

**STATE OF MICHIGAN
IN THE 7th CIRCUIT COURT FOR GENESEE COUNTY**

ARTHUR WOODSON,
BEVERLY BRIGGS-LEAVY,
TREVOR BERRYHILL,
MICHIGAN OPEN CARRY, INC.,
MICHIGAN GUN OWNERS, and
MICHIGAN COALITION FOR RESPONSIBLE
GUN OWNERS

Plaintiffs,

v.

SHELDON NEELEY, in both his official and
personal capacities, and
FLINT CITY COUNCIL

Defendants

Case No: 23- 119881 -CZ
Hon. CELESTE D. BELL
P-41453

**JOINT COMPLAINT
AND JURY DEMAND**

A TRUE COPY
Genesee County Clerk

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JOINT COMPLAINT

Plaintiffs ARTHUR WOODSON, BEVERLY BRIGGS-LEAVY, TREVOR BERRYHILL, MICHIGAN OPEN CARRY, INC., MICHIGAN GUN OWNERS, and MICHIGAN COALITION FOR RESPONSIBLE GUN OWNERS through their respective counsel, independently bring this Joint Complaint for Injunctive, Exemplary, and Declaratory relief against Defendants SHELDON NEELEY and FLINT CITY COUNCIL, and state as follows.

INTRODUCTION

1. Every state in the Nation and the Federal government has enacted some form of open meetings law to ensure governmental accountability by providing citizens with the right to witness, view, and participate in the democratic process. These laws form a minimum expectation of openness and transparency for public bodies and officials while they engage in the process of decision making.

2. The Michigan *Open Meetings Act* (OMA); MCL 15.261 – 15.275, is this State's version of such a law. It requires, among other things, that all meetings of public bodies must be open to the general public and that the general public has a right to attend these meetings without prior approval or condition precedent.

3. While somewhat improved in recent years, the City of Flint has consistently ranked as one of the most violent cities in the United States. Murders, and other violent crimes, continue to be a serious problem within the City.

4. Many individuals, including members of the Flint City Council, lawfully carry various items for their own personal protection while going to, coming from, and attending open meetings in the City of Flint. They do this to help ensure that they are able to safely participate in the democratic process.

5. Defendants are intentionally violating the minimum expectations enshrined in the OMA by purposely limiting or outright excluding participation in the City's democratic process by illegally denying access to open meetings to individuals lawfully in possession of items such as self-defense spray (aka pepper spray), pocket knives, electro-muscular disruption devices (aka tasers), and firearms for their own personal protection.

6. Plaintiffs seek preliminary and permanent injunctive, and declaratory relief with immediate consideration thereof to halt Defendants' unlawful practice of purposeful and targeted exclusion from open meetings of those who seek to ensure their own personal safety via the lawful possession of items commonly carried for self-defense.

PARTIES

7. Plaintiff Arthur Woodson is a Flint resident who was denied entry to one or more meetings of Defendant FLINT CITY COUNCIL due to having foam self-defense spray for self-protection.

8. Plaintiff Beverly Briggs-Leavy is a Flint resident who was required to pass through a checkpoint as a requirement to enter one or more meetings of Defendant FLINT CITY COUNCIL.

9. Plaintiff Trevor Berryhill is a Flint resident who was denied entry to one or more meetings of Defendant FLINT CITY COUNCIL due to having a legally carried firearm for self-protection.

10. Plaintiff MICHIGAN OPEN CARRY, INC. [hereinafter "MOC"] is a Michigan not-for-profit advocacy organization created under the Nonprofit Corporation Act of 1982, that supports the lawful carry of handguns for self-defense. MOC provides written material for the use of its members, municipalities, and law enforcement that outlines the laws associated with the lawful carry of handguns. MOC has a presence in the City of Flint, Michigan, and represents the interests of its member(s) having an actual case or controversy and interest in this matter and in preventing recurrence of the same issue as raised in this complaint.

11. Plaintiff MICHIGAN GUN OWNERS [hereinafter "MGO"] is a Michigan nonprofit organization created under the Michigan Nonprofit Corporation Act (Act 162 of 1982). MGO's goals include educating the public on safe responsible gun ownership and preserving and defending the right to keep and bear arms as guaranteed by the Bill of Rights and Article I, section 6 of Michigan's Constitution. MGO has a presence in the City of Flint, Michigan, and represents the interests of its member(s) having an actual case or controversy and interest in this matter and in preventing recurrence of the same issue as raised in this complaint.

12. Plaintiff MICHIGAN COALITION FOR RESPONSIBLE GUN OWNERS [hereinafter "MCRGO"] is a non-profit, non-partisan, Michigan corporation formed for the purpose of supporting and defending the right to keep and bear arms via education, legislation, and litigation with thousands of members statewide. MCRGO has trained well over 300,000 Concealed Pistol License holders, some of whom reside in each of Michigan's counties. MCRGO has a presence in the City of Flint, Michigan, and represents the interests of its member(s) having an actual case or controversy and interest in this matter and in preventing recurrence of the same issue as raised in this complaint.

13. Defendant SHELDON NEELEY is the elected Mayor of the City of Flint, Michigan.

14. Defendant SHELDON NEELEY is a "public official" pursuant to the OMA, MCL 15.273.

15. Defendant FLINT CITY COUNCIL is a body of 9 members charged with making policy decisions and enacting ordinances for the City of Flint, Michigan.

16. Defendant FLINT CITY COUNCIL is a “public body” as that term is defined by the OMA, MCL 15.262(a).

JURISDICTION

17. This Court has jurisdiction by statute pursuant to MCL 15.271(1) and MCL 15.273(3).

18. Venue is proper in this case pursuant to MCL 15.271(2) as an office of the public body is located within the County of Genesee.

GENERAL ALLEGATIONS

Open Meetings Act

19. In general, “[a]ll meetings of a public body must be open to the public and must be held in a place available to the general public. All persons must be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body.” MCL 15.263(1).

20. A public body may not require a person attending an open meeting to register, provide information, or “otherwise to fulfill a condition precedent to attendance.” MCL 15.263(4).

21. A public body may not exclude a person from an open meeting except for a “breach of the peace actually committed at the meeting.” MCL 15.263(6).

Local Administrative Order 2020-01J

22. The 67th District Court is the local district court located in Flint, MI.

23. In conjunction with this Court and the Genesee County Probate Court, the 67th District Court created a joint Local Administrative Order 2020-01J [hereinafter “AO 2020-01J”].

24. A fair and accurate copy of AO 2020-01J is attached hereto as **Exhibit 1**.

25. AO 2020-01J prohibits weapons “and other impermissible items” in the “Genesee County Courthouse, 67th District Court-McCree Building, . . . or any satellite District Court or office, including the Office of the Friend of the Court, District Court Probations, Juvenile Probation, Court Services and the Specialty Courts Office.”

26. AO 2020-01J defines “impermissible items” as:

- “1. Firearms and explosives of any kind (including fireworks);
2. Knives, box cutters, razor blades, fingernail files, scissors, knitting needles and similar items;
3. Tools, such as hammers, screw drivers, pliers, wrenches, nails, chains or any tool that may be used as a weapon;
4. Chemical sprays, such as mace, pepper sprays or any spray that could be considered harmful;
5. Marijuana or other intoxicating substances.”

27. AO 2020-01J provides an exception for “security personnel of the Court, personnel of the Office of the Genesee County Sheriff or local law enforcement officers appearing in the performance of their official duties, if the officer is in uniform.”

28. AO 2020-01J states that any other exception must be obtained in advance from the Chief Judge in writing.

29. AO 2020-01J also “strictly prohibit[s]” the taking of photographs or audio/video, broadcasting or live streaming, except for the media without prior written consent, and “strictly prohibit[s]” the use of devices for these purposes.

30. The 67th District Court has no presence at Flint City Hall.

31. AO 2020-01J does not otherwise apply to Flint City Hall, explicitly or implicitly.

October 18, 2023, Meeting

32. On or about October 18, 2023, Defendant SHELDON NEELEY directed the placement of a metal detector outside of the doors of the chambers for Flint City Council meetings, in Flint City Hall, for the purpose of screening prospective attendees to open meetings of the Council. **Exhibit 2.**

33. After the installation of said metal detector, and with knowledge of the detector’s placement and use, Defendant FLINT CITY COUNCIL held a meeting subject to the OMA where individuals were required by Flint Police Department officers operating the detector to pass through the detector as a condition of admittance to the open meeting. *Id.*

34. Defendant SHELDON NEELEY told the media that the purpose was to determine who possessed firearms and that he knew that he had no authority to ban them from open meetings. **Exhibit 3.**

October 23, 2023, Meeting

35. On or about October 23, 2023, the City of Flint, at the direction of Defendant SHELDON NEELEY, publicly stated that it had agreed to allocate space for the 67th District Court to hold hearings and that "Flint City Hall is now a 'gun-free zone.'" **Exhibit 4.**

36. The October 23 announcement stated that this prohibition would exist pursuant to "Local Administrative Order 2020-01J, [for the] 67th District Court".

37. The 67th District Court has not claimed jurisdiction over any part of Flint City Hall.

38. Flint City Hall is not under the jurisdiction of the 67th District Court, in whole or in part.

39. On the same day, Defendant SHELDON NEELEY directed that the metal detector be moved to the front door of Flint City Hall and members of the general public in possession of items deemed prohibited by the Defendants, not the 67th District Court, be prohibited from entering the building while the meeting of Defendant FLINT CITY COUNCIL was in progress. **Exhibit 5.**

40. Later on the same day, and with knowledge of the facts alleged in the previous paragraph, Defendant FLINT CITY COUNCIL held another meeting subject to the OMA in the City Council chambers. **Exhibit 6.**

41. Members of the general public who attempted to attend this meeting were forced to walk through the metal detector, monitored by City police officers, as a condition of admittance to the open meeting. **Exhibit 7.**

42. Members of the general public who were found to be in otherwise lawful possession of firearms or other items, such as self-defense spray, pocketknives, or electro-muscular disruption devices, for personal protection, were prohibited from entering to attend the meeting.

43. In an email to East Village Magazine, an online news publication, an administrator for the City of Flint stated that the new relationship with the 67th District Court would assist the City's Administrative Hearings Bureau with "blight court" hearings. **Exhibit 8.**

44. The email stated that 67th District Court hearings in Flint City Hall would "commence in a matter of weeks."

45. The email also stated that the City, not the 67th District Court, is still trying to figure out how AO 2020-01J applies in Flint City Hall.

46. "Blight court" hearings are conducted under the City of Flint's Administrative Bureau.

47. The Administrative Bureau is not associated with the 67th District Court.

48. The Administrative Bureau holds “blight court” hearings in the basement room of Flint City Hall.

49. Decisions of the Administrative Bureau are appealable to this Court, the 7th Circuit Court for Genesee County.

October 26, 2023, Meeting

50. On October 26, 2023, Defendant FLINT CITY COUNCIL held a meeting subject to the OMA, called as a special meeting by Defendant SHELDON NEELEY. **Exhibit 9.**

51. Again, members of the general public who attempted to attend this meeting were forced to walk through the metal detector by Flint police officers as a condition of admittance to the meeting.

52. Again, members of the general public who were found to be in possession of firearms or other items, such as self-defense spray or pocketknives, for personal protection, were prohibited from entering to attend the meeting.

COUNT I VIOLATION OF OPEN MEETINGS ACT – MCL 15.263 Defendant FLINT CITY COUNCIL

53. Plaintiffs incorporate the previous allegations as if set forth word for word herein.

54. Plaintiffs have suffered irreparable injury through their unlawful exclusion from open meetings by Defendants.

55. Plaintiffs will continue to suffer irreparable injury through their unlawful exclusion from open meetings by Defendants in the absence of a preliminary injunction.

56. The ongoing and threatened injury to Plaintiffs’ rights to attend, photograph, and record such open meetings outweighs the harm alleged by Defendants.

57. Granting relief will not harm Defendants.

58. An injunction is not adverse to the public interest.

59. Plaintiffs have a substantial likelihood of success on the merits.

60. Plaintiffs have no plain, adequate, or speedy remedy at law, and will suffer significant, permanent, and irreparable harm if an injunction is not entered enjoining Defendant FLINT CITY COUNCIL from continuing to violate the OMA as alleged.

COUNT II
INTENTIONAL VIOLATION OF OPEN MEETINGS ACT – MCL 15.273
DEFENDANT SHELDON NEELEY in his personal capacity

61. Plaintiffs incorporate the previous allegations as if set forth word for word herein.

62. Defendant SHELDON NEELEY has intentionally acted to prevent members of the general public from attending open meetings that they are otherwise fully entitled to attend.

63. Defendant SHELDON NEELEY has intentionally acted to prevent members of the general public in lawful attendance at open meetings from lawfully photographing or recording open meetings as is expressly permitted under the OMA.

64. Defendant SHELDON NEELEY has intentionally acted to create and enforce unlawful conditions precedent to attendance of open meetings subject to the OMA.

65. Defendant SHELDON NEELEY has intentionally acted to unlawfully exclude members of the general public from open meetings subject to the OMA for reasons that do not involve a disturbance of the peace actually committed at the meeting.

COUNT III
DECLARATORY RELIEF - MCR 2.605
DEFENDANTS FLINT CITY COUNCIL and SHELDON NEELEY in his official capacity

66. Plaintiffs incorporate the previous allegations as if set forth word for word herein.

67. Neither Defendant SHELDON NEELEY nor Defendant FLINT CITY COUNCIL are part of the 67th District Court.

68. Neither Defendant SHELDON NEELEY nor Defendant FLINT CITY COUNCIL have the authority to invoke or otherwise exercise the authority of the 67th District Court.

69. Neither Defendant SHELDON NEELEY nor Defendant FLINT CITY COUNCIL have the authority to decide which parts of AO 2020-01J should be enforced and which should not.

70. Neither Defendant SHELDON NEELEY nor Defendant FLINT CITY COUNCIL have the authority to grant exceptions to AO 2020-01J.

RELIEF REQUESTED

71. WHEREFORE, Plaintiffs respectfully request this Court to:

- a. Enter a preliminary and permanent injunction against Defendant FLINT CITY COUNCIL, pursuant to MCL 15.271, enjoining Defendant from holding open meetings subject to the OMA, where:
 - i. members of the general public are excluded based on their possession of items that are otherwise permitted to be carried under state law;
 - ii. members of the general public are prohibited from photographing, recording, or broadcasting open meetings;
 - iii. members of the general public are required to satisfy a condition precedent to entry to the open meeting; and
 - iv. members of the general public are excluded from an open meeting for a reason other than a breach of the peace actually committed at the meeting.
- b. Find that Defendant SHELDON NEELEY intentionally violated the OMA by intentionally acting to unlawfully close open meetings to members of the general public who are otherwise entitled to attend such open meetings, intentionally acting to deny individuals in attendance at open meetings their right to photograph and record such open meetings, intentionally creating unlawful conditions precedent to attendance to open meetings, and intentionally acting to exclude members of the general public from open meetings based on justifications unrelated to public disturbances actually committed at such open meetings;
- c. Hold that Defendant SHELDON NEELEY, in his official capacity, and Defendant FLINT CITY COUNCIL lack any authority to invoke or otherwise exercise the authority of the 67th District Court, including, but not limited to, arbitrarily applying AO 2020-01J.
- d. Award actual attorney fees, costs, damages, and fines as required by MCL 15.271(4) and MCL 15.273(1) or any other law; and
- e. Grant all other relief that the Court deems equitable and just.

JURY DEMAND

Pursuant to MCR 2.508, Plaintiffs hereby request and demand a jury to try all issues to which there is a right to trial by jury.

Date: November 3rd, 2023

Respectfully Submitted,

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