

Cleveland court filing alleges Tamir Rice caused his own death

Tom Hall
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A response filed last Friday by the city of Cleveland to a lawsuit by the family of 12-year-old Tamir Rice, who was shot and killed November 22 by police while playing with a pellet gun, has prompted widespread outrage for callously blaming Rice for his own death.

Tamir Rice was shot and killed by Cleveland police officer Timothy Loehmann within one second of his arriving on the scene in response to a 911 call about a child playing with a gun in a nearby park. Despite Rice's murder being captured on video, Loehmann remains at large while the case has been referred to a local grand jury, reminiscent of the infamous cover-ups of the murders of Michael Brown in Ferguson, Missouri and Eric Garner in Staten Island last summer.

Meanwhile, the city's response to the lawsuit filed in January on behalf of the family by attorneys Walter Madison and Benjamin Crump makes clear its refusal to admit any wrongdoing in Tamir Rice's killing. The affirmative defense contained in Friday's filing argues that the killing was "directly and proximately caused by the failure of [Tamir Rice] to exercise due care to avoid injury," that the damages claimed by Tamir's family were "caused by their own acts," and that the government of Cleveland is legally immune from being held responsible for the killing. The filing also asked that the case be dismissed with prejudice.

The incredible claim that an unarmed 12-year-old boy was responsible for his own death provoked mass outrage over the weekend, prompting Cleveland officials to backpedal. The city is now attempting to paint the filing as the result of a mere oversight or breakdown in communication. Barbara Langhenry, the city's law director, claimed that the lawyer who drafted the document used "routine" legal formulae and failed to understand "that this is an emotional situation and not take that position with a child."

Cleveland Mayor Frank Jackson held a press conference Monday to offer a tepid "apology" to Tamir's family. Making the highly implausible claim that he only became aware of the wording of the court filing that very Monday, Jackson apologized only for the poor choice of words, and promised a new filing in the next few days.

"We are apologizing to the family and to the citizens of Cleveland for our poor use of those words and our insensitivity," Jackson said, making clear that the new filing would differ not in substance but only in the "use of words." Jackson then began to shed literal crocodile tears, affecting being choked up, comparing his grandson to Tamir Rice, while continuing to cover up for the shooting and denying any responsibility by the city.

The Rice family and their attorneys held their own press conference yesterday in response, which rejected the mayor's phony "apology." They replayed the widely circulated surveillance video showing the murder, with a counter added on the top right corner of the screen which measured the time between the arrival of Loehmann's cop car and his shooting of Tamir Rice at .792 seconds. "The city's answer is disrespectful to my son Tamir," his mother Samira Rice said. "I have yet to receive an apology from the police department or the city of Cleveland in regards to the killing of my son and it hurts."

Attorney Benjamin Crump, who has also represented the families of Michael Brown and Trayvon Martin, rejected out of hand the city's claim that the filing was a mistake or oversight. "The city had over 30 days to deliberate and articulate its decision on Tamir Rice and they chose the words that they chose ... Any time that they try to justify—other than to say that they made a mistake—anything short of that is disrespectful from the

family.”

The current version of the civil suit against the city of Cleveland, filed at the end of January, names officer Loehmann and his partner Frank Garmback as well as more than a hundred 911 operators and city employees as additional defendants. It contains 27 allegations, ranging from civil rights violations to the battery of Tamir’s 14-year-old sister, Tajai. Tajai was tackled to the ground, handcuffed and placed in the back of a squad car after she ran toward Tamir as he lay dying, while Loehmann and Garmback failed to administer first aid. After arriving at the scene, Samira Rice was forced by police to choose between staying with Tajai or accompanying Tamir to the hospital.

The police killing of Tamir Rice was one of several throughout the country last year involving victims holding toy weapons, including an earlier incident in the state of Ohio. In August, police in Beavercreek shot John Crawford III in a local Walmart while he held a pellet gun that he had just picked up off the shelf. The shooting took place within seconds of police arriving on the scene, and was also caught in its entirety on surveillance cameras. All of the officers involved escaped charges after a grand jury declined to indict them.

A lawsuit over that killing is also pending, to which Beavercreek officials have also responded by denying any responsibility and asking for the case to be dismissed. They argue that the shooting was the “direct and proximate cause of intervening superseding third parties over whom these Defendants had no control.”



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