas canisters into the crowd of protesters who were assembled in the street.

ANSWER: City admits its officers deployed chemical munitions, but denies they did so without warning or communication. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 295 and therefore denies them.

296. After one to two minutes, again without warning or any other communication, the police also fired tear gas canisters at Ms. Labossier and nearby protesters who were now standing on the Courthouse Green.

ANSWER: City admits its officers deployed chemical munitions, but denies they did so without warning or communication and denies that chemical munitions were fired at any person. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 296 and therefore denies them.

297. Ms. Labossier and her family then retreated further into the Courthouse Green, in order to avoid the tear gas and its effects.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 297 and therefore denies them.

298. Police then fired tear gas into the crowd of protesters on all sides of the Courthouse Green.

ANSWER: City admits that it deployed chemical munitions into the Courthouse Green in an effort to disperse the rioters but denies remaining the allegations in paragraph 298.

299. Several canisters landed immediately next to Ms. Labossier and her family, and her son fell down on several occasions, gagging from the effects of the tear gas.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 299 and therefore denies them.

300. Two volunteer medics carried Ms. Labossier's son to Berry Street in order to render him aid, but the tear gas canisters continued to be fired and to reach them at that location.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 300 and therefore denies them.

301. She felt the effects of the tear gas, including burning in her eyes and throat, shortness of breath, and coughing, and her lungs continued to hurt through the following day.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 301 and therefore denies them.

302. Since that time, she has participated in further protest activities, but she is extremely fearful of being exposed to more violence from law enforcement.

ANSWER: City denies its officers used violence. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 302 and therefore denies them.

Amanda Joseph

303. On May 29, 2020, at approximately 10:00 p.m., Amanda Joseph went downtown hoping to attend a peaceful protest taking place on the Courthouse Green.

ANSWER: City denies that there were any peaceful protests occurring on the Courthouse Green at approximately 10:00 p.m. on May 29. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 303 and therefore denies them.

304. She walked to Main and Calhoun Streets, on the back side of the courthouse.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 304 and therefore denies them.

305. Approximately two minutes later police in riot gear walked down Main Street, throwing canisters of tear gas into the crowd assembled on the sidewalks. She never heard police issue a warning, and she was overtaken by the tear gas.

ANSWER: City admits its officers deployed chemical munitions, but denies its officers did so without issuing a warning. City lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations in paragraph 305 and therefore denies them.

306. She walked quickly to Calhoun and Wayne Streets where she witnessed protestors treating their exposure to tear gas with milk and water.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 306 and therefore denies them.

307. There, she witnessed police arresting protesters.

ANSWER: City admits the police made lawful arrests that night. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 307 and therefore denies them.

308. From there she traveled to the corner of Calhoun and Berry Streets.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 308 and therefore denies them.

309. Police again walked down the road in full riot gear, throwing canisters of tear gas into the crowds of protesters on the sidewalk.

ANSWER: City admits its officers deployed chemical munitions. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 309 and therefore denies them.

310. Because she was overwhelmed by the effects of the violence and tear gas, she travelled a block away, and attempted to render aid to others who were tear gassed.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 310 and therefore denies them.

311. She is pregnant, and did not want to expose herself to further possible injury, and decided to leave.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 311 and therefore denies them.

312. As she was leaving, she witnessed police pepper spraying two young men at point blank range, causing them to fall to the ground. She then rendered them aid by providing them with milk for their eyes.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 312 and therefore denies them.

313. On May 30, 2020, Ms. Joseph returned to the Courthouse Green to listen to speakers who were scheduled to make remarks to the public.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 313 and therefore denies them.

314. As she was standing on the corner of Berry and Barr Streets, the police began firing tear gas canisters into the crowd, indiscriminately. She heard no warning prior to these canisters being fired.

ANSWER: City denies the allegations in paragraph 314.

315. In order to avoid the tear gas, she walked on the sidewalk from the courthouse to the Martin Luther King Bridge, where further protest activities were occurring, and then back to the Courthouse Green. When she had to cross the street she used the crosswalk.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 315 and therefore denies them.

316. At this point, a crowd of protesters was gathered at Clinton and Berry Streets because the sidewalks were blocked by police.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 316 and therefore denies them.

317. Police then began to shoot rubber bullets into the crowd.

ANSWER: City denies the allegations in paragraph 317.

318. She witnessed a man shot in the back with a rubber bullet as he was attempting to walk away after being told to leave the area.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 318 and therefore denies them.

319. He fell to the ground, unconscious, and the police threw a canister of tear gas next to him.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 319 and therefore denies them.

320. A crowd pulled him to safety, and as they attempted to treat his injuries, police threw a tear gas canister into the group.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 320 and therefore denies them.

321. As Ms. Joseph and at least ten other people walked through a nearby alley attempting to leave the area, police threw tear gas canisters on both sides of the group, so that they would be trapped between clouds of tear gas.

ANSWER: City denies that it intentionally trapped individuals between clouds of chemical munitions intended to cause people to leave the area. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 321 and therefore denies them.

322. Once she was able to escape the alley, Ms. Joseph stood on the corner of Barry and Lafayette Streets, ready to cross the street to her vehicle, when she saw police cars driving around, with officers throwing tear gas canisters out of the windows.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 322 and therefore denies them.

323. On June 6, 2020 Ms. Joseph was walking her dog near Barr and Barry Streets after leaving a scheduled and permitted event on the Courthouse Green.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 323 and therefore denies them.

324. When she was walking towards her car she ran into friends who were walking into a restaurant.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 324 and therefore denies them.

325. As she was standing, talking to friends and the workers of the restaurant, Fort Wayne Police Department officers pulled up in a SWAT van and ordered them to disperse.

ANSWER: City denies the allegations in paragraph 325.

326. Some of those individuals, including the owner of the restaurant, walked into the restaurant.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 326 and therefore denies them.

327. Police then entered the restaurant, and dragged several individuals out onto the sidewalk.

ANSWER: City denies the allegations in paragraph 327.

328. Police then shot rubber bullets at Ms. Joseph and her dog as they attempted to follow the police's instructions to disperse.

ANSWER: City denies the allegations in paragraph 328.

329. During these events, Ms. Joseph suffered the physical effects of inhaling tear gas, including burning and watering eyes, coughing, nausea, and difficulty breathing.

ANSWER: City lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 329 and therefore denies them.

330. She also suffered emotional injuries from witnessing other individuals being brutalized by police.

ANSWER: City denies its officers brutalized anyone. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 330 and therefore denies them.

331. She would like to engage in peaceful protest, but she is now fearful of engaging in any protest activities and of further violence by police.

ANSWER: City denies its officers used violence. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 331 and therefore denies them.

332. She remains fearful of future violence by law enforcement as she conducts her daily activities.

ANSWER: City denies its officers used violence. City lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 332 and therefore denies them.

Concluding allegations

333. On information and belief defendants have employed drones to survey the crowd and to identify persons who have engaged in peaceful protest.

ANSWER: City admits its officers and employees have employed drones during the protests at issue in this lawsuit. City denies the remaining allegations in paragraph 333.

334. At no point has any representatives of the City of Fort Wayne or the Allen County Sheriff's Department indicated that it was a mistake to use tear gas, stun grenades, pepper spray, and rubber bullets against peaceful protesters. Nor have they promised not to use similar weapons and tactics in the future to suppress peaceful protest.

ANSWER: This allegation presumes that it was a "mistake" for the Fort Wayne Police Department and Allen County Sheriff's Department to deploy chemical and kinetic munitions in an effort to clear rioters who were engaging in illegal conduct from an emergency incident area and that weapons and tactics were used to suppress peaceful protests, and the City denies both of these. The City admits that it has not apologized for these actions and denies that an apology is warranted. The City denies any remaining allegations in paragraph 334.

335. The violent response to peaceful protests by the officers, agents, and employees of the defendants has led to persons being unwilling to exercise their rights to engage in peaceful protest.

ANSWER: City denies the allegations in paragraph 335 and expressly notes that protest activity has continued in the City of Fort Wayne well past June 14, 2020, with persons, including Plaintiffs in this case, continuing to exercise their rights to engage in peaceful protests, without any engagement with or intervention with law enforcement.

336. The items used by defendants to interfere with, punish, and disperse peaceful protest are dangerous.

ANSWER: City denies the allegations in paragraph 336.

337. It is the practice or policy of the defendants to utilize these items on peaceful protesters.

ANSWER: City denies the allegations in paragraph 337.

338. The defendants have engaged in a practice, without lawful justification, of preventing peaceful protest in public spaces.

ANSWER: City denies the allegations in paragraph 338.

339. The actions and the inactions of the defendants, their officers, agents, and employees, have had the effect of denying persons the ability to peaceably assemble and protest. They also represent the objectively unreasonable use of force.

ANSWER: City denies the allegations in paragraph 339.

340. The plaintiffs and the members of the plaintiff organizations are suffering continuing harm in that their rights to peaceably protest have been and continue to be chilled by the actions and inactions of the defendants, their officers, agents, and employees.

ANSWER: City denies the allegations in paragraph 340.

341. The plaintiffs and the members of the plaintiff organizations are suffering continuing harm in that they are threatened with the objectively unreasonable use of force by defendants, their officers, agents, and employees.

ANSWER: City denies the allegations in paragraph 341.

342. The individual plaintiffs have been damaged by the actions and inactions of defendants, their officers, agents, and employees.

ANSWER: City denies the allegations in paragraph 342.

343. Plaintiffs and the members of the plaintiff organizations are being caused irreparable harm for which there is no adequate remedy at law.

ANSWER: City denies the allegations in paragraph 343.

344. At all times the defendants, their officers, agents, and employees have acted under color of state law.

ANSWER: City admits the allegations in paragraph 344.

Jury demand

345. The individual plaintiffs request a trial by jury on all claims so triable.

ANSWER: This paragraph does not contain any factual allegations to admit or deny. City also requests a trial by jury.

Legal claims

346. The actions of the defendants, their officers, agents, and employees, in attempting to interfere with and stop lawful protest activities in Fort Wayne through the use of tear gas, pepper spray, rubber bullets, stun grenades, and overwhelming shows of force, violate the First Amendment to the United States Constitution.

ANSWER: City denies these allegations.

347. The use of such things as tear gas, stun grenades, rubber bullets, and pepper spray against peaceful protesters was and is the objectively unreasonable use of force in violation of the Fourth Amendment to the United States Constitution.

ANSWER: City denies these allegations.

SEPARATE DEFENSES

City incorporates as if fully set forth herein their responses to Plaintiffs' Amended Complaint and further alleges and states:

1. City denies “liability” (and every allegation of supposed “wrongful conduct”).
2. Plaintiffs’ “Amended Complaint” fails to state a claim upon which relief can be granted.
3. Plaintiffs’ claims are barred in whole or in part under the *Monell* doctrine.
4. No act or omission of the City proximately caused the incident(s) of which Plaintiffs complain.
5. No act or omission of the City proximately caused Plaintiffs’ injuries (or supposed damages).
6. The use of force by City’s officers was reasonable.
7. Defendants reserve the right to plead additional defenses and other matters, as discovery in this case progresses.

WHEREFORE, Defendant, City of Fort Wayne, by counsel, requests that Plaintiffs take nothing by way of their Amended Complaint and for all other just and proper relief in the premises (including “costs” and attorneys’ fees).

JURY DEMAND

City demands a trial by jury pursuant to Fed. R. Civ. Pro. 38.

Respectfully submitted,

/s/Anne L. Cowgur

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CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2020, a copy of the foregoing document was served via the Court's electronic filing system upon all counsel of record.

/s/ Anne L. Cowgur