

Detroit City Council approves funding for counter-lawsuit against police violence protesters

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The Detroit City Council voted five to four at a meeting on Tuesday to approve funding for a counter-lawsuit against members of the anti-police violence protest organization Detroit Will Breathe (DWB).

As reported earlier by the *World Socialist Web Site*, attorneys representing the City of Detroit, Mayor Mike Duggan, Detroit Police Chief James Craig and several police officers filed a countersuit against DWB protesters for “civil conspiracy,” inciting riots, destroying public property and other “illegal acts” on September 25.

The countersuit was part of the city’s response to a lawsuit filed by DWB in August that resulted in the imposition of a temporary restraining order against the use by Detroit Police Department (DPD) officers of excessive force against demonstrators.

The countersuit and the vote by the City Council approving funds for it are significant because it shows that there is little to no difference between the Democratic Party and the Republican Party regarding the protests against police violence and the use force against them by the state. All nine members of the Detroit City Council and Mayor Duggan are Democrats.

City counsel Lawrence Garcia made the obvious point that the city would require an attorney to represent itself in the court case filed against it by DWB “whether there is a counterclaim or not.” However, the statements made by the council members in the course of the Tuesday meeting have exposed the class standpoint of the local politicians in a very direct manner.

The council members who voted in favor of the funding measure were Roy McCalister Jr., André

Spivey, Janeé Ayers, Scott Benson and Council President Brenda Jones. In moving to support the funding contract, McCalister said, “I am for peaceful protesters. My issue is with those people that came in and wanted to destroy or cause another (1967).”

McCalister’s reference was to the rebellion by city residents between July 23 and 28, 1967, which turned into a confrontation with the DPD that led President Lyndon Johnson to send active-duty US Army 82nd and 101st Airborne divisions into Detroit.

The council members who voted against the funding proposal skirted the questions of basic democratic rights posed by the countersuit. For example, Councilman James Tate blamed city attorney Garcia for a lack of good faith and for being “very evasive with his answers” to questions about the case.

Following the approval of the measure, Julie Hurwitz, one of the lawyers representing DWB in civil litigation said, “It’s of grave concern that our city council is authorizing the payment of that amount of money to a private law firm to take this legal step, which is to a large degree just a chilling effect on First Amendment rights to this community.”

In a letter addressed to council members before the Tuesday meeting, a legal team from the American Civil Liberties Union of Michigan explained the background to the original case filed by DWB protesters: “The underlying lawsuit, *Detroit Will Breathe et al. v. City of Detroit et al.*, involves allegations that protesters were confronted with unconstitutional police violence and mass arrests during racial justice protests occurring between May and August of 2020.”

The DPD attacked protesters repeatedly and unnecessarily, the ACLU document says, with “rubber

bullets, batons, chemical mace, sound cannons, vast amounts of tear gas, chokeholds, detention in overheated and unventilated buses, and the ‘kettling’ of protesters followed by violence against and suspicionless arrests of trapped protesters.” These same tactics were used against protesters in cities across the country during the same time frame that they were used in Detroit.

The ACLU also explains that it was calling on the Detroit City Council to reject the funding proposal because “the City has elected to go far beyond defending against this lawsuit.” Calling the city’s counter claim “stunning,” the ACLU says that the lawsuit against the DWB protesters is seeking to “hold them civilly liable for injuries allegedly suffered by police officers at a few of the protests.”

Because the city “could not possibly do so in good faith,” the ACLU says the countersuit does not claim that any of the protesters engaged personally in acts of violence against the police. Instead, “the City’s counterclaim seeks to hold the protesters liable for the alleged acts of *other protesters*. ” In order to carry through this contortion of the law, the city countersuit relies “almost exclusively on the constitutionally protected speech of protesters.”

Among the speech that is attacked in the extraordinary legal claim are allegations that protesters “did things such as call for DPD Police Chief James Craig’s ouster, complain to the media of being placed in chokeholds, and issue tweets urging fellow citizens to come join protests against police killings of Black Detroiters.”

The ACLU statement concludes by stating that the city’s counterclaim is meritless and “flouts core First Amendment principles protecting protesters’ right to freedom of speech. It is bedrock constitutional law that protesters cannot be held liable for damages caused by other protesters, absent extraordinary circumstances that are not present in this case.”

The ACLU also argues that the city’s position—the attempt to hold organizers responsible for violence and destruction of property that occurs during protests—has been repeatedly rejected by the US courts going back to the civil rights movement. This tactic was used in the 1960s by white supremacists in an effort to silence protests against segregation by imposing civil liability on them for violence that was regularly instigated by

law enforcement.

The September 4 decision by Eastern District Court Judge Laurie J. Michelson to impose a restraining order blocking the use of excessive force by the DPD on protesters represented a limited judicial victory for the DWB activists since the police violated it almost immediately and it would have been in force for only a few weeks in the first place.

While the DWB protesters have every right to pursue court protection from police use of excessive force against them—as well as defend their rights to free speech and assembly—the struggle for democratic rights is a fundamental task of the entire working class. The courts, like the police department, are part of the state apparatus and political establishment that exists for the purpose of defending the property and wealth of the capitalist ruling elite.

The fact that the Democrats and Republicans are both slandered the protests across the country last summer as “violent” and “riots,” shows that the path forward in the struggle against police violence must proceed independently of the two-party system. Putting a stop to the repressive attacks on protesters—and halting the descent of capitalist society into a fascist dictatorship—requires the unification of all workers and young people in a common struggle for socialism.



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