

City of Detroit files lawsuit attacking protesters' basic democratic rights

Kevin Reed, Brady Leonard
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Last September, the City of Detroit filed a counter lawsuit in the US Eastern District Court of Michigan against the protest group Detroit Will Breathe (DWB), claiming that the activists conspired to “illegally, maliciously, and wrongfully” engage in “disorderly conduct, inciting riots, destroying public property, resisting or obstructing officers in charge of duty, and committing acts of violence against Counter-Plaintiffs and DPD officers.”

The countersuit was launched after DWB achieved a limited court victory against the city and its police department in an earlier lawsuit. The original case was filed by DWB at the end of August against the City of Detroit, Democratic Party Mayor Mike Duggan, Police Chief James Craig and several Detroit police officers in connection with a series of violent attacks on protesters during the months of June, July and August.

On September 4, Eastern District Court Judge Laurie J. Michelson issued a temporary restraining order blocking Detroit police from using excessive force—such as the deployment of batons, chemical agents and rubber bullets and the application of choke holds and the tightening of zip ties to cause physical injury—against protesters for 14 days.

It turned out that this victory was short-lived, as Detroit police continued to use the violent tactics—in complete violation of the restraining order—in subsequent protests in the remaining weeks of September. These instances were documented and, in some cases, posted on social media and later used to file a further complaint against the city for breaching the court order.

In their countersuit, the City of Detroit argued that instances of police violence against protesters documented in detail in the DWB lawsuit were completely false. The city did not present any evidence to back up this claim and instead responded paragraph by paragraph with, “Defendants deny the allegations as

stated in this Paragraph as untrue.”

The protests in Detroit began following the murder of George Floyd by Minneapolis police on May 25. Hundreds of people participated in daily protests to demand justice for Floyd and for an end to police brutality. DWB was participating in the demonstrations in Detroit along with many other organizations in the area.

As described in their original lawsuit, the protesters were treated with “grossly disproportionate violence by the Detroit Police Department.” The document explains, “with the endorsement of Defendants Duggan and Craig and additional mid-level police commanders,” the Detroit Police Department (DPD) arrested hundreds of peaceful protesters and used “unnecessary, unreasonable, and excessive force against hundreds more.”

The police used tactics such as accelerating their vehicles toward protesters and stopping suddenly as well as purposely alarming and intimidating the demonstrators. The police used “chemical agents including tear gas and pepper spray, riot shields, and batons against the demonstrators, without audible warning.”

The police used a “kettling” technique to back a group of protesters in between a parking structure and a police equipment lot as they were “yelling, cheering, and whooping when they struck one of the young demonstrators... calling the demonstrators ‘animals.’”

Other incidents reported by DWB were “DPD officers aiming for demonstrators’ knees with their batons to incapacitate demonstrators and prevent them from marching in future protests,” and “DPD officers attacked demonstrators (including Plaintiffs), legal observers, members of the press, and bystanders. Officers beat multiple people so severely that they had to be hospitalized.”

On July 10, in the midst of the protests against police violence, a DPD gang squad shot and killed 20-year-old Hakim Littleton near his home during a raid. In an effort

to justify the shooting, the DPD released a dashcam video on the same day that purportedly shows Littleton pulling a weapon and firing shots before police knocked him to the ground and shot him in the head.

Numerous protests and statements by DWB supporters in support of justice for Littleton took place in the following weeks. The city countersuit states that Police Chief Craig “noted that false information posted on social media regarding the July 10, 2020 incident [the shooting of Littleton] incited violence throughout the city.” Among the statements referenced as “false” by the countersuit was one made by a DWB protester that, “Hakim ... suffered the traumas of the police being an operating terroristic force in our neighborhood.”

When a demonstration against police violence was organized on July 10 to protest Littleton’s murder, protesters were confronted by DPD officers in riot gear who fired tear gas and used batons on them. DWB co-founder Nakia Wallace witnessed a group of police officers assault demonstrators without provocation and came to the defense of a protester who was being pinned down by an officer’s knee.

Wallace was then placed in a chokehold that was photographed and widely shared on social media. The city’s filing made the ludicrous claim that what was shown in the image was not a chokehold, but a momentary slip where the officer’s arm only briefly made contact with Wallace’s neck. They also argued that using the term “chokehold” was an inflammatory tactic by DWB.

On October 30, the DWB protesters filed a countermotion calling on Judge Michelson to dismiss the countersuit filed by the city government defendants. In this motion, the protesters argued that the city’s countersuit was “a frivolous and transparent attempt to silence Plaintiffs in the courtroom, having failed to do so in the streets,” and “consists entirely of vague and conclusory allegations—and outright misrepresentations—lacking the requisite specificity to support their lone claim.”

Several days later, attorneys for the Detroit office of the American Civil Liberties Union (ACLU) filed a document with the Eastern District Court, known as an *amici curiae* brief, supporting the motion of the DWB protesters. This document points to the significant issues of democratic rights involved in the extraordinary legal arguments of the City of Detroit and its police department.

The ACLU brief explains that the countersuit against the DWB members, “attempts to hold Plaintiffs civilly

liable for conspiracy based on this protected speech and association.” The ACLU goes on to state that “the counterclaim is all the more troubling because Defendants are public officials, meaning that they seek to challenge Plaintiffs’ criticisms and condemnations of public officials—speech that constitutes the lifeblood of a democracy and that lies at the beating heart of the First Amendment.”

The November 6 brief of the ACLU says that the countersuit is “dangerous and chilling” and “seeks to punish constitutionally protected speech and association” and calls on the judge to dismiss the countersuit of the city with prejudice, which means that the case will be finished permanently and cannot be brought back into court.

As a decision by the Eastern District Court on the city’s countersuit is pending, it is clear that the Democratic city administration—including Mayor Duggan and Police Chief Craig—is attempting to use the judicial system to suppress the free speech rights of DWB activists and cover up the use of police brutality against demonstrators.

These actions are part of the nationwide assault on the multiracial anti-police violence protests that took place in 2,500 towns and cities and involved more than 20 million people across the US during the summer. Like the demonstrations in New York City, Chicago, Minneapolis, Washington D.C. and other cities, the police were mobilized and used paramilitary tactics against the protesters while both Democrats and Republicans justified the repression with false claims that peaceful protesters were committing acts of violence and “rioting.”



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