

André Dickens
Mayor of Atlanta
55 Trinity Ave SW #2500
Atlanta, GA 30303

June 8, 2023

Atlanta City Council
55 Trinity Ave SW
Atlanta, GA 30303

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Prosecuting Attorneys' Council Chair
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Dear Mayor Dickens, Atlanta City Council Members, Attorney General Carr, District Attorney Boston, District Attorney Willis, and Prosecuting Attorneys' Council Chair Mosley:

We are educators, scholars, and research centers at academic institutions around the country, writing in solidarity with Georgia organizers, environmental justice activists, and the Defend Atlanta Forest movement to condemn the construction of the Atlanta Public Safety Training Center and the criminalization of protestors in opposition to its development.¹ We have grave concerns regarding the threats that this \$90 million militarized police training complex, colloquially known as “Cop City,” poses to Black and brown communities in Georgia and across the country.² Furthermore, we are deeply troubled by the escalating state aggression against

¹ See generally DEF. THE ATLANTA FOREST, <https://defendtheatlantaforest.org/> (last visited May 9, 2023); STOP COP CITY, <https://stopcop.city/> (last visited May 9, 2023).

² See Cody Bloomfield, *Atlanta's “Stop Cop City” Movement Is Spreading Despite Rampant State Repression*, TRUTHOUT (Mar. 26, 2023), <https://truthout.org/articles/atlantas-stop-cop-city-movement-is-spreading-despite-rampant-state-repression/>; see also *Backroom Deals and Elasticity Clause Increase Public Cost of Cop City*, ATLANTA CMTY. PRESS COLLECTIVE (May 24, 2023), <https://atlpresscollective.com/2023/05/24/backroom-deals-and-elasticity-clause-increase-public-cost-of-cop-city/> (“[N]ew information suggests [Cop City] could come with a total price tag of \$51 million in public funds, instead of the \$30 million that city officials promised since 2021.”).

protesters, including the killing of Manuel Esteban Paez “Tortugueta” Terán,³ the unrestrained use and weaponization of state domestic terrorism charges,⁴ and the decision to criminalize movement infrastructure like the Atlanta Solidarity Fund.⁵ As scholars of race, criminal law, environmental justice, and myriad other disciplines, we are cognizant of the threat that these actions pose to the safety of minority communities and social justice campaigns more broadly, and we call on officials to cancel the lease, drop all charges against protesters, and cease efforts to quash the Stop Cop City movement.

The construction of Cop City in Atlanta’s South River Forest will exacerbate environmental racism and police violence, posing a clear threat to the health and safety of Black and brown Atlantans and marginalized communities across the country.

Constructing a police training complex in the South River Forest (hereinafter “the Weelaunee Forest”)⁶ would degrade the lived environment of communities of color and make them even more vulnerable to environmental hazards. In the face of steep racial disparities in greenspace access⁷ and rapid urban deforestation,⁸ the Weelaunee Forest is not only the “lungs” of Atlanta,⁹ but also one of the largest and last greenspaces accessible to surrounding communities of color.¹⁰ It serves vital functions in mitigating the impacts of climate change, like reducing flooding from natural disasters and outdated sewer systems, diminishing life-threatening temperatures caused by the urban heat island effect, and carbon capture.¹¹ This is especially important considering that the

³ Faris Tanyos, *Atlanta “Cop City” Protester Killed by Officers Had 57 Gunshot Wounds, Autopsy Finds*, CBS NEWS (Apr. 19, 2023), <https://www.cbsnews.com/news/atlanta-cop-city-manuel-paez-teran-autopsy/>.

⁴ Sarah Taitz & Shaiba Rather, *How Officials in Georgia Are Suppressing Political Protest as ‘Domestic Terrorism’*, ACLU: NEWS & COMMENT. (Mar. 24, 2023), <https://www.aclu.org/news/national-security/how-officials-in-georgia-are-suppressing-political-protest-as-domestic-terrorism>.

⁵ Natasha Lennard, *Atlanta Police Arrest Organizers of Bail Fund for Cop City Protesters*, INTERCEPT (May 31, 2023), <https://theintercept.com/2023/05/31/cop-city-bail-fund-protest-raid-atlanta/>; see also Ryan Fatica, *Atlanta Activists Say Prosecutors Plan to Indict Them on RICO Charges*, UNICORN RIOT (Feb. 25, 2023), <https://unicornriot.ninja/2023/atlanta-activists-say-prosecutors-plan-to-indict-them-on-rico-charges/>.

⁶ The South River Forest is located on land from which the Mvskoke people were forcibly removed. Press Release, Def. the Atlanta Forest, *Eviction Notice from the Mvskoke People to Mayor Andre Dickens and Cop City* (Mar. 10, 2023), <https://defendtheatlantaforest.org/2023/03/10/eviction-notice-from-the-mvskoke-people/>. Mvskoke people use the name “Weelaunee” to “pay[] homage to the Mvskoke description of the South River, Ue Lane or ‘yellow water.’” *Id.* We adopt that language in solidarity.

⁷ See Christina Maxouris, *Atlanta Wants to Build a Massive Police Training Facility in a Forest. Neighbors Are Fighting to Stop It*, CNN (Sept. 24, 2022), <https://www.cnn.com/2022/09/24/us/atlanta-public-safety-training-center-plans-community/index.html>; Derek Van Dam & Haley Brink, *‘Hotlanta’ Is Even More Sweltering in These Neighborhoods Due to a Racist 20th-Century Policy*, CNN (Oct. 2, 2021), <https://www.cnn.com/2021/09/18/weather/extreme-urban-heat-environmental-racism-climate/index.html>.

⁸ See Joanna Thompson, *The Movement to Stop “Cop City” Sparks International Solidarity*, SIERRA (Feb. 5, 2023), <https://www.sierraclub.org/sierra/movement-stop-cop-city-sparks-international-solidarity>; see David J. Nowak & Eric J. Greenfield, 32 URB. FORESTRY & URB. GREENING 32, 35 (2018) (finding Georgia among “[s]tates with the greatest annual net loss in tree cover”).

⁹ Maxouris, *supra* note 7.

¹⁰ Press Release, Sierra Club Ga. Chapter, Sierra Club Georgia Chapter, 15 Other Environmental Organizations, *Urge Atlanta City Council to Protect the South River Forest* (Aug. 12, 2021), <https://www.sierraclub.org/georgia/blog/2021/08/SouthRiverForestLetter>.

¹¹ *Id.* (discussing the importance of the Weelaunee forest for climate resiliency and the potential environmental impacts of constructing Cop City); see *Heat Islands and Equity*, U.S. ENV’T PROT. AGENCY,

Black and brown communities surrounding the Weelaunee Forest have already faced years of environmental injustice and disinvestment, such that they are far “more likely to live within walking distance of a landfill or a prison than [those living] anywhere else in metro Atlanta.”¹² Ultimately, even building on part of the Forest will diminish these benefits and introduce further harms like lead contamination from discarded bullets and noise pollution from artillery.¹³

The purpose of this project also poses an existential threat to Black and brown communities across Atlanta and the country. If built, Cop City would be part of a larger trend of increasingly militarized police training in the United States.¹⁴ Plans for the facility include a shooting range, driving course, burn towers, and possibly even a mock city to practice “urban warfare.”¹⁵ Moreover, because the Atlanta Police Department hopes to recruit forty-three percent of the facility’s trainees from departments outside of Georgia, it is likely that these militarized tactics would be exported to jurisdictions around the country.¹⁶

As police scholar and former police officer Arthur Rizer has noted, focusing on this sort of “paramilitary-type training[and] urban assault tactics . . . have not been effective at reducing crime.”¹⁷ Nor are we reassured by developers’ promises of “an extensive training and educational partnership” that “embrace[s] police reform and cultural sensitivity.”¹⁸ History has taught us that such efforts have largely failed to prevent misconduct and violence by law enforcement.¹⁹ In Minneapolis, for example, the police department spent years “implement[ing] trainings on implicit bias, mindfulness, de-escalation, and crisis intervention,” and even “brought in procedural reformer and implicit bias champion Phillip Atiba Goff,” yet George Floyd was still killed by an

<https://www.epa.gov/heatislands/heat-islands-and-equity> (last updated Dec. 12, 2022); *see also* Russell Armstrong, *A Silver Bullet: Could Data Linking Urban Heat Islands to Housing Discrimination Curtail Environmental Racism?*, 20 SUSTAINABLE DEV. L. & POL’Y 22, 22 (2020) (discussing the disproportionate impact of the heat island effect on people of color and the resulting “health risks such as premature birth, asthma attacks, and chronic obstructive pulmonary disease”).

¹² Maxouris, *supra* note 7.

¹³ *See* Thompson, *supra* note 8.

¹⁴ Sean Keenan & Joseph Goldstein, *A New Front Line in the Debate Over Policing: A Forest Near Atlanta*, N.Y. TIMES (Mar. 4, 2023), <https://www.nytimes.com/2023/03/04/us/cop-city-atlanta-police-training.html>.

¹⁵ *E.g.*, Jenny Jarvie, *The Latest Epicenter for Anti-Police Protests: ‘Cop City’ in Atlanta*, L.A. TIMES (Mar. 15, 2023), <https://www.latimes.com/world-nation/story/2023-03-15/stop-cop-city-forest-camp-atlanta>; Natasha Lennard, *Atlanta Cop City Protesters Charged with Domestic Terror for Having Mud on Their Shoes*, INTERCEPT (Mar. 8, 2023), <https://theintercept.com/2023/03/08/atlanta-cop-city-protesters/>; *see* Atlanta Police Found., *Public Safety Training Center*, YOUTUBE (Sept. 20, 2019), <https://www.youtube.com/watch?v=KER5OYAUm04> (video mock-up of proposed facility).

¹⁶ *See* Atlanta Cmty. Press Collective (@atlanta_press), TWITTER (Jan. 23, 2023, 9:53 AM), https://twitter.com/atlanta_press/status/1617898354012483584 (screenshot of document obtained through open records request).

¹⁷ Keenan & Goldstein, *supra* note 14.

¹⁸ *Public Safety Training Center*, ATLANTA POLICE FOUND., <https://atlantapolicefoundation.org/programs/public-safety-training-center/> (last visited May 9, 2023).

¹⁹ *See, e.g.*, Jill Suttie, *Is Funding Police the Best Way to Keep Everyone Safe?*, GREATER GOOD MAG. (June 24, 2020), https://greatergood.berkeley.edu/article/item/is_funding_police_the_best_way_to_keep_everyone_safe (noting the police killings of Eric Garner, who was killed with a chokehold despite a chokehold ban, and of Rayshard Brooks, despite the presence of body-worn cameras).

officer who knelt on his neck for more than eight minutes.²⁰ So long as police continue to embrace a culture of militarization and control, Black and brown communities will remain at risk despite surface-level reforms and cultural sensitivity trainings.

At bottom, Cop City was initially billed as an effort to increase officer morale following mass uprisings against the killings of George Floyd, Rayshard Brooks, and racist police violence in general.²¹ But trying to cheer up officers rightfully demoralized by the widespread criticism of their profession's brutality toward Black and brown communities is a ludicrous justification for building a \$90 million playground—especially considering that the training provided at such an over-the-top facility will exacerbate the very harms that engendered these uprisings.²²

These threats are even more serious in light of escalating state aggression against Stop Cop City protesters and their supporters.

In response to their organizing efforts, opponents of Cop City have been met with extreme state aggression. On January 8, 2023, the Georgia State Patrol fatally shot forest defender Manuel Esteban Paez “Tortuguita” Terán dozens of times during a violent raid of the Weelaunee Forest, leaving him with fifty-seven bullet wounds.²³ The Georgia Bureau of Investigation (“GBI”) has maintained that Tortuguita “shot first at troopers,” however, “[a]n autopsy released by the DeKalb County coroner’s office . . . determined that ‘gunpowder residue was not seen’ on [Tortuguita’s] hands,” raising questions about the validity of the GBI’s claims and leading local lawmakers to petition the U.S. Department of Justice for an investigation.²⁴

In March, prosecutors charged twenty-three people attending a Weelaunee Forest music festival with domestic terrorism for allegedly damaging property.²⁵ These charges were premised on little more than the fact that some protesters had mud on their shoes and legal support numbers written on their arms.²⁶ But as news outlets have noted, “Georgia rains had left muddy patches all over the forest, and at least 600 people were lying on the grass, or camped among the trees, or entering the forest to catch an evening’s music under the stars or leaving – thus many had mud on their shoes.”²⁷ Nevertheless, even assuming there was merit to any of these extraordinarily

²⁰ Alex S. Vitale, *The Answer to Police Violence Is Not ‘Reform’. It’s Defunding. Here’s Why*, GUARDIAN (May 31, 2020), <https://www.theguardian.com/commentisfree/2020/may/31/the-answer-to-police-violence-is-not-reform-its-defunding-heres-why>.

²¹ See Abe Asher & Josh Marcus, *How Atlanta’s ‘Cop City’ Became the Focus for Green Protests – and Claims of Lethal Police Brutality*, INDEPENDENT (Mar. 7, 2023), <https://www.independent.co.uk/news/world/americas/atlanta-cop-city-protest-climate-terrorism-b2295899.html>.

²² See Press Release, Color of Change, Atlanta City Council Approval of “Cop City” Project Reveals Dangerous Policy Influence of Atlanta P.D., Police Foundation (Sept. 8, 2021), https://colorofchange.org/press_release/atlanta-city-council-approval-of-cop-city-project-reveals-dangerous-policy-influence-of-atlanta-p-d-police-foundation/ (expressing similar concerns).

²³ See Tanyos, *supra* note 3.

²⁴ Riley Bunch, *Atlanta Lawmakers Request DOJ Investigation into Shooting Death of Training Center Protester*, ATLANTA J.-CONST. (May 1, 2023), <https://www.ajc.com/news/atlanta-news/atlanta-lawmakers-request-doj-investigation-into-shooting-death-of-training-center-protester/54DUPEYIJVG7DDVNOFYRQJ7QOE/>.

²⁵ Lennard, *supra* note 15. All but one of the arrested protesters were denied bond. *Id.*

²⁶ *Id.*

²⁷ Timothy Pratt, *‘This Is How I’m Going to Die’: Police Swarm Activists Protesting ‘Cop City’ in ‘Week of Action’*, GUARDIAN (Mar. 7, 2023), <https://www.theguardian.com/us-news/2023/mar/07/copy-city-atlanta-georgia-police-crackdown>.

speculative allegations, domestic terrorism charges would still be an extreme and unnecessary measure, as property damage could easily be prosecuted without invoking the stigma of terrorism and seeking grossly disproportionate prison sentences of up to thirty-five years.²⁸ In total, at least forty-two demonstrators are currently being prosecuted for domestic terrorism, all for alleged misdemeanor trespass and/or property damage, and largely based on evidence indicating nothing more than attendance at protests.²⁹

This retaliation against movement actors has continued unabashed over the last few months. In late April, charges of felony intimidation and misdemeanor stalking were filed against activists who simply posted fliers connecting Tortuguita's death to an officer named in the GBI forensics report on the guns fired at the time of the killing.³⁰ These activists were denied bond and held in solitary confinement for days.³¹ And on May 31, three board members of the Atlanta Solidarity Fund, which connects protestors with bail funds and legal support, were arrested in a SWAT team raid of their house and charged with money laundering and charity fraud.³² Given that prosecutors had long signaled that they were planning to bring charges against those affiliated with Atlanta Solidarity Fund using the state's Racketeer Influenced and Corrupt Organizations ("RICO") Act,³³ these arrests did not come as a surprise, but they are still a horrifying overreach by law enforcement.

These actions are an assault on the First Amendment rights of Stop Cop City supporters and a disturbing development for all social justice movements in the U.S.

Collectively, these actions amount to an attempt to criminalize a movement. They are a shameless attack on the rights of individuals to express dissent under the First Amendment. As Human Rights Watch and others have pointed out, the use of domestic terrorism charges against protestors is a draconian measure that works to stigmatize members of a movement, discredit their cause, and intimidate others from engaging in civil disobedience.³⁴ Georgia's domestic terrorism law is unusually expansive, extending beyond causing bodily injury to include certain property crimes against "critical infrastructure" that are committed in order to "alter, change, or coerce the policy of the government."³⁵ Further, the statute defines critical infrastructure very broadly,

²⁸ Keenan & Goldstein, *supra* note 14 ("[P]lenty of laws would allow the government 'to prosecute wrongdoing like property destruction without citing terrorism and imposing outsized punishments.'").

²⁹ Taitz & Rather, *supra* note 4; *see* Letter from Defending Rts. & Dissent et al. to Christopher M. Carr, Georgia Att'y Gen. et al. (Mar. 3, 2023) [hereinafter Joint Civil Liberties and Human Rights Letter to Georgia Prosecutors], https://www.hrw.org/sites/default/files/media_2023/03/Georgia%20Protester%20Domestic%20Terrorism%20Charges.pdf (discussing the circumstances surrounding the first nineteen charges).

³⁰ Natasha Lennard & Akela Lacy, *Activists Face Felonies for Distributing Flyers on "Cop City" Protester Killing*, INTERCEPT (May 2, 2023), <https://theintercept.com/2023/05/02/cop-city-activists-arrest-flyers/>.

³¹ *Id.*

³² *See* Lennard, *supra* note 5.

³³ *See* Fatica, *supra* note 5. Those charged under RICO could face up to twenty years in prison and thousands of dollars in fines. GA. CODE ANN. § 16-14-5.

³⁴ Joint Civil Liberties and Human Rights Letter to Georgia Prosecutors, *supra* note 29; *see also* Taitz & Rather, *supra* note 4 (criticizing the use of domestic terrorism charges against protestors on similar grounds).

³⁵ GA. CODE ANN. §§ 16-11-220(2)(B), -222; *see* Joint Civil Liberties and Human Rights Letter to Georgia Prosecutors, *supra* note 29.

making it an easy weapon “to disproportionately punish people who express political beliefs.”³⁶ Prosecutors rarely bring charges under this sweeping law, and its enforcement here is clearly a calculated, political decision.³⁷

The same can be said of the arrests of the Atlanta Solidarity Fund board members and the two individuals attempting to spread awareness about Tortugueta’s killing. The targeting of the Atlanta Solidarity Fund is particularly troubling. Bail funds have long played a critical role in our nation’s history of constitutional expression—from efforts by the ACLU and Civil Rights Congress to free alleged Communists to the numerous bail funds “established to free those fighting to end segregation” during the Civil Rights Movement—and the Atlanta Solidarity Fund is no exception.³⁸ It has provided crucial collective support to racial justice protesters and Stop Cop City activists in recent years, and for that, its members are being targeted.

The attacks against Stop Cop City protesters are part of a long history of government attempts to smear minority-led movements as terrorism-prone, from the FBI’s surveillance of the Black Panther Party to recent efforts to paint people opposing anti-Black police violence as so-called “Black Identity Extremists.”³⁹ Furthermore, by concentrating domestic terrorism charges on out-of-state actors, Atlanta authorities are attempting to resurrect the tired “outside agitators” narrative that has been “a favorite in the repertoire of repression” against anti-racist protestors—from the Civil Rights Movement, to Ferguson, to George Floyd.⁴⁰

These extreme tactics have unfortunately already begun to chill dissent, causing some Black community members to forgo attending protests.⁴¹ They may also be a bellwether for what’s to come. According to the U.S. Protest Law Tracker, since 2017, forty-five states have considered pieces of legislation that restrict the right to peaceful assembly, and forty have enacted such laws.⁴²

³⁶ Taitz & Rather, *supra* note 4; see GA. CODE ANN. § 16-11-220(1) (“‘Critical infrastructure’ means publicly or privately owned facilities, systems, functions, or assets, whether physical or virtual, providing or distributing services for the benefit of the public, including, but not limited to, energy, fuel, water, agriculture, health care, finance, or communication.”).

³⁷ Taitz & Rather, *supra* note 4; Joint Civil Liberties and Human Rights Letter to Georgia Prosecutors, *supra* note 29 (noting that the Atlanta Police Department specifically targeted out-of-staters in bringing domestic terrorism charges).

³⁸ Robin Steinberg et al., *Freedom Should Be Free: A Brief History of Bail Funds in the United States*, 2 UCLA CRIM. JUST. L. REV. 79, 82, 84, 86 (2018); see Jocelyn Simonson, *The Details of the Atlanta Bail Fund Arrest Are More Horrific Than First Described*, SLATE (June 1, 2023), <https://slate.com/news-and-politics/2023/06/cop-city-tortugueta-atlanta-bail-fund-arrest-horror.html>.

³⁹ Nusrat Choudhury & Malkia Cyril, *The FBI Won’t Hand Over Its Surveillance Records on ‘Black Identity Extremists,’ so We’re Suing*, ACLU: NEWS & COMMENT. (Mar. 21, 2019), <https://www.aclu.org/news/racial-justice/fbi-wont-hand-over-its-surveillance-records-black>.

⁴⁰ Benjamin Stumpf, “*Outside Agitators*” from the Civil Rights Movement to Stop Cop City, RADICAL HIST. REV.: THE ABUSEABLE PAST (Apr. 5, 2023), <https://www.radicalhistoryreview.org/abusablepast/outside-agitators-from-the-civil-rights-movement-to-stop-cop-city/>.

⁴¹ See Timothy Pratt, *Atlanta’s Black Community Raises Voice Against ‘Cop City’ Police Base*, GUARDIAN (Mar. 12, 2023), <https://www.theguardian.com/us-news/2023/mar/12/atlanta-cop-city-black-community-protest>.

⁴² U.S. Protest Law Tracker, INT’L CTR. FOR NOT-FOR-PROFIT L., <https://www.icnl.org/usprotestlawtracker/> (last visited May 9, 2023).

Many of these laws were passed in response to minority-led movements, such as the Black Lives Matter movement and efforts to stop the Keystone and Dakota Access Pipelines.⁴³

Ultimately, the battle around Cop City showcases a triad of threats facing Black and brown communities around the country: environmental racism, police militarization, and curtailment of First Amendment rights. We condemn the construction of this training facility and are appalled at the use of such draconian measures to intimidate dissenters. We maintain the important role of civil disobedience—from the Underground Railroad to the Freedom Riders—in the history of our multiracial democracy, and are deeply saddened at the loss of life, safety, and liberty that has already transpired at the hands of the state in the name of this facility. There is still time to change this trajectory, and we hope that state and local officials will take this opportunity to chart a new path towards safety for Atlantans and communities of color around the country.

With all this in mind, we call on Atlanta Mayor André Dickens and the Atlanta City Council to cancel the lease for the Cop City complex. We also demand that city and state prosecutors drop all charges and cease all proceedings against Stop Cop City activists, release them immediately, and expunge their arrest records. Finally, we urge Atlanta and Georgia officials to cease attempts to criminalize the larger Stop Cop City movement and support the further development of institutions, such as the Atlanta Solidarity Fund, designed to protect the interests of Black and brown communities going forward.

In solidarity,⁴⁴

Center on Race, Inequality, and the Law
New York University School of Law

Center for Antiracist Research
Boston University

Systemic Justice Project
Harvard Law School

Society of American Law Teachers

Center on Race, Law and Justice
Fordham University School of Law

Center for Law, Equity and Race
Northeastern University School of Law

Fred T. Korematsu Center for Law and Equality
Seattle University School of Law

Nathaniel R. Jones Center for Race, Gender, and Social Justice
University of Cincinnati College of Law

⁴³ See Eric Halliday & Rachael Hanna, *State Anti-Protest Laws and Their Constitutional Implications*, LAWFARE (Oct. 25, 2021), <https://www.lawfareblog.com/state-anti-protest-laws-and-their-constitutional-implications>. Indeed, over the last decade, RICO allegations have been increasingly used to silence environmental activists. See Sasha Chavkin, *Running a Racket: The Scorched-Earth Legal Strategy Corporations Are Using to Silence Their Critics*, INTERCEPT (Dec. 16, 2022), <https://theintercept.com/2022/12/16/corporate-rico-environmental-advocate/>.

⁴⁴ Signatories last updated July 6, 2023. To add your name, please email law.race.inequality@nyu.edu.

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