

January 8, 2024

VIA HAND-DELIVERY

Atlanta City Council
55 Trinity Avenue
Atlanta, Georgia 30303

**Re: Supportive Documents; Southern Center for Human Rights Public Comment;
January 8, 2024 Full Council Meeting**

Councilmembers:

Attached please find the following documents provided to this Honorable Body for the purpose of contextualizing the public comment offered by our organization on January 8, 2024:

1. Report: Southern Center for Human Rights, Community Safety & Police Violence Project, Pain & Power Stakeholder Symposium
2. Data: Mapping Police Violence Project
3. Article, "Experts stress that more training won't eradicate police violence," NBC News
4. Report: "Summary of Initial Findings from CDC Funded Firearm Injury Prevention Research," Center for Disease Control and Prevention
5. Article: "Despite COVID-19 and stay-at-home orders, 2020 saw an increase in homicides across the US," CNN
6. Article: "After Rise in Murders During the Pandemic, a Sharp Decline in 2023," The New York Times
7. Executive Summary: "Becoming PICS Aware: A study on post incarceration syndrome," Atlanta Community Support Project, November 2023
8. Article: "10 deaths. Nine months," Atlanta Journal-Constitution
9. January 2, 2024 Contempt Order: Georgia Advocacy Office, et al. V. Labat
10. Narrative Webpage: The people who've died in Fulton county custody this year, Atlanta Journal-Constitution
11. Report: American Civil Liberties Union of Georgia: "Breaking the Cycle: Alternatives to a New Jail
12. Joint Report: State Repression of the Movement to Stop Cop City and Defend the Forest Atlanta," Southern Center for Human Rights and University of Dayton Human Rights Center, Joint Submission for the 139th Session of the United Nations Human Rights Committee: "
13. Report "Concluding observations of the fifth periodic report of the United States of America," Center for Constitutional Rights
14. Report: United Nations Office of the High Commissioner Human Rights: Special Rapporteur on Contemporary Forms of Racism End of Visit Report, United States of America

*Please be aware that our office has moved, and our address is now:
60 Walton St. NW / Atlanta, GA 30303.*

15. Intervention: Southern Poverty Law Center & Southern Center for Human Rights Input to United Nations International Independent Expert Mechanism to Advance Racial Justice and Equity in Law Enforcement
16. Expert Report: International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement (EMLER) Report

Our staff remain at Council's disposal regarding matters related to the decriminalization of race and poverty in Atlanta. Please feel free to contact Movement Policy Counsel, Devin Franklin at dfranklin@schr.org or Movement Policy Associate Kannette King at kking@schr.org for more information.

Best regards,



Tiffany Roberts
Director of Public Policy

Community
Keeps
Community
Safe



PAIN AND POWER

CONFRONTING POLICE VIOLENCE IN ATLANTA

August 19, 2023
9 AM to 3 PM

Breakfast, Lunch
& Childcare
provided

POLICE VIOLENCE IS RISING IN ATLANTA



Keynote

Samuel Sinyangwe, Mapping Police Violence &
Police Scorecard



Come join the conversation as Atlanta Resident Experts share concrete solutions with Elected Officials.

Introduction

The City of Atlanta, in its bid to foster transparency and accountability in policing, introduced the Use of Force Dashboard in 2021. While this is an important step for accountability, the Southern Center for Human Rights (SCHR) saw the need for a more holistic exploration of what we've learned since the tool's implementation.

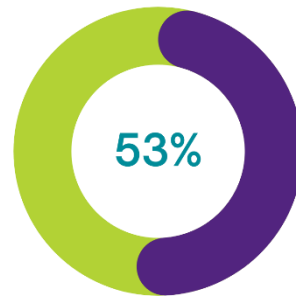
In our mission to provide a comprehensive overview of the landscape of police violence in Atlanta, we've integrated insights from the Use of Force Dashboard with invaluable data from the Mapping Police Violence Project and the Police Scorecard. This amalgamation of data sources drove our project beyond mere numbers into an initiative that engaged and educated communities about the deep-seated disparities in state-sanctioned violence, and helped co-construct an alternative vision of how we can advance community safety.

Through townhalls, cross-townhall conversations, and this symposium, our goal is to make this information palpable and actionable in paving the way for impactful policy changes that reduce the scope of police violence in Atlanta.

Data Narrative

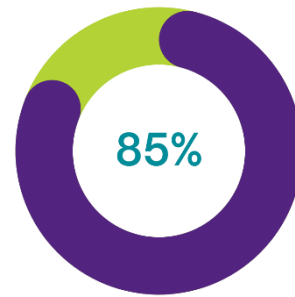
Our research on the Atlanta Police Department's use of force dynamics brought to light some unsettling, yet crucial findings. Below, we lay out our discoveries, which were presented in our townhall presentations across the city.

We learned that APD is one of the most resourced departments in the nation. And, that much of these resources are being utilized to perpetuate racial inequity in our city.



APD uses more force per arrest than 53% of other departments.

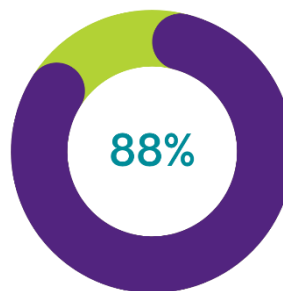
Data shows that half of arrests by the Atlanta Police Department (APD) are for "low-level" and "non-violent" offenses, many of which represented quality-of-life issues such as mental illness, substance use disorder, homelessness, and/or sex work.



Higher level of arrests for low level offenses compared to 85% of other departments.

And Black Atlantans are 14.6 times more likely than their white residents to be arrested for these categories of offenses.

Black Atlantans are also disproportionately subjects of police violence. According to The Police Scorecard, a national database on policing encounters, APD reports more instances of excessive force and police killings than most other departments.



More deadly force per arrest than 88% of other departments.

Black Atlantans, particularly Black men, are overwhelmingly subject to police use of

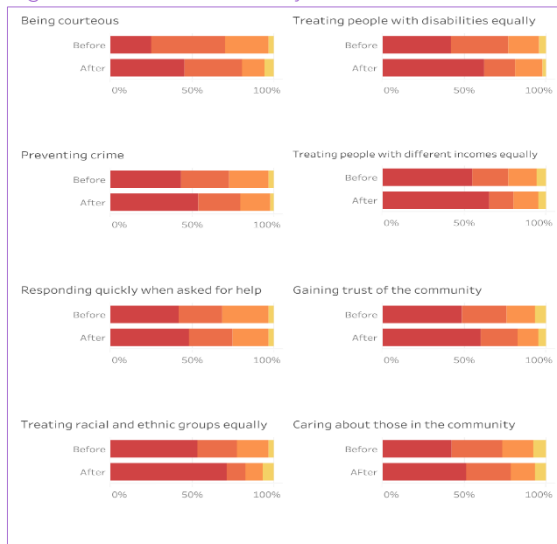
force practices in Atlanta. For 2021-2022, Black men have constituted nearly 3 out of 4 use of force encounters, and Black women are also over-represented. Regarding lethal force, almost 9 in 10 of those killed by APD were Black.

Phase One: Community Townhalls

In the first phase of our project, town halls enabled complex dialogues to assist us in bridging the divide between data points and personal narratives. With the assistance of the following community partners, (1) Families First, (2) All Saints Episcopal, (3) Iwi Fresh Farm Oasis, (4) William Walker Recreation, (5) St. Luke’s Episcopal Church, and (6) Ebenezer Baptist, our team cultivated community spaces in each of Atlanta’s six policing zones. In addition, we hosted one virtual townhall. In total, we engaged 100 Atlanta residents during the first phase of the project.

To gain insight into the community's perception of APD, we conducted surveys before and after town hall conversations. The intention was not only to understand the baseline sentiments but also to see how a clear, data-driven conversation might influence those perceptions. We received 90 survey responses in total.

Figure 1: Phase One Survey Results



Courtesy among APD officers: Initially, 25% felt the APD's courtesy was poor, but this perception increased to 45% post-discussion. Conversely, positive views (combining good and excellent) dropped from 30% to 20%.

Crime Prevention: 43% believed APD's performance in this area was poor before our town halls. Afterward, this negative sentiment grew to 54%. Positive views decreased from 27% to 21%.

Response Times: Before the town halls, 42% rated APD's response times as poor. This number rose slightly to 48% post-discussion, with positive ratings dipping by a modest 7%.

Treatment Towards Racial and Ethnic Groups: A significant area of concern. 53% initially felt the APD's treatment was lacking, but this increased to 71% post-town hall. Positive views remained consistently low, barely touching 10%.

Dealing with People with Disabilities: A rising concern, with the 'poor' rating moving from 42% to 62% after the conversations. Positive sentiments saw a slight decrease.

Interaction with Different Income Groups: 55% perceived the APD's treatment as poor pre-discussion, which grew to 65% afterward. Positive feedback remained stable at around 20%.

Gaining Trust of the Community: Trust ratings started with 49% rating APD's efforts as poor, and this skepticism rose to 60% after the town hall. The combined positive ratings dwindled by roughly 5%.

Commitment to the Community: The 'poor' perception increased from 42% to 51%. Conversely, positive ratings, combining

good and excellent, saw a slight dip from 27% to 22%.

Phase Two: Crosstown Conversations

In the second phase of our initiative, our 'Crosstown Conversations' drew residents from various city zones. Participants delved into their experiences with the Atlanta Police Department, shared visions of safety, and addressed systemic disparities in use of force.

Our collaboration with Winds of Change, a seasoned Black womxn-run firm, was instrumental in shaping these conversations. Their expertise in fostering inclusive dialogues and creating spaces for genuine exchange ensured that participants could openly navigate complex topics. This environment facilitated a mutual understanding, allowing residents to converge on community-oriented solutions.

To vividly capture the essence of these discussions, we collaborated with a graphic note taker to visualize these Atlantantian aspirations and concerns about public safety. Figures 1 and 2 are the products of these transformative conversations.

Figure 2: Graphic Note from Townhall #1



Figure 3: Graphic Note from Townhall #2

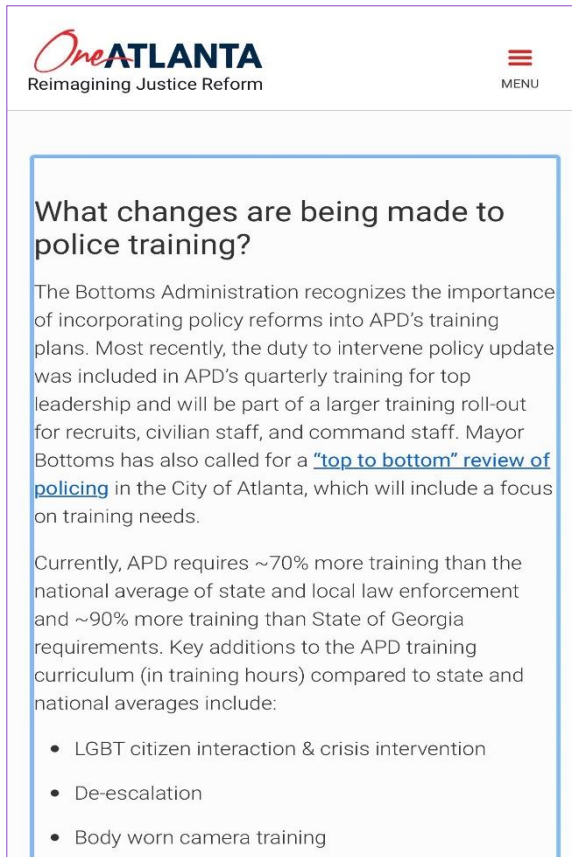


Require. Remove. Deprioritize. Fund. Decriminalize. Ban. Re-Direct: Policy Solutions

Amid the public outcry for reform in the aftermath of the murder of George Floyd in 2020, then-Mayor Keisha Lance Bottoms convened an Advisory Council to assess the City's Use of Force (UoF) Policies and Procedures. One result of that Advisory Council's convenings was the development of an interactive, public-facing Dashboard that reports use of force trends within Atlanta Police Department.

That dashboard, www.justicereform.atlantaga.gov, makes quarterly and annual self-reported APD statistics reflecting number of arrests; number of use of force incidents; force by type; signal calls for most common incidents; and gender, age, and race of citizen-victims and officers going back to 2019 readily available to the public. The logic behind the idea was that the transparency provided by the dashboard would help facilitate fact-based discussion around policing in Atlanta. It is in that desire that the premise of this project was born.

Figure 4: Atlanta Justice Reform Website Excerpt



Atlanta Police Department currently boasts an enviable list of training standards, policy initiatives and accolades.

- Each of Campaign Zero's #8CANTWAIT policies are currently reflected in APD's standard operating procedure.
- Even without a Public Safety Training Center, APD officers receive 70% more training than the national average and 90% more training than State of Georgia requirements.
- APD officers receive training in LGBT citizen interaction and crisis intervention, de-escalation, and pre-arrest diversion, in addition to body-worn camera training.
- Since 2007, Atlanta has had independent oversight of police misconduct allegations through the

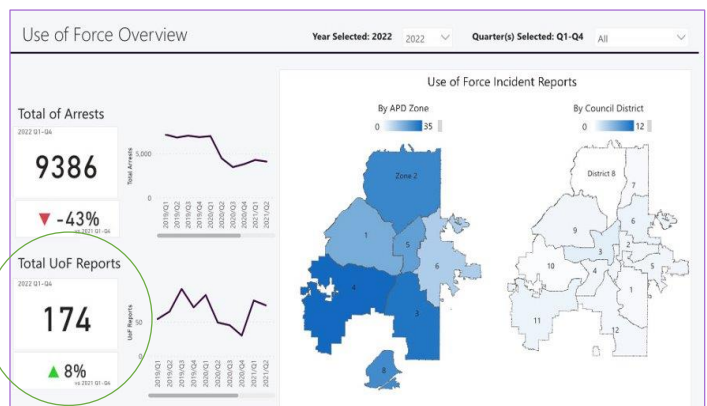
Atlanta Citizen Review Board (ACRB).

- Of the more than 17,000 state and local police agencies, APD is among 4% that are accredited by the Commission on Accreditation for Law Enforcement Agencies.
- Atlanta also runs several community policing programs, such as the Atlanta Police Athletic League (PAL) and the LGBTQ Liaison Unit, through its Community Oriented Policing Section (COPS).

Despite these several championed achievements, the City of Atlanta's Use of Force Dashboard gives use a sobering truth: Use of Force reports—which are generated any time an APD employee applies force or takes an action that results in, or is alleged to result in, the injury or death of another person -- have are on the rise.

To be abundantly clear, despite the impressive list of training programs, accolades and initiatives, the City of Atlanta's own data shows that policing violence is trending upward. And the racial disparities in the rising policing violence revealed by the dashboard are equally concerning, if not outright discouraging.

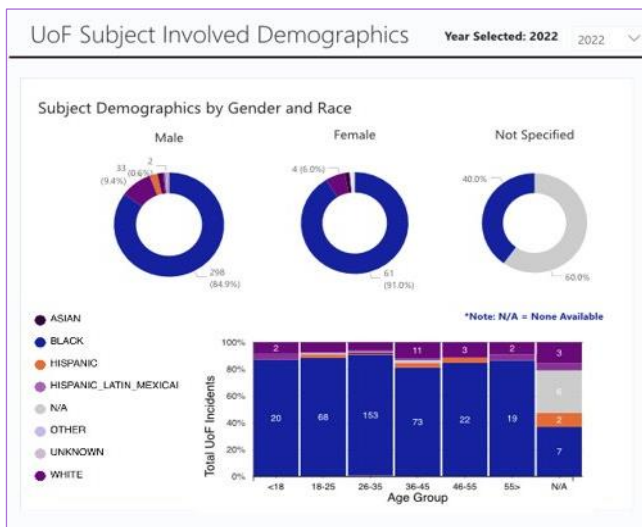
Figure 5: UoF on Rise from 2021 to 2022 (UoF Dashboard)



The only way to reverse this trend is to seriously and sincerely acknowledge two readily apparent truths. Policing violence is on the rise. And prior reform efforts have proven ineffective in reversing that trend.

It is in this space of truth that we can identify possible solutions to reverse the trend, while concurrently supporting solutions that build community and safety.

Figure 6: Racial Disparities in UoF 2022 (UoF Dashboard)



Through the course of this project, we have identified seven policies that are most responsive to what comparative national data and local public narratives of policing violence show to be the primary drivers of harm--- a high volume of unnecessary police encounters and a lack of alternatives to policing.

We discussed the policies with citizens who attended our townhalls and crosstown conversations and they overwhelmingly supported these policy solutions. And as envisioned by the Use-of-Force Dashboard, each of these recommendations are sourced in data, helping to facilitate a fact-based discussion around promoting community while reducing policing violence.

Policy Solution One: Require Comprehensive, Complete and Accurate Data Reporting, Which Can Be Audited by a Third Party

While the Use of Force Dashboard is undoubtedly a positive step toward transparency, transparency is only useful insofar as what is seen is accessible, accurate, and reliable. And that is not always the case with APD. For example, not all data on the Dashboard is sortable by factors, such as gender and race. Additionally, in its 2022 Agency Review and Assessment, the Police Executive Research Forum found "noticeable inconsistencies between print reports and Excel data. In some instances, APD captures data elements in one report that do not match the data elements in another report within the same data category. In other cases, the data in the Excel sheet cannot be reconciled with the data found in the annual reports."

The intent of the dashboard was to provide a foundation to facilitate fact-based conversation around APD's use of force. We are only able to achieve such when the public has access to comprehensive, complete, data reporting.

Policy Solution Two: Remove Most Criminal Penalties from the Municipal Code and Make Greater Use of Non-Law Enforcement Responses to Harm

In its municipal code, the City of Atlanta has its own set of criminal laws, separate from the State of Georgia, that provides authority for city prosecutors to seek punishment for numerous offenses. Those offenses either have significant overlap with the misdemeanor offenses of the State of Georgia (meaning they criminalize the exact same conduct) or involve behavior

frequently associated with or caused by chronic poverty, addiction or mental health disability, such as urban camping or public indecency.

Criminal punishment does not solve the concerns that arise from the alleged offenses, whereas greater reliance non-law enforcement responses to the harm directly addresses the root factors that caused the initial behavior. Local government should prioritize specialized response teams that can more effectively address quality-of-life concerns, such as Policing Alternatives and Diversion Community Response through 311.

Policy Solution Three: Require APD to Deprioritize Drug and Quality of Life Offenses

Not to be confused with 'legalization', deprioritizing specific offenses focus on internal policing practices, and not legislators, to place less focus on minor offenses, especially those where the greatest racial disparities lie.

Despite being one of the most well-staffed (more officers per capita than 87% of police departments), well-funded (more funding per capita than 71% of police departments), and well-trained departments in the country, 50% of APD's arrests are for "low-level, non-violent offenses"¹, a higher rate than 85% of police departments in the country. Even more discouraging, in the city billed as "the Black Mecca", the racial disparities born out in the data on "low-level, non-violent offenses" are suggestive of targeting and profiling, as Black Atlantans are 14.6x more likely, and Hispanic Atlantans are 3.5x more likely, to

be arrested for such offenses than White Atlantans.

For example, the most recent census data from 2020, Atlanta's population is 50% Black, 38% white, 5% Hispanic and 5% Asian. Yet 81% of persons cited for not using a sidewalk and 90% of persons cited for jaywalking in Atlanta are Black.

Policy Solution Four: Fund Wrap-Around Services for Individuals Facing Criminal Prosecution

City of Atlanta, APD and a host of other local agencies have put significant focus on so-called "Repeat-Offender" initiatives, with the Fulton County District Attorney going as far as expressing a desire to place a 'scarlet letter' on persons they classify as such. This type of intentional targeting not only encourages harmful, pretextual encounters and profiling, but it also promotes a legal system that prioritizes convictions over solutions.

The reality is that convictions frequently create barriers to residents accessing basic needs, like jobs or housing. Relying on plea deals and convictions to leverage convicted persons into treatment is often burdensome or impractical for people attempting to overcome the throws of poverty, homelessness, addiction or mental illness. Similarly, relying on local jails for mental health services is counterproductive to re-introducing formerly incarcerated people back into our community.

Prioritizing identification and development of housing, treatment and other forms of community support that aid individuals encountering the legal system is a policy

¹ The terms "low level" and "non-violent" are pulled directly from the Police Scorecard and Atlanta Police

Department and do not reflect the language of choice for The Southern Center for Human Rights

that promotes not only safe and effective re-entry, but community safety in the whole.

Policy Solution Five: Decriminalize the Traffic Code like the Majority of the United States

With Nevada enacting legislation to decriminalize minor traffic violations at the beginning of 2023, Georgia is one of only 12 states that still criminalize minor traffic offenses—most of which are below the Mason-Dixon line.

Nationally, traffic stops comprise 87% of police-initiated encounters and 3 out of every 10 killings by police officers occur during vehicle-related stops.



Further, the fines and fees associated with traffic violations have a disparate impact on poor households, interrupting already fragile circumstances and increasing financial burdens on those who can least afford them. Decriminalizing the traffic code would be a step in putting Atlanta (and Georgia) on track with most of the country and reducing one of the most frequent and harmful class of police-citizen encounters.

Policy Solution Six: Ban All Quotas and Point Systems That Incentivize Arrest

Justified as a method to measure officer productivity, Atlanta Police Department sets a target of 8 ‘credits’ per day for its officers. Varying actions are valued at differing rates, encouraging officers to do more work that earns more points, but not necessarily promote community safety.

For example, in Atlanta, responding to emergency calls only earns an officer .25

credits, whereas writing a traffic ticket is worth 1.5 credits. Atlanta’s incentivized quota system encourages traffic stops, a disturbing practice when viewed in the context of national data that shows that 30% of police killings occur during traffic encounters and estimates suggesting that Black drivers are up to 5x more likely to be pulled over than whites.

Figure 7: Internal APD Point System Document

Perhaps most importantly, research shows that quota systems significantly lower police morale and erode public trust in law enforcement. Local reporting in Atlanta even suggests that APD officers risk being assigned to undesirable beats or shifts if they do not score enough points.

Former Mayor Bottoms’ 2020 Use of Force Advisory Council long ago recognized the harms of incentivized quota systems and recommended “eliminating performance evaluation systems and disciplinary actions that incentivize officers to make unnecessary arrests.” It is time that Atlanta acts on that recommendation.

Policy Solution Seven: Re-Direct a Portion of APD Funding to Promote Usage of and Support for Policing Alternatives.

Recently, the city has demonstrated a willingness to support community partners

more substantially, breaking ground on the Center for Diversion and Services in March 2023. However, such investment is modest in comparison to the financial resources allocated to APD. As we work toward an Atlanta with fewer resources put toward unnecessary policing encounters, more funding is available to be re-directed towards solutions that heal Atlantans most in need.

Funding, staffing, and utilizing its existing, but unused, Office Violence Prevention is obvious first step. Expanding the ability of community members to request assistance and increasing the diversity and availability of specially trained responders, such as mobile crisis teams and conflict resolution teams.

Project References

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Impact Factor: 2.1

5-Year Impact Factor: 2.1

 Contents

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Abstract

This research note provides new evidence consistent with systemic anti-Black racism in police killings across the United States. Data come from the Mapping Police Violence Database (2013–2021). I calculate race-specific odds and probabilities that victims of police killings exhibited mental illness, were armed with a weapon, or attempted to flee the scene at the time of their killing. Multilevel, multivariable logistic regression techniques are applied to further account for the victim's age, gender, year of killing, and geographical clustering. I find that White victims are underrepresented, and Black victims overrepresented in the database. Relative to White victims, Black victims also have 60% lower odds of exhibiting signs of mental illness, 23% lower odds of being armed, and 28% higher odds of fleeing. Hispanic victims exhibit 45% lower odds of being armed relative to their White peers but are otherwise comparable. These patterns persist regardless of the victim's age, gender, year of killing, or geographical location (state, zip code, and neighborhood type). Thus, the threshold for being perceived as dangerous, and thereby falling victim to lethal police force, appears to be higher for White civilians relative to their Black or Hispanic peers. Current findings provide empirical support for political initiatives to curb lethal police force, as such efforts could help to reduce racial disparities in deaths by police nationwide.

Introduction

Recent high-profile police killings of Persons of Color (POC) across the United States (US) continue to spark debates and protests about the enduring presence of systemic racism in policing. Systemic racism refers to stereotypes, emotions, and practices that are reproduced across time and place to advantage one racialized group over others ([Phelan & Lin](#)

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Charges of systemic racism in policing reflect a broader discourse on continuing legacies of structural and institutional racism in the United States, or how major US institutions—including the criminal justice system, banks, and hospitals, among others—have been established over time to benefit White communities at the expense of minoritized communities ([Gee & Hicken, 2021](#); [Rothstein, 2017](#)).

These charges are not unfounded. It is now well-established that policing in the United States is tainted by a deeply racist, anti-Black legacy ([Alexander, 2010](#); [Gruber, 2021](#)). Aside from its racist inception, the policing profession continues to struggle with diversity issues, as police forces across the United States are still dominated by White men ([Ba et al., 2021](#); [Morabito & Shelley, 2015](#)). Lack of diversity among police jurisdictions, in turn, can perpetuate an unempathetic, “us versus them” standpoint toward communities of color ([Legewie & Fagan, 2016](#)), whereby POC civilians are more easily dehumanized than their White peers ([Van Cleve, 2016](#)). Moreover, dominant police training tactics can further distort officers’ perceptions of on-the-job hazards. For example, police training narratives commonly depict routine traffic stops as perilous encounters that command hyper-vigilance of officers, despite recent estimates indicating that only 1 in 6.5 million traffic stops result in the killing of a police officer ([Woods, 2019](#)).

All these factors lead to the reasonable expectation that police officers will tend to be racially biased in their use of lethal force. However, although POC are known to be overrepresented among police killings relative to White persons ([Sinyangwe et al., 2021](#)), the reasons for these apparent racial disparities remain obscured. One key source of ambiguity lies in how courts and police jurisdictions have chosen to define “reasonableness” in the use of lethal force. Courts have authorized police officers to use lethal force whenever they perceive “probable cause” that a suspect poses a physical threat. However, without setting objective criteria for “reasonableness” or “probable cause,” courts have empowered police officers to act on split-second reasoning that can become clouded by momentary stressors and personal biases ([Fagan & Campbell, 2020](#)).

The aim of this research note is to provide new evidence of systemic racism in policing across the United States with updated data from the Mapping Police Violence Database (MPVD; 2013–2021). The MPVD includes information about multiple types of police killings by both on- and off-duty police officers; the race of the victim; whether the victim exhibited signs of mental illness, was armed, or attempted to flee in the moments leading up to their killing; as well as the zip code, state, and neighborhood type—urban, suburban, or rural—in which each killing took place. With these data, I can test multivariable, multilevel m

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account for geographic clustering of fatal police encounters nested within zip codes and states. This strategy allows me to reveal potential racial biases in officers' perceptions of "probable cause" of threat, even after accounting for other victim traits and nationwide geographical heterogeneity.

To be sure, other recent studies have found that police officers—especially White officers—are significantly more likely to kill Black and Hispanic civilians, relative to their White peers, even when civilians are unarmed and do not exhibit mental illness ([Ba et al., 2021](#); [Fagan & Campbell, 2020](#); [Legewie & Fagan, 2016](#); Thomas et al., [2021](#)). But these studies were either limited to certain regions like Chicago, or they used older data from the Washington Post that only included fatal shootings by on-duty police officers between 2013 and 2018–2019. The present study uses updated data that includes multiple types of killings, by both on- and off-duty officers, between 2013 and 2021, and across numerous zip codes and states. With the current data and analytic techniques, I can more rigorously document systemic racism in police killings nationwide.

Methods

The MPVD currently represents one of the most comprehensive databases of police killing victims in the United States ([Sinyangwe et al., 2021](#)). Documented fatal encounters include deaths by shooting, chokehold, baton, taser, or other means by on- and off-duty police officers between January 2013 and March 2021. The database also includes information about the victim's race, age, gender, geographic location, and behaviors leading up to their fatal police encounter. My final analytic sample includes Black, Hispanic, and White victims of police killings ($N = 7,675$). I exclude Asian and Native American victims due to small cell sizes, as well as victims for whom race was not documented.

The three main outcomes are dichotomous and include whether the victim: (1) exhibited signs of mental illness at the scene, (2) was armed at the scene, or (3) attempted to flee the scene by foot or vehicle (1 = yes, 0 = no). Multilevel logistic regression techniques are used to calculate race-specific odds and marginal probabilities of exhibiting each behavior, and to control for random intercepts by state and zip code; the victim's age (in years) and gender (1 = male, 0 = female); and the year and geography (urban, suburban, rural) of the encounter. This strategy can determine whether racial disparities in police victimology persist net of other victim traits and average differences across geographic clusters ([Raudenbush & Bryk, 2002](#)).

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All statistical analyses are conducted in Stata 14. I use Stata's *meLogit* command to calculate multilevel, binary logistic regression estimates with random intercepts for fatal encounters nested within zip codes, nested within states. Missing data are handled with listwise deletion.

Results

[Table 1](#) provides descriptive statistics of study variables. In terms of victim behaviors, 26% exhibited signs of mental illness, 78% were armed at the scene, and 31% attempted to flee the scene. The average age of victims is 36 with a range of 1 to 107. The vast majority (95%) of victims are male and the plurality (50%) of encounters occur within suburban areas, followed by urban (28%) and rural (22%) areas. Finally, 51% of victims are documented as White, 29% are Black, and 20% are Hispanic. According to estimates from the 2020 US Census, 62% of the US population is non-Hispanic White, 12% is non-Hispanic Black, and 19% is Hispanic ([US Census Bureau, 2021](#)). Thus, White victims appear to be underrepresented, and Black victims overrepresented, in the MPVD dataset.

Table 1. Descriptive statistics of study variables: mapping police violence database, 2013–2021.

	Mean	SD	Min.	Max.	N
Victim exhibited mental illness					
No (reference)	.74		0	1	4,904
Yes	.26		0	1	1,707
Victim armed at the scene					
No (reference)	.22		0	1	1,703
Yes	.78		0	1	5,972
Victim attempted to flee					
No (reference)	.69		0	1	
Yes	.31		0	1	1,596
Year of encounter	3.52	2.28	0	8	7,675
Age of victim	36.34	12.87	1	107	

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	Mean	SD	Min.	Max.	N
Gender of victim					
Female (reference)	.05		0	1	387
Male	.95		0	1	7,275
Geography of encounter					
Suburban (reference)	.50		0	1	3,800
Urban	.28		0	1	2,141
Rural	.22		0	1	1,671
Race of victim					
White (reference)	.51		0	1	3,899
Black	.29		0	1	2,240
Hispanic	.20		0	1	1,536
<i>Notes: SD = standard deviation. Min. = minimum. Max. = maximum. N = observations for each variable or cell. Year of encounter ranges from 2013 (=0) to 2021 (=8).</i>					

[Table 2](#) provides odds ratios (OR), 95% confidence intervals, and significance thresholds from multilevel binary logit estimates. ORs greater than one represent a positive association, while ORs less than one represent a negative association with each behavioral outcome. For example, between 2013 and 2021, the odds of victims exhibiting signs of mental illness during encounters have *declined* by around 10% each year (OR = .908; $p < .001$). Conversely, odds of victims being armed (OR = 1.070) or fleeing the scene (OR = 1.116) have *increased* each year ($p < .001$). The age of the victim is also a significant predictor of each outcome ($p < .001$). Older age predicts greater odds of exhibiting mental illness (OR = 1.017) and being armed at the scene (OR = 1.014), but lower odds of fleeing the scene (OR = .966). Relative to female victims, male victims also have significantly greater odds of being armed (OR = 1.418; $p < .001$) and fleeing the scene (OR = 1.418; $p < .05$).

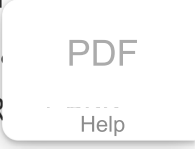


Table 2. Multilevel binary logit models of fatal encounters nested within zip codes, nested within states: mapping police violence database, 2013–2021.

	Victim exhibited mental illness				Victim armed at the scene			
Year of encounter	.908	(.884,	.932)	***	1.070	(1.044,	1.097)	***
Age of victim	1.017	(1.012,	1.021)	***	1.014	(1.009,	1.019)	***
Gender of victim								
Female (reference)								
Male	.837	(.648,	1.081)		1.699	(1.342,	2.149)	***
Geography of encounter								
Suburban (reference)								
Urban	.891	(.767,	1.035)		1.057	(.920,	1.214)	
Rural	.722	(.615,	.846)	***	.971	(.832,	1.133)	
Race of victim								
White (reference)								
Black	.402	(.342,	.474)	***	.826	(.716,	.953)	**
Hispanic	.545	(.457,	.651)	***	.859	(.730,	1.011)	
# of encounters	6462				7488			
# of zip codes	4355				4868			
# of states	51				51			

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Notes: Odds ratios are reported with 95% confidence intervals in parentheses. Estimates include random intercepts for zip codes and states (not shown). The number of states includes the Washington D.C. area.

* $p < .05$, ** $p < .01$, *** $p < .001$ (two-tailed).

The bottom of [Table 2](#) displays coefficients by race. Relative to their White peers, Black victims have 60% lower odds of exhibiting mental illness (OR = .402; $p < .001$), 17% lower odds of being armed at the scene (OR = .826; $p < .01$), but 28% greater odds of fleeing the scene (OR = 1.279; $p < .01$). Hispanic victims also have 45% lower odds of exhibiting mental illness relative to Whites (OR = .545; $p < .001$), but otherwise are comparable. When comparing Hispanic and Black victims, Hispanic victims have 35% greater odds of exhibiting mental illness ($p < .01$), 18% lower odds of fleeing the scene ($p < .05$), but similar odds of being armed (not shown). These racial patterns hold regardless of the year of the encounter, age of victim, gender of victim, and the geographical clustering of encounters.

[Figures 1](#) through [3](#) plot racial differences in behaviors as average marginal probabilities, with covariates held at their respective means. [Figure 1](#) shows that White victims have a 32% predicted probability of exhibiting mental illness, while Black and Hispanic victims have respective probabilities of 16% and 21%. In [Figure 2](#), White victims have an 80% predicted probability of being armed, while Black and Hispanic victims have respective probabilities of 77% and 78%. Finally, [Figure 3](#) shows that Black victims have the highest average probability of fleeing the scene at 33%, followed by Hispanic (29%) and White (28%) victims.

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Exhibited mental illness

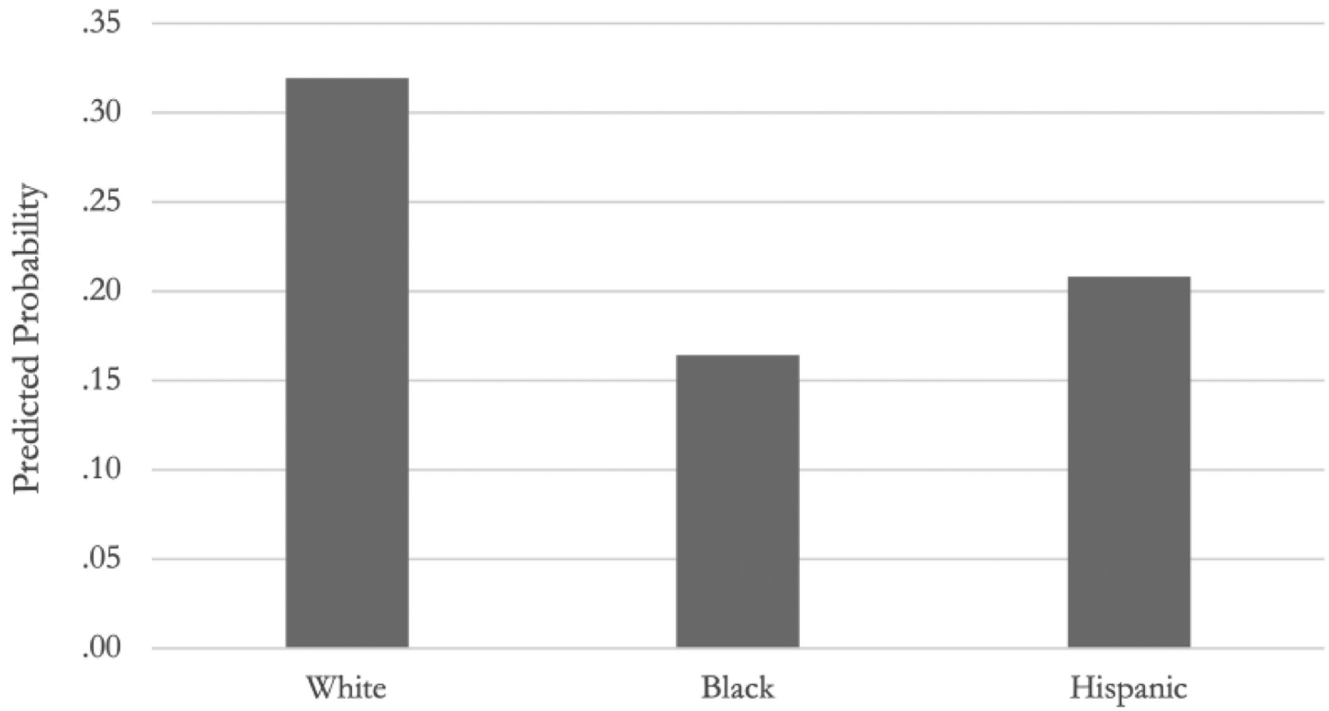
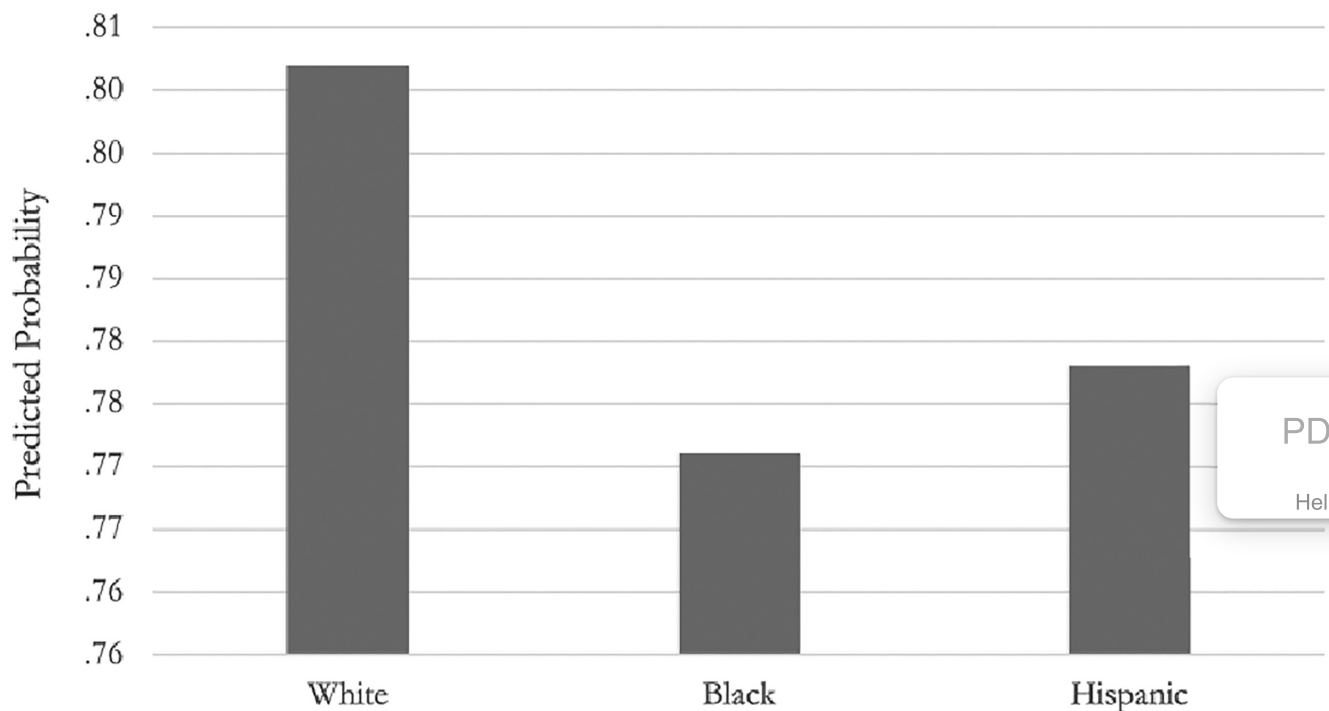


Figure 1. Race-specific marginal probabilities of victims exhibiting mental illness during fatal police encounters: mapping police violence database, 2013–2021.

Armed at the scene



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Figure 2. Race-specific marginal probabilities of victims being armed during fatal police encounters: mapping police violence database, 2013–2021.

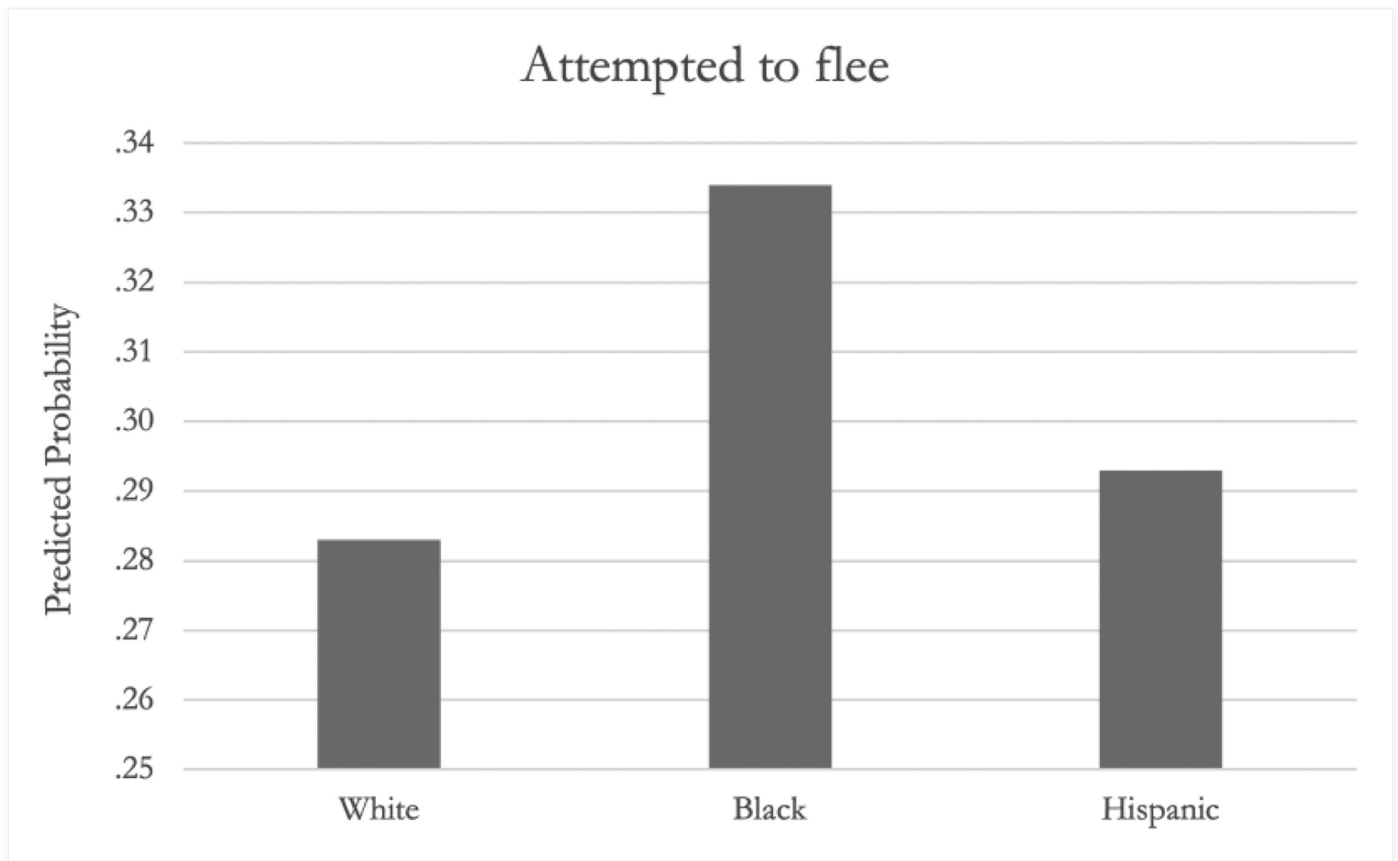


Figure 3. Race-specific marginal probabilities of victims attempting to flee during fatal police encounters: mapping police violence database, 2013–2021.

Conclusion

In a nationwide database of police killings between 2013 and 2021, I found that Black victims of police killings were overrepresented, and their White peers underrepresented, relative to the general US population. I also found that Black victims were less likely than their White peers to exhibit signs of mental illness or be armed at the scene of their killings, and less likely to flee the scene. Hispanics were less likely than Whites to exhibit signs of mental illness, but no more or less likely to be armed or flee. All the above patterns persisted even after accounting for heterogeneity by state, zip code, and neighborhood type in which fatal encounters occurred.

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This study provides rigorous and compelling evidence of systemic racism in police killings across the United States. Data for this study encompassed all 50 states and the Washington, D.C. area; over 4,000 five-digit zip codes; and a mix of suburban, urban, and rural neighborhoods. Despite such geographic heterogeneity, White victims appeared to pose greater threats to the safety of police officers than Black or Hispanic victims, yet also were underrepresented in police killings relative to the general US population. Put another way, the threshold for being perceived as dangerous, and thereby falling victim to lethal police force, appears to be higher for White civilians relative to their Black or Hispanic peers. These findings are consistent with the notion of systemic pro-White/anti-Black racism in policing nationwide.

This study has broader implications for policing, policymaking, and public health. First, current findings are supportive of campaigns to diversify and retrain police officers in efforts to curb racial disparities in the use of lethal police force. For example, other studies have found that Black and Hispanic officers tend to use less force and make fewer stops or arrests, relative to their White peers, especially in majority-Black or Hispanic neighborhoods ([Ba et al., 2021](#); [Legewie & Fagan, 2016](#)). The present study suggests that Black and Hispanic officers may be more understanding of the skepticism and fear that POC civilians express toward police officers, given the racist legacies of policing in our country ([Alexander, 2010](#); [Gruber, 2021](#)). Thus, police officers—especially White officers—should be better trained on how to anticipate and manage, without lethal force, Black and Hispanic civilians who express hostility or trepidation toward them.

Policymakers will also benefit from knowing that political initiatives aimed at curbing the use of lethal police force could help to address racial disparities in deaths by police, and may even help to mitigate broader health disparities in the United States. For instance, Black Americans—and especially Black men—have long been known to live shorter and sicker lives than their White peers ([Hummer & Hamilton, 2019](#)). Recent studies also indicate that recurring fears of police victimization represent major chronic stressors in the lives of Black Americans, particularly Black men (Bor et al., [2018](#); [Curtis et al., 2021](#); McLeod et al., [2020](#); [Sewell et al., 2016](#)). This study suggests that redressing systemic racism in policing could conceivably reduce chronic stress burdens and improve health among Black men, who are still disproportionately targeted by police nationwide.

This brief research note provides new evidence consistent with systemic anti-Black racism in police killings across the United States. Future studies should replicate and extend these findings as more data on police violence become available.

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Acknowledgements

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Systemic Racism in Police Killings: New Evidence From the Mapping Police Violence Database, 2013–2021

Race and Justice

1–10

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DOI: 10.1177/21533687211047943

journals.sagepub.com/home/raj**Reed T. DeAngelis**^{1,2} 

Abstract

This research note provides new evidence consistent with systemic anti-Black racism in police killings across the United States. Data come from the Mapping Police Violence Database (2013–2021). I calculate race-specific odds and probabilities that victims of police killings exhibited mental illness, were armed with a weapon, or attempted to flee the scene at the time of their killing. Multilevel, multivariable logistic regression techniques are applied to further account for the victim's age, gender, year of killing, and geographical clustering. I find that White victims are underrepresented, and Black victims overrepresented in the database. Relative to White victims, Black victims also have 60% lower odds of exhibiting signs of mental illness, 23% lower odds of being armed, and 28% higher odds of fleeing. Hispanic victims exhibit 45% lower odds of being armed relative to their White peers but are otherwise comparable. These patterns persist regardless of the victim's age, gender, year of killing, or geographical location (state, zip code, and neighborhood type). Thus, the threshold for being perceived as dangerous, and thereby falling victim to lethal police force, appears to be higher for White civilians relative to their Black or Hispanic peers. Current findings provide empirical support for political initiatives to curb lethal police force, as such efforts could help to reduce racial disparities in deaths by police nationwide.

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Keywords

deadly force, fatal police encounters, Mapping Police Violence Database, systemic racism

Introduction

Recent high-profile police killings of Persons of Color (POC) across the United States (US) continue to spark debates and protests about the enduring presence of systemic racism in policing. Systemic racism refers to stereotypes, emotions, and practices that are reproduced across time and place to advantage one racialized group over others (Phelan & Link, 2015). Charges of systemic racism in policing reflect a broader discourse on continuing legacies of structural and institutional racism in the United States, or how major US institutions—including the criminal justice system, banks, and hospitals, among others—have been established over time to benefit White communities at the expense of minoritized communities (Gee & Hicken, 2021; Rothstein, 2017).

These charges are not unfounded. It is now well-established that policing in the United States is tainted by a deeply racist, anti-Black legacy (Alexander, 2010; Gruber, 2021). Aside from its racist inception, the policing profession continues to struggle with diversity issues, as police forces across the United States are still dominated by White men (Ba et al., 2021; Morabito & Shelley, 2015). Lack of diversity among police jurisdictions, in turn, can perpetuate an unempathetic, “us versus them” standpoint toward communities of color (Legewie & Fagan, 2016), whereby POC civilians are more easily dehumanized than their White peers (Van Cleve, 2016). Moreover, dominant police training tactics can further distort officers’ perceptions of on-the-job hazards. For example, police training narratives commonly depict routine traffic stops as perilous encounters that command hyper-vigilance of officers, despite recent estimates indicating that only 1 in 6.5 million traffic stops result in the killing of a police officer (Woods, 2019).

All these factors lead to the reasonable expectation that police officers will tend to be racially biased in their use of lethal force. However, although POC are known to be overrepresented among police killings relative to White persons (Sinyangwe et al., 2021), the reasons for these apparent racial disparities remain obscured. One key source of ambiguity lies in how courts and police jurisdictions have chosen to define “reasonableness” in the use of lethal force. Courts have authorized police officers to use lethal force whenever they perceive “probable cause” that a suspect poses a physical threat. However, without setting objective criteria for “reasonableness” or “probable cause,” courts have empowered police officers to act on split-second reasoning that can become clouded by momentary stressors and personal biases (Fagan & Campbell, 2020).

The aim of this research note is to provide new evidence of systemic racism in police killings across the United States with updated data from the Mapping Police Violence Database (MPVD; 2013–2021). The MPVD includes information about multiple

types of police killings, by both on- and off-duty police officers; the race of the victim; whether the victim exhibited signs of mental illness, was armed, or attempted to flee in the moments leading up to their killing; as well as the zip code, state, and neighborhood type—urban, suburban, or rural—in which each killing took place. With these data, I can test multivariable, multilevel models that account for geographic clustering of fatal police encounters nested within zip codes and states. This strategy allows me to reveal potential racial biases in officers' perceptions of "probable cause" of threat, even after accounting for other victim traits and nationwide geographical heterogeneity.

To be sure, other recent studies have found that police officers—especially White officers—are significantly more likely to kill Black and Hispanic civilians, relative to their White peers, even when civilians are unarmed and do not exhibit mental illness (Ba et al., 2021; Fagan & Campbell, 2020; Legewie & Fagan, 2016; Thomas et al., 2021). But these studies were either limited to certain regions like Chicago, or they used older data from the Washington Post that only included fatal shootings by on-duty police officers between 2013 and 2018–2019. The present study uses updated data that includes multiple types of killings, by both on- and off-duty officers, between 2013 and 2021, and across numerous zip codes and states. With the current data and analytic techniques, I can more rigorously document systemic racism in police killings nationwide.

Methods

The MPVD currently represents one of the most comprehensive databases of police killing victims in the United States (Sinyangwe et al., 2021). Documented fatal encounters include deaths by shooting, chokehold, baton, taser, or other means by on- and off-duty police officers between January 2013 and March 2021. The database also includes information about the victim's race, age, gender, geographic location, and behaviors leading up to their fatal police encounter. My final analytic sample includes Black, Hispanic, and White victims of police killings ($N=7,675$). I exclude Asian and Native American victims due to small cell sizes, as well as victims for whom race was not documented.

The three main outcomes are dichotomous and include whether the victim: (1) exhibited signs of mental illness at the scene, (2) was armed at the scene, or (3) attempted to flee the scene by foot or vehicle (1 = yes, 0 = no). Multilevel logistic regression techniques are used to calculate race-specific odds and marginal probabilities of exhibiting each behavior, adjusting for random intercepts by state and zip code; the victim's age (in years) and gender (male vs. female); and the year and geography (urban, suburban, rural) of the encounter. This strategy can determine whether racial disparities in police victimology persist net of other victim traits and average differences across geographic clusters (Raudenbush & Bryk, 2002).

All statistical analyses are conducted in Stata 14. I use Stata's *melogit* command to calculate multilevel, binary logistic regression estimates with random intercepts for fatal encounters nested within zip codes, nested within states. Missing data are handled with listwise deletion.

Results

Table 1 provides descriptive statistics of study variables. In terms of victim behaviors, 26% exhibited signs of mental illness, 78% were armed at the scene, and 31% attempted to flee the scene. The average age of victims is 36 with a range of 1 to 107. The vast majority (95%) of victims are male and the plurality (50%) of encounters occur within suburban areas, followed by urban (28%) and rural (22%) areas. Finally, 51% of victims are documented as White, 29% are Black, and 20% are Hispanic. According to estimates from the 2020 US Census, 62% of the US population is non-Hispanic White, 12% is non-Hispanic Black, and 19% is Hispanic (US Census Bureau, 2021). Thus, White victims appear to be underrepresented, and Black victims overrepresented, in the MPVD dataset.

Table 2 provides odds ratios (OR), 95% confidence intervals, and significance thresholds from multilevel binary logit estimates. ORs greater than one represent a positive association, while ORs less than one represent a negative association with each behavioral outcome. For example, between 2013 and 2021, the odds of victims

Table 1. Descriptive statistics of study variables: mapping police violence database, 2013–2021.

	Mean	SD	Min.	Max.	N
Victim exhibited mental illness					
No (reference)	.74		0	1	4,904
Yes	.26		0	1	1,707
Victim armed at the scene					
No (reference)	.22		0	1	1,703
Yes	.78		0	1	5,972
Victim attempted to flee					
No (reference)	.69		0	1	3,603
Yes	.31		0	1	1,596
Year of encounter	3.52	2.28	0	8	7,675
Age of victim	36.34	12.87	1	107	7,561
Gender of victim					
Female (reference)	.05		0	1	387
Male	.95		0	1	7,275
Geography of encounter					
Suburban (reference)	.50		0	1	3,800
Urban	.28		0	1	2,141
Rural	.22		0	1	1,671
Race of victim					
White (reference)	.51		0	1	3,899
Black	.29		0	1	2,240
Hispanic	.20		0	1	1,536

Notes: SD = standard deviation. Min. = minimum. Max. = maximum. N = observations for each variable or cell. Year of encounter ranges from 2013 (=0) to 2021 (=8).

Table 2. Multilevel binary logit models of fatal encounters nested within zip codes, nested within states: mapping police violence database, 2013–2021.

	Victim exhibited mental illness			Victim armed at the scene			Victim attempted to flee		
Year of encounter	.908	(.884, .932)	***	1.070	(1.044, 1.097)	***	1.116	(1.078, 1.156)	***
Age of victim	1.017	(1.012, 1.021)	***	1.014	(1.009, 1.019)	***	.966	(.961, .972)	***
Gender of victim									
Female (reference)									
Male	.837	(.648, 1.081)		1.699	(1.342, 2.149)	***	1.418	(1.051, 1.915)	*
Geography of encounter									
Suburban (reference)									
Urban	.891	(.767, 1.035)		1.057	(.920, 1.214)		1.131	(.979, 1.307)	
Rural	.722	(.615, .846)	***	.971	(.832, 1.133)		1.202	(1.029, 1.404)	*
Race of victim									
White (reference)									
Black	.402	(.342, .474)	***	.826	(.716, .953)	**	1.279	(1.092, 1.499)	**
Hispanic	.545	(.457, .651)	***	.859	(.730, 1.011)		1.052	(.878, 1.262)	
# of encounters	6462			7488			5670		
# of zip codes	4355			4868			4045		
# of states	51			51			51		

Notes: Odds ratios are reported with 95% confidence intervals in parentheses. Estimates include random intercepts for zip codes and states (not shown). The number of states includes the Washington D.C. area.
 * $p < .05$, ** $p < .01$, *** $p < .001$ (two-tailed).

exhibiting signs of mental illness during encounters have *declined* by around 10% each year ($OR = .908$; $p < .001$). Conversely, odds of victims being armed ($OR = 1.070$) or fleeing the scene ($OR = 1.116$) have *increased* each year ($p < .001$). The age of the victim is also a significant predictor of each outcome ($p < .001$). Older age predicts greater odds of exhibiting mental illness ($OR = 1.017$) and being armed at the scene ($OR = 1.014$), but lower odds of fleeing the scene ($OR = .966$). Relative to female victims, male victims also have significantly greater odds of being armed ($OR = 1.699$; $p < .001$) and fleeing the scene ($OR = 1.418$; $p < .05$).

The bottom of Table 2 displays coefficients by race. Relative to their White peers, Black victims have 60% lower odds of exhibiting mental illness ($OR = .402$; $p < .001$), 17% lower odds of being armed at the scene ($OR = .826$; $p < .01$), but 28% greater odds of fleeing the scene ($OR = 1.279$; $p < .01$). Hispanic victims also have 45% lower odds of exhibiting mental illness relative to Whites ($OR = .545$; $p < .001$), but otherwise are comparable. When comparing Hispanic and Black victims, Hispanic victims have 35% greater odds of exhibiting mental illness ($p < .01$), 18% lower odds of fleeing the scene ($p < .05$), but similar odds of being armed (not shown). These racial patterns hold regardless of the year of the encounter, age of victim, gender of victim, and the geographical clustering of encounters.

Figures 1 through 3 plot racial differences in behaviors as average marginal probabilities, with covariates held at their respective means. Figure 1 shows that White victims have a 32% predicted probability of exhibiting mental illness, while Black and Hispanic victims have respective probabilities of 16% and 21%. In Figure 2,

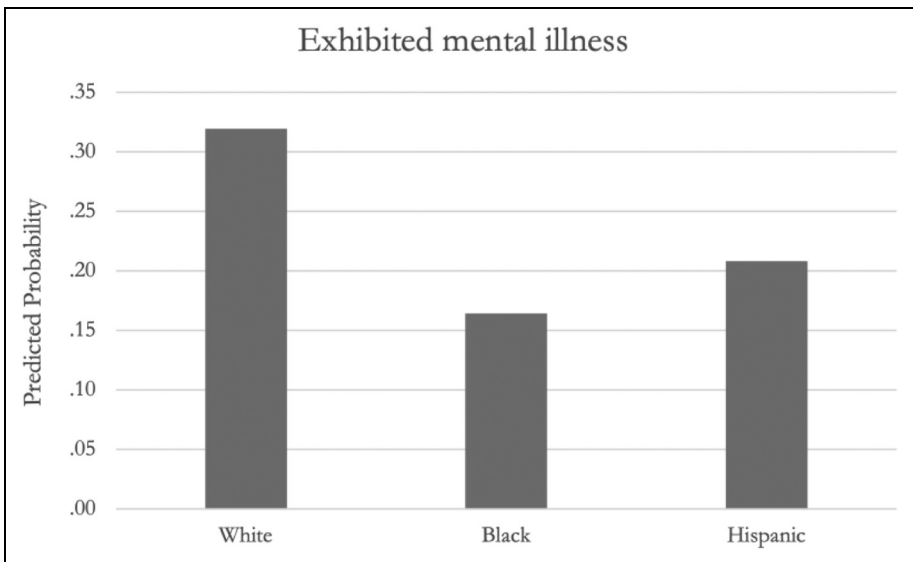


Figure 1. Race-specific marginal probabilities of victims exhibiting mental illness during fatal police encounters: mapping police violence database, 2013–2021.

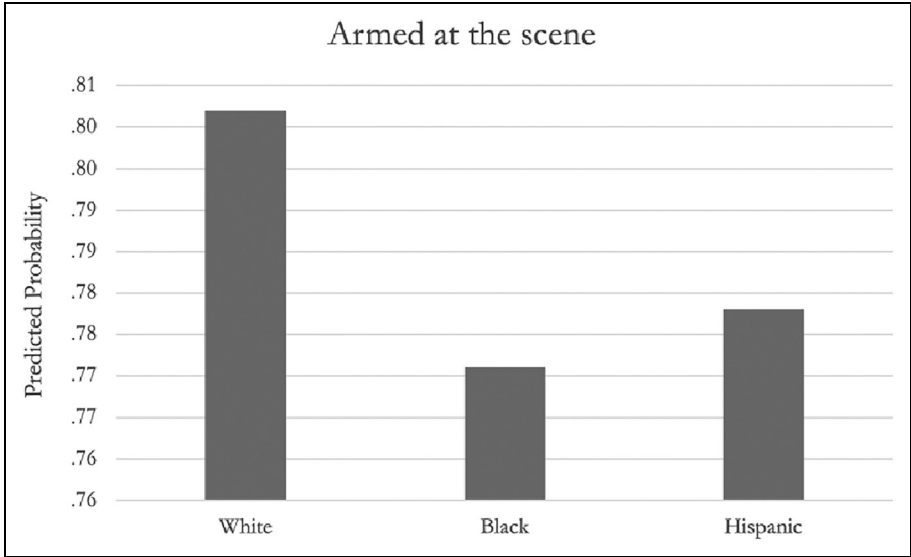


Figure 2. Race-specific marginal probabilities of victims being armed during fatal police encounters: mapping police violence database, 2013–2021.

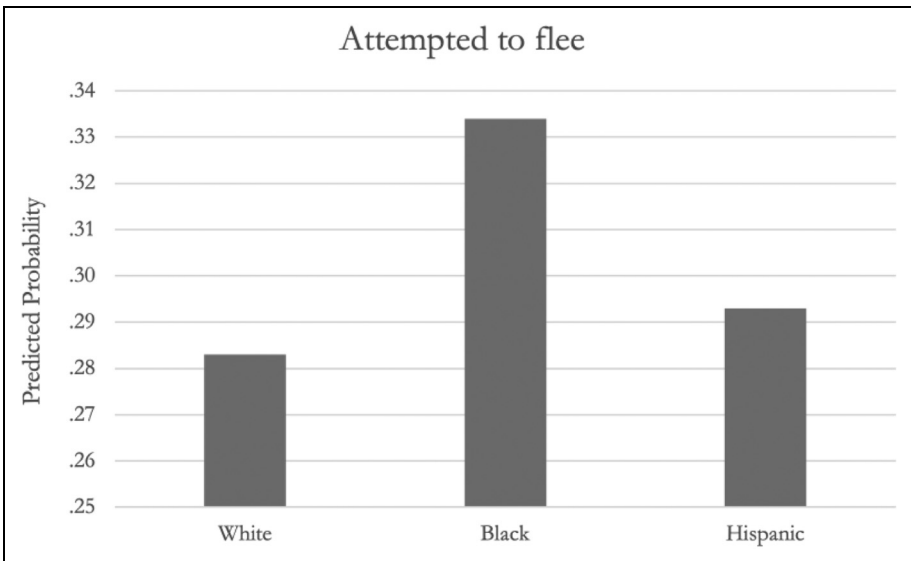


Figure 3. Race-specific marginal probabilities of victims attempting to flee during fatal police encounters: mapping police violence database, 2013–2021.

White victims have an 80% predicted probability of being armed, while Black and Hispanic victims have respective probabilities of 77% and 78%. Finally, Figure 3 shows that Black victims have the highest average probability of fleeing the scene at 33%, followed by Hispanic (29%) and White (28%) victims.

Conclusion

In a nationwide database of police killings between 2013 and 2021, I found that Black victims of police killings were overrepresented, and their White peers underrepresented, relative to the general US population. I also found that Black victims were less likely than their White peers to exhibit signs of mental illness or be armed at the scene of their killings, and more likely to flee the scene. Hispanics were less likely than Whites to exhibit signs of mental illness, but no more or less likely to be armed or flee. All the above patterns persisted even after accounting for heterogeneity by state, zip code, and neighborhood type in which fatal encounters occurred.

This study provides rigorous and compelling evidence of systemic racism in police killings across the United States. Data for this study encompassed all 50 states and the Washington, D.C. area; over 4,000 five-digit zip codes; and a mix of suburban, urban, and rural neighborhoods. Despite such geographic heterogeneity, White victims appeared to pose greater threats to the safety of police officers than Black or Hispanic victims, yet also were underrepresented in police killings relative to the general US population. Put another way, the threshold for being perceived as dangerous, and thereby falling victim to lethal police force, appears to be higher for White civilians relative to their Black or Hispanic peers. These findings are consistent with the notion of systemic pro-White/anti-Black racism in policing nationwide.

This study has broader implications for policing, policymaking, and public health. First, current findings are supportive of campaigns to diversify and retrain police officers in efforts to curb racial disparities in the use of lethal police force. For example, other studies have found that Black and Hispanic officers tend to use less force and make fewer stops or arrests, relative to their White peers, especially in majority-Black or Hispanic neighborhoods (Ba et al., 2021; Legewie & Fagan, 2016). The present study suggests that Black and Hispanic officers may be more understanding of the skepticism and fear that POC civilians express toward police officers, given the racist legacies of policing in our country (Alexander, 2010; Gruber, 2021). Thus, police officers—especially White officers—should be better trained on how to anticipate and manage, without lethal force, Black and Hispanic civilians who express hostility or trepidation toward them.

Policymakers will also benefit from knowing that political initiatives aimed at curbing the use of lethal police force could help to address racial disparities in deaths by police, and may even help to mitigate broader health disparities in the United States. For instance, Black Americans—and especially Black men—have long been known to live shorter and sicker lives than their White peers (Hummer & Hamilton, 2019). Recent studies also indicate that recurring fears of police victimization represent major chronic stressors in the lives of Black Americans, particularly

Black men (Bor et al., 2018; Curtis et al., 2021; McLeod et al., 2020; Sewell et al., 2016). This study suggests that redressing systemic racism in policing could conceivably reduce chronic stress burdens and improve health among Black men, who are still disproportionately targeted by police nationwide.

This brief research note provides new evidence consistent with systemic anti-Black racism in police killings across the United States. Future studies should replicate and extend these findings as more data on police violence become available.

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Experts stress that more training won't eradicate police violence

Daunte Wright's killing is about more than Kim Potter's use of a gun instead of a Taser – it's about the nation's violent policing system, experts say.



— Protesters gather outside the Brooklyn Center Police Department calling for justice for Daunte Wright before curfew in Brooklyn Center, Minn., on Wednesday. Jason Armond / Los Angeles Times via Getty Images

April 15, 2021, 12:25 PM EDT

By Char Adams

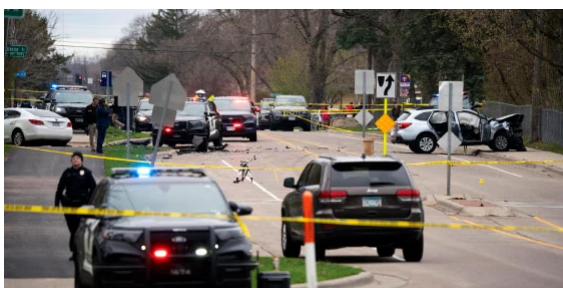
The question of how veteran Minnesota police Officer Kim Potter could [mistake her gun for a Taser](#) has dominated discourse about the fatal shooting of Daunte Wright so much that, experts say, the true driver of police violence has gone overlooked.

Turning a sharp focus to training and Tasers ignores the limits of reform, reinforces the idea that some officers are simply “[bad apples](#)” and distracts from efforts to deeply contend with the incendiary nature of policing as an institution, according to thinkers and leaders like Rep. [Alexandria Ocasio-Cortez, D-N.Y.](#)

“The conversation about training and the use of Tasers misses the larger culture of policing that sees lethal force as the ultimate tool to suppress crime,” said Khalil Gibran Muhammad, professor of history, race and public policy at the Harvard Kennedy School. “As long as we keep talking about individual police officers, we’ll keep making for a broken and sick society. Clearly, policing has reached the level of a public health crisis. It’s not just in the shooting of unarmed people. It’s also in the everyday assaults, brutalities and indignities that people face.”

Former Brooklyn Center Police Chief Tim Gannon – who, along with Potter, [resigned his week](#) – said police pulled Wright over for driving with expired plates Sunday afternoon and discovered that there was a warrant out for his arrest. Wright’s mother, Katie, said that she [spoke to her son](#) during the traffic stop and that he told her police pulled him over because he had air fresheners hanging from his rearview mirror, which [is a violation](#). Police said Wright tried to flee when they tried to arrest him and Potter shot him in the chest.

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NEWS

Daunte Wright was stopped for expired plates, but driving while Black may have been his 'crime'

Potter [was charged with](#) second-degree manslaughter Wednesday. The killing has only prompted more protest in the area where former Minneapolis police Officer [Derek Chauvin was charged in the killing](#) of George Floyd and is standing trial. Floyd’s death prompted the state to pass [massive police reform legislation](#), providing guidance on use of force to training. This action followed [calls for more police training](#), which are routinely heard after high-profile incidents of violence. [Democrats](#) and [Republicans](#) alike proposed legislation calling for more training in the wake of Floyd's death. However, experts say, [simply increasing officer training](#) won't end police violence.

— Former Brooklyn Center, Minn., police Officer Kim Potter in 2007.

Bruce Bisping / Star Tribune via Getty Images file

“Crime has been narrowly defined within the poorest communities of color in the United States. The function of police, then, is to control poor populations of color with either the threat or use of violence with impunity. No amount of training will yield different results as long as that’s what policing was built to do,” Muhammad said.

Potter, who had worked as a police officer for 26 years, had even served on the force's negotiation team. She was acting as a field training officer, training a new officer, when she shot Wright, [according to the Star-Tribune](#) of Minneapolis.

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Minnesota requires its officers to undergo at least [1,000 hours of basic training](#). The training includes criminal and traffic codes, in-progress crimes, firearms use, domestic disputes, sexual assault, traffic stops and evidence training, [according to the Star-Tribune](#). Officers must also complete 48 additional hours of training every three years.

A 2018 report from the [Minnesota advisory committee](#) on policing practices said officers lacked extensive instruction in crisis intervention, cultural sensitivity and procedural justice. The committee noted that \$1.5 million had been allotted to “racial sensitivity” training. But research has shown that even implicit bias training [has no discernible impact](#) on specifically curbing police violence.

“Implicit bias training can be extremely effective in the short-term, however the issue is that it does not have lasting effects,” the report said. The report included testimony from Jason Sole, former president of the Minneapolis NAACP, who said training isn’t a “catch all.”

“Some people can’t be trained,” Sole said. “It’s not a silver bullet. Some of these things will help and change the system on some levels but we got to understand what we’re up against.”

In the wake of Wright’s death, a “[Thin Blue Line](#)” flag waved outside the Brooklyn Center Police Department, a symbol that has come to represent policing as more than a job and as [an alliance in direct opposition](#) to racial justice movements.

“Daunte Wright’s killing was not a random, disconnected ‘accident’ - it was the repeated outcome of an indefensible system that grants impunity for state violence, rewards it w/ endlessly growing budgets at the cost of community investment, & targets those who question that order,” [Ocasio-Cortez wrote](#) in a tweet Tuesday.

It's this [system that abolitionists have](#) been highlighting in mainstream discourse since before last summer's uprisings and the resulting popularity of the "[defund the police](#)" demand. "We are not proposing to abandon our communities to violence. We are naming policing as a form of violence that we all experience," Andrea Ritchie, a researcher for Interrupting Criminalization at Barnard College and author of "Invisible No More: Police Violence Against Black Women and Women of Color," [said previously](#).

Still, the fatal shooting has turned the nation’s attention not to the violent history of policing or its systemic harms but to Tasers. A [2018 study](#) from the University of Chicago found no evidence that Tasers reduce police violence; instead, they protect police more than the public.

Steve Tuttle, a spokesperson for Taser manufacturer [Axon Enterprise](#), [told CNBC](#) that Tasers were never meant to replace guns – “you don’t bring a knife to a gun fight,” he said – but were meant to reduce death by temporarily disabling people. That is borne out by the data. The study found that police didn’t largely substitute Tasers for guns and that the number of injuries to civilians was not affected by having more Tasers. For scholars like Muhammad, such research only confirms what critics of policing have long known.

“I would prefer to see the diminution of police officers and the amount of work that they do,” Muhammad said. “I don’t have confidence that the existing members of the larger law enforcement community today are able to be retrained out of how they’ve been socialized into policing. We need to give them less to do and diminish the public’s exposure to them. Or we need to start over with a different set of safety actors who have not been socialized into this punitive legal culture.”

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Char Adams is a reporter for NBC BLK who writes about race.

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Violence Prevention

[Violence Prevention Home](#)

Summary of Initial Findings from CDC-Funded Firearm Injury Prevention Research

Helping to better understand and prevent firearm violence and injuries impacting children and teens. Injuries and deaths from firearms impact many children and teens, their families, and their communities in the United States. Taking into account all types of firearm injuries, including homicides, suicides, and unintentional injuries, firearm injuries were the leading cause of death among children and teens ages 1-19 in 2020 and 2021.

CDC-funded researchers are studying how to better understand and prevent firearm violence and injuries impacting children and teens by answering key questions: How does frequent exposure to violence affect young people? How are social inequities associated with youth exposure to firearm violence? How do we better support children and teens at high risk of experiencing gun violence? What risks are associated with gun carrying among children growing up in rural areas? How do mass shootings impact young people?

Answering these and other important questions can help break cycles of violence and prevent firearm violence for future generations. As grantees publish findings from CDC-funded research, summaries will be developed to support awareness and dissemination of results to inform prevention and future research. Here is a look at what some of the CDC-supported research teams have uncovered so far about firearm violence and injuries impacting children and teens.

University of California at Davis researchers are learning how children and teens experience gun violence in big cities and its impacts on their health.

The University of California at Davis research team found that 1 in 4 youth live within a half mile of where at least one gun homicide happened in the past year. Black and Latinx youth were more likely to experience a gun homicide, experienced incidents more recently, and had incidents closer to home when compared to White youth.

The team found significant mental health effects of this exposure to gun homicide. Boys in the most disadvantaged communities, particularly Black boys, were at the greatest risk of exposure to gun violence and depression.

In another study, the researchers studied “collective efficacy.” Collective efficacy means that neighbors work together, trust each other, and are willing to intervene for the common good. It can be a powerful factor in preventing community violence. They found that adolescents living in lower income households in neighborhoods with high collective efficacy, had the same risk of firearm violence exposure to adolescents in middle- or high-income households in neighborhoods with low collective efficacy. This underscores the importance of programs to enhance neighborhood social ties to prevent gun violence.

Read this research:

- [Inequities in Community Exposure to Deadly Gun Violence by Race/Ethnicity, Poverty, and Neighborhood Disadvantage among Youth in Large US Cities](#) [↗](#)
- [Heterogeneous effects of spatially proximate firearm homicide exposure on anxiety and depression symptoms among U.S. youth](#) [↗](#)
- [Neighborhood collective efficacy and environmental exposure to firearm homicide among a national sample of adolescents](#) [↗](#)

Researchers at the University of Washington have learned about patterns and associations of handgun carrying unique to youth in rural areas and how to better impact key risk factors for firearm violence.







University of Washington researchers first looked at national survey data. They found that handgun carrying by youth has increased by the largest amount in the country's most rural areas, rising from 5.2% in 2003 to 12.4% in 2019.

When they looked closer at patterns of handgun carrying over time in 7 states, they found that the earliest average age when youth in rural areas started carrying guns was 12 years old. On average, youth who carried handguns had higher odds of engaging in physical violence, like fights or assaults, in adolescence.

In another analysis, the research team found that youth who carry guns to school are at higher risk for having attacked someone. Eighty-four percent (84%) reported attacking someone with the idea of hurting them, compared to 51% of youth who carried a gun but not to school, and 23% of those who never carried a gun.

University of Washington researchers also studied the impact of a violence prevention system known as Communities That Care. This program provides a formal structure for local partners to select and implement the most relevant evidence-based programs. They found that middle- and high school students in rural towns implementing the program were 27% less likely to carry a handgun in the past year. The results underscore the potential for early prevention programs to reduce the risk for firearm injury and violence.

Read this research:

- [Rural-Urban Variation in the Association of Adolescent Violence and Handgun Carrying in the United States, 2002-2019](#) 
- [Trajectories of Handgun Carrying in Rural Communities From Early Adolescence to Young Adulthood](#) 
- [Bullying and physical violence and their association with handgun carrying among youth growing up in rural areas](#) 
- [School Handgun Carrying Among Youth Growing Up in Rural Communities](#) 
- [The association of alcohol use and heavy drinking with subsequent handgun carrying among youth from rural areas](#) 
- [Effect of the Communities That Care Prevention System on Adolescent Handgun Carrying](#) 

Researchers at Northwestern University are working to better understand the needs of young people involved with the juvenile justice system who are at particularly high risk of experiencing firearm violence.


Northwestern University researchers studied data from young people arrested or detained in Cook County, Chicago, following up with them for more than 15 years into adulthood.

The research team found that more than 3 out of 4 boys and 3 out of 5 girls had been threatened with a weapon before age 18. Nearly one in 10 boys had been shot, with significant disparities —nearly 1 in 4 Hispanic male youth were injured by a gunshot before age 18.

In adulthood, 41.3% of males and 10.5% of females engaged in firearm violence (i.e., threatening with or using a firearm). The adults involved with firearms as adolescents were at higher risk of later gun violence.

These researchers' findings draw attention to the needs of those involved with the criminal justice system at a young age. Preventing community violence and addressing trauma from experiencing violence by ensuring access to mental health services can help prevent future involvement in gun violence.

Read this research:

- [Association of Firearm Access, Use, and Victimization During Adolescence With Firearm Perpetration During Adulthood in a 16-Year Longitudinal Study of Youth Involved in the Juvenile Justice System](#) 

Researchers at RTI International looked at crisis hotline data to better understand how mass shootings impact young people.

RTI researchers studied trend data from Crisis Text Line. This not-for-profit provides free, 24/7 mental health support via text message. The service is popular among youth since they prefer text messaging over a traditional telephone hotline. Crisis Text Line provides research partners with data in a secure way, removing any potentially identifying information.

RTI researchers looked at conversations before and after the mass shooting at an elementary school in Uvalde, Texas. The shooting resulted in a significant increase in conversations about firearms, with the largest spike the day after the event. Conversations about grief increased the most during this time.

Their research offers insights into the ripple effects of mass shootings on young people, including psychological impacts. It may also help future researchers because RTI developed new procedures for analyzing large-scale text data from real-time data sources and demonstrating how this novel data source can inform firearm violence prevention research.

Read this research:

- [The Use of Crisis Services Following the Mass School Shooting in Uvalde, Texas: Quasi-Experimental Event Study](#) 

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Last Reviewed: October 5, 2023

Despite Covid-19 and stay-at-home orders, 2020 saw an increase in homicides across the US

By Amir Vera, CNN

🕒 4 minute read · Published 10:50 AM EST, Fri January 1, 2021



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(CNN) — It's been a deadly year, and that's not just due to Covid-19.

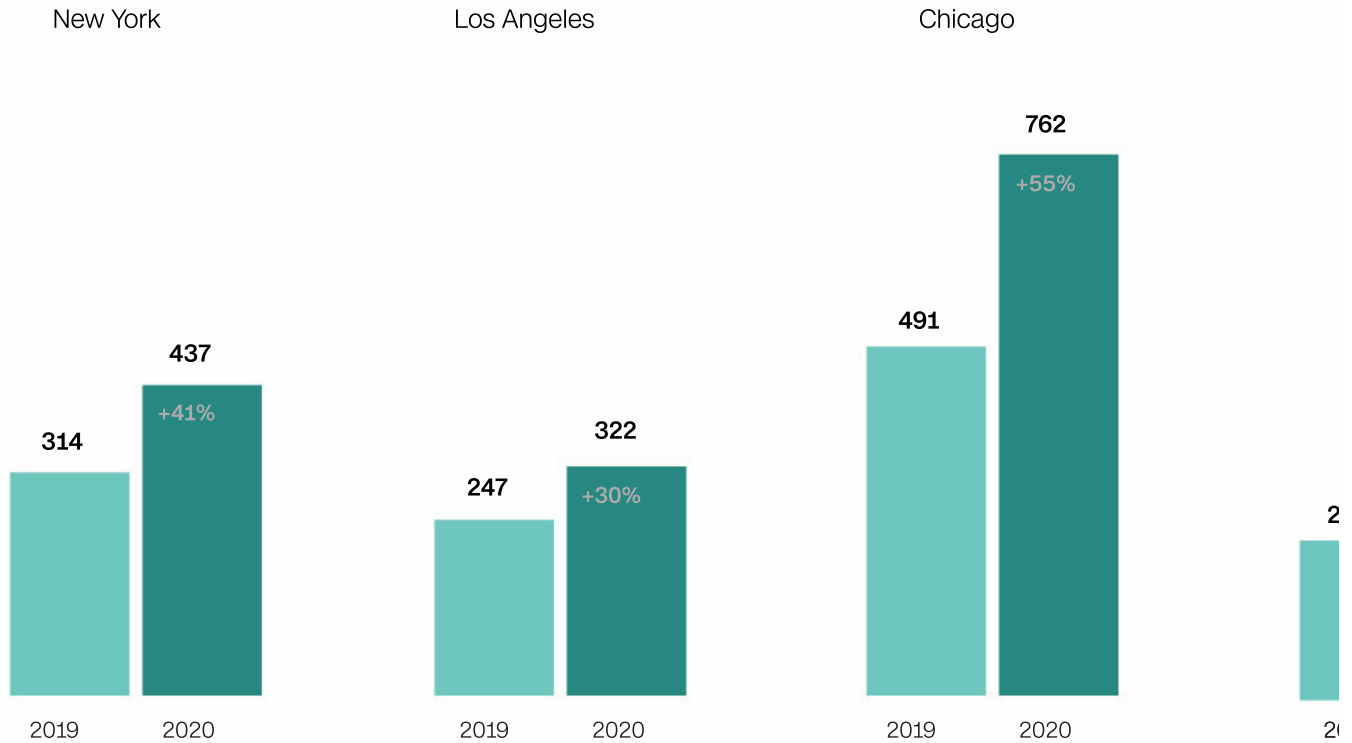
Despite less activity outside with the closing of businesses and schools, 2020 saw a dramatic increase in homicides.

Between January and October, there was a 29% increase in homicides compared to the same timeframe in 2019, according to a November report from the National Commission on Covid-19 and Criminal Justice. As of December 27, some of America's largest cities saw dramatic increases as well, including Chicago (55%), New York (41%) and Los Angeles (30%).

Large cities see an increase in homicides in 2020

The five most populous cities in the United States all saw a year-to-date increase in the number of homicides between 2019 and 2020.

Number of homicides per year



The increase was due to a number of factors, criminology experts told CNN. The pandemic closed schools and businesses, leading to unemployment. This meant children and unemployed adults were stuck at home, which led to skyrocketing stress and anxiety levels, especially in lower-income homes.

The virus also changed the way police officers do their jobs – because of illness and social distancing – which in turn led to fewer officers on the streets in areas that needed crime prevention the most.

“I think Covid was the straw that broke the camel’s back,” said Eddie Bocanegra, senior director of Readi Chicago, a program that looks to aid those most affected by gun violence.

“It’s almost like these communities were just having their heads above the water, and then Covid hit and they just sunk,” Bocanegra said.

Aside from homicides, other violent crimes – aggravated and gun assaults – spiked in the spring in summer as well. Aggravated assaults increased by 15% in the summer and 13% in the fall, while gun assaults increased by 15% and 16%, according to the report.

No connection between summer protests and homicide spike, experts say

While homicides increased, nonviolent crimes – burglaries, larcenies and drug offenses – decreased because many businesses were closed and there were fewer people on the streets, the report said.

Homicides began spiking in late May and early June, according to the report. This was the same time the death of George Floyd in Minneapolis sparked nationwide protests over the deaths of Black people at the hands of police.

However, the report said “the connection, if any, between the social unrest and heightened violence remains uncertain.”



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How George Floyd's death ignited a racial reckoning that shows no signs of slowing down

Richard Rosenfeld, criminologist at the University of Missouri-St. Louis, told CNN the same neighborhoods that witness police violence are the same ones where the uptick in crime is concentrated. Those communities have never had a strong or positive relationship with police so it leads people to take legal matters into their own hands, he said.

“We’ve got two forces at work. We’ve got the pandemic and social unrest around police violence, the combination of the two major factors form a deadly combination. That explains the abruptness and timing of the increase and the sheer magnitude of the increase (in homicides),” Rosenfeld said.

What’s missing from the assumption connecting the protests and homicide spike is “good hard evidence,” Rosenfeld said.

In other words, protesters were not committing the crimes, he said.

Bocanegra, the Chicago program director, told CNN there were protests in the suburbs, but those areas did not see an increase in homicides.

“Those that are driving the violence, they were struggling even moreso pre-Covid,” he said.

Government needs to approach violence like Covid, experts say

The pandemic shed new light on how to combat increased violence in cities, experts told CNN.

For one, the coordination of local, state and federal governments to mitigate the spread of the virus was one not seen before in the US – and criminal justice experts say that same approach needs to be applied to the issue of violence.

We're not going to change that overnight, we need to come up with a 10- to 20-year plan," Bocanegra said. "Unless we're able to think about the future generations ... we're going to continue having these conversations 20 to 30 years from now."



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'Urgent actions' needed in US government response to pandemic, watchdog says

Jens Ludwig, who runs the University of the Chicago's Crime Lab, told CNN gun violence and mental health data for those between 18 and 24 go hand-in-hand.

"So, if you look at the gun violence problem. That's usually concentrated among young people say, 18 to 24. If you look at the CDC data on mental health ... people 18 to 24 are showing signs of anxiety, depression, increased in substance use in response to the pandemic and trying to deal with the pandemic," he said.

Bocanegra said he's hopeful the country and his city of Chicago will be able to take the lessons learned from Covid-19 and apply them to gun violence. He told CNN he does wonder why there hasn't been such a response in the past.

"Is it because Covid didn't discriminate based on gender, creed or class? Or is it because most gun issues impact Black and Brown people and people with mental health issues?" he said. "Who determines what lives are worth more than others?"

Going into 2021, Rosenfeld said previous years will provide guidance into the months ahead. In 2015, there was a 11% increase in homicides nationwide after the protests sparked by Ferguson that spilled over into 2016.

"We may be in for an increase in homicides going into the next year," he said.

CNN's Priya Krishnakumar, Peter Nickeas and Adrienne Broaddus contributed to this report.

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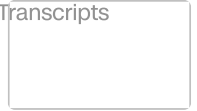
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After Rise in Murders During the Pandemic, a Sharp Decline in 2023

The country is on track for a record drop in homicides, and many other categories of crime are also in decline, according to the F.B.I.

By Tim Arango and Campbell Robertson

Dec. 29, 2023

Detroit is on track to record the fewest murders since the 1960s. In Philadelphia, where there were more murders in 2021 than in any year on record, the number of homicides this year has fallen more than 20 percent from last year. And in Los Angeles, the number of shooting victims this year is down more than 200 from two years ago.

The decrease in gun violence in 2023 has been a welcome trend for communities around the country, though even as the number of homicides and the number of shootings have fallen nationwide, they remain higher than on the eve of the pandemic.

In 2020, as the pandemic took hold and protests convulsed the nation after the murder of George Floyd by a police officer in Minneapolis, the United States saw the largest increase in murders ever recorded. Now, as 2023 comes to a close, the country is likely to see one of the largest — if not the largest — yearly declines in homicides, according to recent F.B.I. data and statistics collected by independent criminologists and researchers.

The rapid decline in homicides isn't the only story. Among nine violent and property crime categories tracked by the F.B.I., the only figure that is up over the first three quarters of this year is motor vehicle theft. The data, which covers about 80 percent of the U.S. population, is the first quarterly report in three years from the F.B.I., which typically takes many months to release crime data.

The decline in crime contrasts with perceptions, driven in part by social media videos of flash-mob-style shoplifting incidents, that urban downtowns are out of control. While figures in some categories of crime are still higher than they were before the pandemic, crime overall is falling nationwide, including in cities often singled out by politicians as plagued by danger and violence. Homicides are down by 13 percent in Chicago and by 11 percent in New York, where shootings are down by 25 percent — two cities that former President Donald J. Trump called “crime dens” in a campaign speech this year.

Just as criminologists attributed the surge in murders in 2020 and 2021 to the disruptions of the pandemic and protests — including the isolation, the closing of schools and social programs and the deepening distrust of the police — they attribute the recent drop in crime to the pandemic's sliding into the rearview mirror.




“Murder didn't go up because of things that happened in individual neighborhoods or individual streets,” said Jeff Asher, a crime analyst based in New Orleans who tracks homicides in nearly 180 American cities. “It went up because of these big national factors, and I think the big national factors are probably driving it down. The biggest of which is probably Covid going to the background.”

In a country awash in guns, the normal that many cities are returning to is still a violent one, with the biggest still enduring hundreds of fatal shootings a year. And some cities are bucking the positive trend, including Washington, where the murder toll continues a grim multiyear climb. The homicide tally this year is the highest in two decades, and there have been more than 900 carjacking incidents.

Washington is an exception this year even in the Mid-Atlantic region. Baltimore is on track to report the fewest murders in nearly a decade, and Philadelphia to post a homicide count more than 25 percent below its 2021 record of 562.

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Several community activists in Philadelphia attributed the surge of violence in recent years to the sudden vacuum of civic resources at the onset of the pandemic. “We got to see what happens when there are no programs available,” said Jonathan Wilson, who runs the Fathership Foundation, a nonprofit in southwest Philadelphia.

Schools, recreation centers and libraries were closed, and grass-roots groups like his were not equipped to fill the gaps. But the city’s budget last year included more than \$150 million for anti-violence efforts, some of it in the form of grants to organizations that could match teenagers with jobs or provide safe places for students after school.

The city of Detroit is on track to record the lowest number of homicides since 1966, a remarkable milestone even given its substantially smaller population today. Local officials credited an aggressive effort to jump-start the criminal justice system, which had largely stalled in the pandemic.

“We know why violent crime soared in America,” said Mayor Mike Duggan at a news conference this month. “The criminal courts shut down. You couldn’t put 12 jurors in a room.”

Chief Michel Moore of the Los Angeles Police Department said that while he was encouraged to see such steady declines in violent crime — murder and rape are down markedly and robbery is down slightly this year — the city was struggling with property crime. Burglaries, car thefts and personal theft are all up substantially.

In Los Angeles, much of the decline in murders comes from a drop in the number of killings of homeless people; in both 2021 and 2022, more than 90 homeless people were killed, according to Crosstown, a nonprofit news outlet. So far this year, 35 fewer homeless people have been killed, a 55 percent reduction, according to Chief Moore. While the trend is encouraging, he said, violence in L.A., like in many cities, is still up compared with just before the pandemic.

“We still have far too much violence and we have more work to do when we look at the pre-Covid period,” he said.

Chelsia Rose Marcus contributed reporting.

Tim Arango is a Los Angeles correspondent. Before moving to California, he spent seven years as Baghdad bureau chief and also reported on Turkey. He joined The Times in 2007 as a media reporter. [More about Tim Arango](#)

Campbell Robertson reports on Delaware, the District Columbia, Kentucky, Maryland, Ohio, Pennsylvania and Virginia, for The Times. [More about Campbell Robertson](#)



Becoming PICS Aware: A study on post incarceration syndrome

Post incarceration syndrome, or PICS, is a condition that affects millions of Americans.

Related to PTSD, PICS describes a set of symptoms that emerge when a person is subjected to incarceration. These environments present daily, chronic trauma in the form of violence, degradation, and a deprivation of basic needs. For individuals who have survived incarceration, as well as those still inside, PICS contributes to depression, anxiety, drug and mental health relapse, violence, poverty, and recriminalization.

Though the terminology varies, the collective of PICS-associated symptoms is the same. Also, don't be fooled by the prefix. *Post* simply means that the person has been incarcerated, not that they have been released.

Early PICS research was rife with dehumanizing language and stigmatizing, paternalistic undertones. Still, Terence Gorski's use of the actual term "PICS" formally drew that undeniable line between incarceration and the onset and exacerbation of mental illness, addiction, and other issues. Not using this term but describing the condition, Craig Haney investigated characteristics of "post-prison adjustment" that followed "pains of imprisonment."¹ Other researchers have studied similar symptom sets which occur as a result of "institutionalization" and "prisonization."² And following years of research on the effects of long-term imprisonment, Marieke Liem has said she finds the term "PICS" particularly suitable.³

PICS underscores all struggles in our community, putting us at "high risk of chronic unemployment and homelessness,"⁴ among other things. Still, opinions differ about whether a DSM classification would be beneficial. An official classification could ensure access to mental health care, via disability status, for many who need it. But it could also easily lead to further stigma for those already facing collateral consequences and other societal barriers. **What we know for sure is that, by becoming PICS Aware, we can more readily combat the debilitating effects of incarceration.**

About the Study

This study was conducted by researchers who have been imprisoned, including a PI who was incarcerated for most of its duration. Our background is in communications and our work focuses on community building. We studied PICS because we, our families, and so many in our circles have been enormously affected by it. And we knew that, for something so sensitive and personal, it made no sense for academics who had no experience being criminalized or incarcerated to contribute yet another psychoanalysis *about* us. The goal was to produce data that would foster critical conversations about these carceral experiences, and to send a signal to all people currently and formerly incarcerated: **YOU ARE NOT ALONE.**

This study asked people who had been incarcerated in jails, prisons, youth and immigration facilities across the country, for various offenses and lengths of time, to take a mixed method survey in which they noted the presence of PICS symptoms. Results showed that, of the 204 people surveyed, 99.2% exhibited – and very importantly, recognized in themselves – PICS symptoms, even if they didn't call it that.

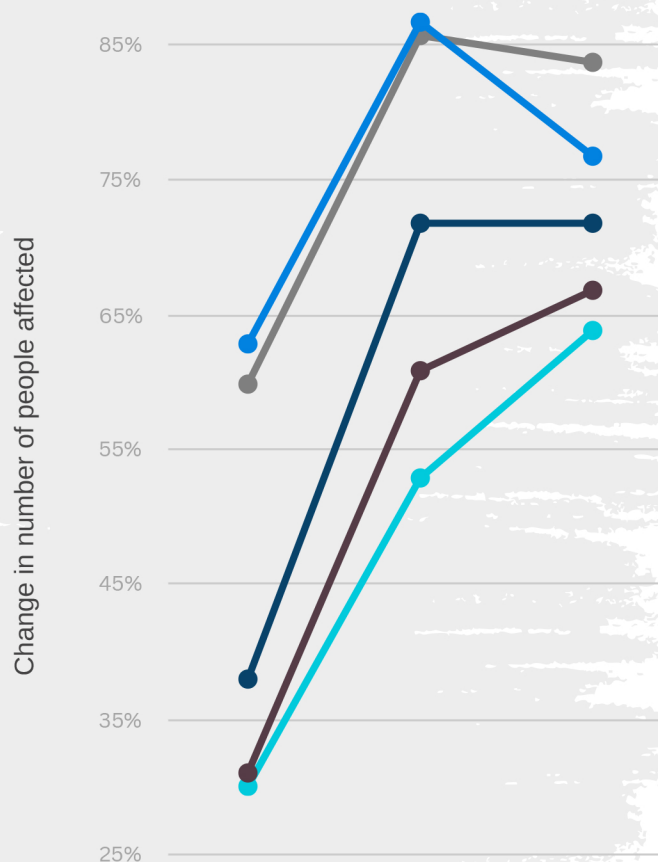


Measuring PICS Symptoms

Symptoms were tracked before, during, and after incarceration. The most prevalent symptoms, depression and anxiety, peaked during incarceration. The majority of symptoms we measured – including eating disorders and being easily angered – increased at each stage. This included a near 35% overall rise in antisocial traits and trouble sleeping, and a 36% increase in feelings of paranoia.

We asked people who had been incarcerated to describe situations which cause them the most anxiety. They talked about **confined rooms**, loud or **crowded places**; having their backs to people (like when sitting in a restaurant); **feeling alone, misunderstood**, and experiencing **tension** with loved ones; hearing **sounds** that remind them of prison (keys jingling, doors slamming); having **bad dreams** that they are still in prison or that they're in danger of being recriminalized.

Increase in PICS symptoms over time



	Before incarceration	During incarceration	After incarceration
Anxiety	60%	86%	84%
Depression	63%	87%	77%
Antisocial traits	30%	53%	64%
Distrust of others	31%	61%	67%
Trouble sleeping	38%	72%	72%

Peer Support

Reentry initiatives led by those of us who have been incarcerated are key. This makes sense – we live in a society that values experience. Yet we are systematically barred from participating in our own communities by restrictive and counterproductive policies. By becoming PICS Aware, we can combat the policies that negatively impact our lives.

94% of people who have been incarcerated are open to networking with others who have similar experiences

Over 97% associate with others who have been in prison – 56% said it is because most of their friends were in jail or prison.

Most of us believe that there is a need for some form of community support groups, therapy or counseling specifically aimed at dealing with PICS, post-prison adjustment, and/or reentry.

When asked whether they would attend a peer support group or therapy if it were free, more than 96% said “yes.”

Mental Health and Incarceration

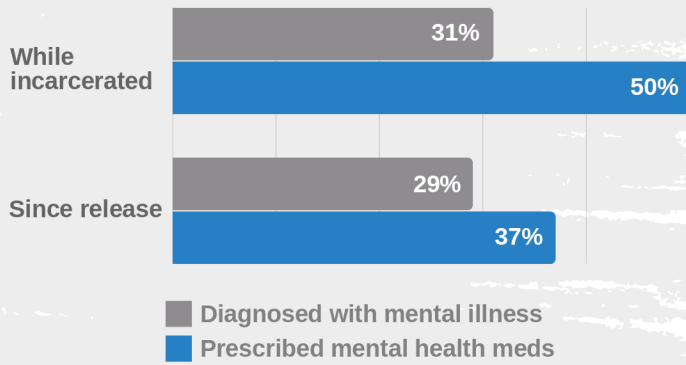
Though 81 study participants (40%) had been diagnosed with a mental illness or condition **before** being incarcerated, only one person was given the option of participating in a mental health court.

Of participants who served time in prison, less than 18% received a proper mental health evaluation upon admission. And though only 31% were diagnosed with a mental illness during incarceration, 50% were prescribed mental health medication while inside.

While a person could have been diagnosed with a mental illness before prison, several participants reported that they were prescribed mental health medication in prison without ever, in their lives, being diagnosed with anything.

There are perpetual, systemic failures in evaluating and reporting. But there is also an evidence-based theory that “hyper-masculine attitudes resulting from incarceration might potentially lead to the underreporting of mental problems.”⁵

Mental illness and medication



Both types of underreporting help explain the gendered discrepancy in the data. And the rate of reported trauma we found is consistent with previous research, which also noted the propensity of those in men’s facilities to underreport.⁶

Of participants who had taken mental health medication while in prison, 62% said they intentionally stopped before release. While the data on criminalized mental illness in most states is clear, the most cited reason participants stopped taking medication was because they simply didn’t want to rely upon it anymore.



LESS THAN 40% of those in Georgia ever received a mental health evaluation in prison, regardless of how much time they served. Less than 11% were classified as needing mental health treatment at the time of release.⁷

And Georgia’s data confirms what we all know to be true: that **MENTAL ILLNESS IS HIGHLY CRIMINALIZED**. For CY2022, among those labeled by the criminal system as suffering from mental illness, 50% were either serving a life or death sentence, or being required to max out (no opportunity for parole).⁸

Our study shows the prevalence of mental illness among those incarcerated to be almost double what Georgia is reporting. This discrepancy makes it likely that an examination of other states would produce a similar trend in underreporting.

Data on post-release rates of mental illness, even for those under community supervision, is scarce. This seems important, since failing to report to mental health appointments after release often constitutes a violation of parole and probation.

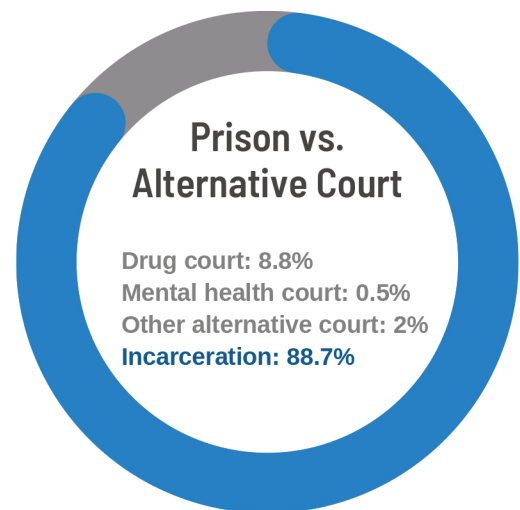
Carceral systems frequently bestow the burden of mental health care costs to individuals who, just coming out of prison, can hardly afford to survive. And few people seem to be getting information on health insurance and Affordable Care Act practices, how to sign up for Medicaid, or where to find free help in the community, even when options exist.

Addiction and Treatment

The correlation between addiction and criminalization is astounding. Yet legislators insist on spending exorbitantly to imprison people rather than to treat them. The annual cost of opioid treatment for one person, depending on the type, is between \$9,000 and \$14,000.⁹ Still, this cost pales in comparison to the \$33,000+ per-person cost of incarceration.¹⁰

78% of those who suffer from addiction say the government fails to provide any help during incarceration

While 67% of participants said addiction played a part in the crime for which they were convicted, less than 9% were given the option of participating in a drug court.



Inside, while 81% of participants had suffered from addiction at some point in their lives, only 65% were in a facility where a 12-step program was available. Of those who have suffered from addiction and been released, **39% have not stayed clean.**

Prison Trauma and PICS

The American prison model presents an inherently traumatic environment.¹¹ That trauma is compounded by increases in the use of solitary confinement – for example, what we saw during the Covid-19 pandemic. Cash bail initiatives continue to drive plea convictions. Reforms aimed at decarceration are supplanted by laws that disproportionately discriminate against those convicted of sex-related offenses. And, despite data showing people convicted of “serious violent offenses” are the least likely to ever be recriminalized, false narratives using dichotomized ‘violent/nonviolent’ language fuel arguments for longer sentences that keep prisons filled beyond capacity.¹²

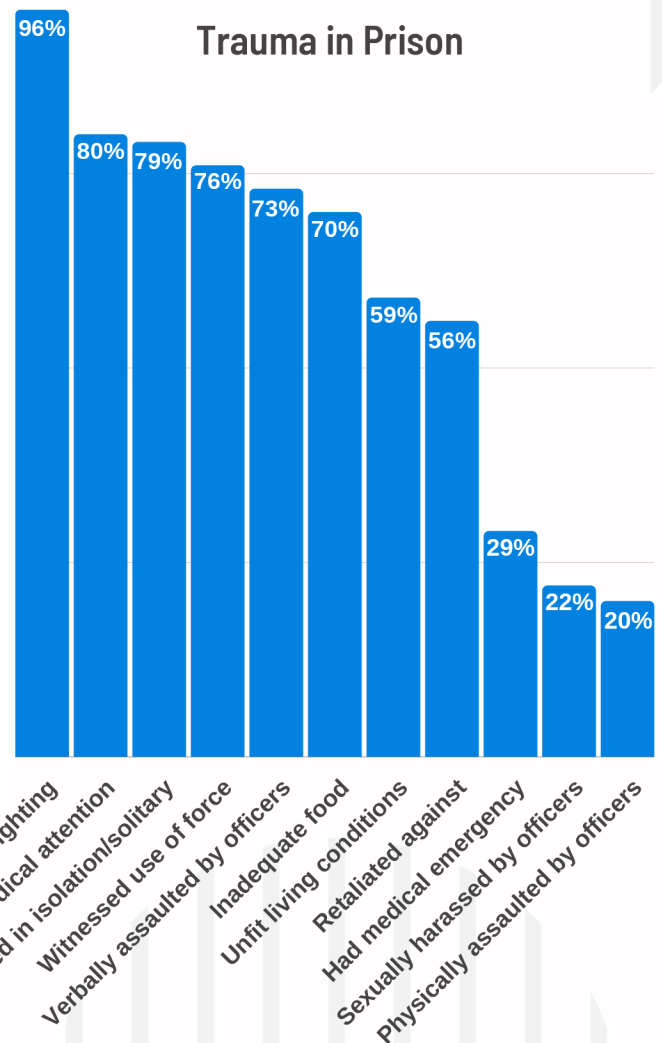
If incarceration wasn’t dehumanizing enough, nearly **73%** of participants said they were **verbally assaulted, insulted, or degraded** by jail or prison officers or staff. Twenty-two percent were sexually harassed and 20% were physically assaulted by correctional officers. We also saw drastic spikes in the amount of violence witnessed by people during their incarceration, versus before or after. An incredible **96%** of participants **witnessed fighting**, while 76% witnessed correctional officers using physical force.

Not surprising, over half of participants had been retaliated against for reporting, grieving, or speaking up about conditions and mistreatment. The research quells any doubt that the U.S. prison-industrial complex is anything but punitive and harmful. Almost **80%** of everyone who has been incarcerated has, at some point, been subjected to **solitary confinement**.

Besides experiencing or witnessing violence, living in a situation where basic human needs are unmet has a lasting effect. Participants survived prolonged periods without adequate food or clothing, and over half were forced to live in unfit conditions. A whopping **80%** experienced a **lack of proper medical attention** while inside. Two-thirds witnessed medical emergencies. And 29% had medical emergencies while incarcerated, which not only underscores the lack of adequate health care but proves the compounded toll medical-related stress has on a person during imprisonment.

“It’s a dehumanizing environment. Your needs go unmet. You can’t control your own life. That’s stressful and dehumanizing to people.”

John Lash, former Director of Georgia Conflict Center



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ATL Community SUPPORT Project

These findings are the result of an IRB-approved study on post incarceration syndrome conducted by Luci Harrell and Page Dukes in 2019-2022, advised by Dr. Marina Hendricks, at the School of Communication and Journalism, South Dakota State University. This executive summary was published by the Atlanta Community Support Project, an organization working at the intersection of poverty and incarceration, empowering those of us affected to tear down stigmatizing cultural and legal barriers. All content ©2023 Luci Harrell. To learn more about PICS and other ACSP research endeavors, visit atlcommunitysupport.org/research.



10 deaths. Nine months.

The faces of those who've died in Fulton's custody.



Caption

Credit: Family photo

[OPINION](#)

Sept 30, 2023

Cornell Harrell

Date of death: Feb. 8

Age: 26

Cornell Harrell was incarcerated at the Fulton County jail at the time of his death. A medical examiner's report says, "He was found unresponsive by another inmate within the cell. Emergency Medical Services transported him to Grady Memorial Hospital where he was pronounced dead shortly after arrival." His death certificate says he died of a "seizure disorder." Authorities say he suffered from bipolar disorder, anxiety and depression.

Yavin Jackson

Date of death: March 18

Age: 24

Yavin Jackson was an inmate at the Fulton County jail. The medical examiner's report says he was found unresponsive on a bed in a common area of the jail and "was transported to a hospital where he was subsequently pronounced deceased. He has a reported medical history of bipolar disorder, anxiety, and seizures." The report says he probably died from a seizure related to a motor vehicle accident in 2016.

Jeffrey Jackson

Jailed to death: An editorial board exclusive

[Opinion: The staggering loss of life is too much](#)

[Opinion: Problems have plagued Fulton jails for decades](#)

[10 deaths. Nine months.](#)

[Jails in crisis across U.S. try mix of approaches](#)

[A deadly jail: An AJC Special Project in Sunday ePaper](#)

Date of death: April 14

Age: 65

Jeffrey Jackson was reportedly found unresponsive and "kneeling prone" in his assigned cell at the Fulton County jail. He was pronounced dead shortly thereafter at Grady Memorial Hospital. His death certificate shows he died of hypertensive cardiovascular disease. Records say he had a medical history of vascular disease, schizophrenia and dementia.

Noni Battiste-Kosoko



Credit: Family Photo

Date of death: July 11

Age: 19

Noni Battiste-Kosoko died in the Atlanta City Detention Center, where Fulton County leases cell space. The Fulton County Medical Examiner said Battiste-Kosoko died of “toxicity” of a drug used to treat schizophrenia and bipolar disorder. She was arrested in February for trespassing at the high school she had once attended in Fairburn. After not showing up for a court hearing on those charges, she was arrested again in April on a minor drug charge in Union City and later taken into custody by Fulton County sheriff’s deputies. Diagnosed as schizophrenic, she had told police she was homeless.

Montay Stinson

Caption



Credit: contributed

Date of death: July 31

Age: 40

Montay Stinson had been at the Fulton County jail since October 2022 after being arrested on a charge of second-degree burglary. According to reporting in the AJC, Stinson was found unresponsive with “no obvious signs of injury” in his cell. Jail and medical personnel unsuccessfully attempted to revive him. The sheriff’s office says he died at Grady Memorial Hospital.

Christopher Smith

Date of death: Aug. 10

Age: 34

Christopher Smith was found unresponsive in a medical unit cell at the Fulton County jail. Smith was resuscitated by medical personnel, but died after being taken to Grady Memorial Hospital. He had been held without bond since October 2019 on felony and misdemeanor charges, including armed robbery, aggravated assault with a deadly weapon, possession of a firearm by a convicted felon and third-degree cruelty to children.

Alexander Hawkins

Date of death: Aug. 17

Age: 66

Alexander Hawkins was found unresponsive in a medical unit cell at the Fulton County jail. Medical personnel tried to revive him. He was being held on a shoplifting charge and had been granted a \$5,000 bond 10 days before he died. Hawkins had been arrested July 31 and was initially held at the Atlanta City Detention Center before being transferred to the Fulton County jail on Aug. 5. Fulton County records show he died at Grady Hospital.

Samuel Lawrence

Caption



Credit: contributed

Date of death: Aug. 26

Age: 34

Samuel Lawrence was found unresponsive in his cell at the Fulton County jail. He was taken to Grady Hospital, where he was pronounced dead. He was arrested the day after Christmas 2022 for second-degree arson, according to The AJC. More than 200 days later, he had still not been formally charged. His bond was \$30,000. Shortly before he died, Lawrence filed a civil rights complaint against the Fulton jail, its deputies and other staff. Across roughly a dozen handwritten pages, he wrote about poor conditions that had him sleeping on a “hard metal floor” and lacking water or a working toilet at times. A federal lawsuit alleges that Lawrence was beaten regularly by inmates and guards and had been denied access to food and medical treatment. “I don’t know how much more I can take,” Lawrence wrote a few days before his death.

Dayvion Blake

Caption



Credit: Channel 2 Action News

Date of death: Aug. 31

Age: 23

Dayvion Blake was stabbed during a fight involving several inmates at the Fulton County jail. County records show he died at Grady Hospital. The sheriff's office said "a dispute between a group of inmates" led to multiple stabbings that left four other detainees injured. Blake had been in Fulton's custody since January. He was facing charges including cocaine possession and battery, according to the AJC. A sheriff's spokesperson said Blake also had a warrant in Sumter County for aggravated assault.

Shawndre Delmore

Caption



Credit: Family photo

Date of death: Sept. 3

Age: 24

Shawndre Delmore was pronounced dead at Grady Memorial Hospital, three days after he was found unresponsive in a Fulton County jail cell. He was arrested April 1 by Atlanta police on charges of burglary and obstruction. He was granted a \$5,000 bond two days later, and that amount was reduced to \$2,500 in July. Records show Delmore was given a signature bond on September 1, the day after he was taken to the hospital. An attorney for his family told the AJC that "his release, even though he was on life support ... possibly was an attempt to say that he did not die in the Fulton County Jail." Preliminary findings showed the otherwise healthy Delmore died of cardiac arrest, the family's lawyers told reporters.

Where we gathered our information

This listing was compiled using information gathered by Atlanta Journal-Constitution reporters, as well as names and other details supplied by Fulton County officials. Information was also obtained from funeral home death notices, a database of Georgia's Criminal Justice Coordinating Council, as well as death certificates and Fulton County Medical Examiner's office reports obtained through open records requests. Photos were provided by families and legal representatives.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA ADVOCACY OFFICE, et al.,	:	PRISONER CIVIL RIGHTS
Plaintiffs,	:	42 U.S.C. § 1983
	:	
v.	:	
	:	
PATRICK LABAT,	:	CIVIL ACTION NO.
Defendant.	:	1:19-CV-01634-WMR-RDC

ORDER

Plaintiffs Georgia Advocacy Office and J.N. filed a class action civil rights complaint pursuant to 42 U.S.C. § 1983. (Doc. 1.) Plaintiffs have paid the filing fee. On April 4, 2022, District Judge William M. Ray, II, issued a final order approving the parties' joint settlement agreement. (Doc. 343.) Plaintiffs filed a motion for finding Defendant in material breach of the agreement on March 30, 2023.¹ (Doc. 350.) Defendant filed a response in opposition on April 28, 2023. (Doc. 359.) Plaintiffs' reply brief was filed on May 12, 2023. (Doc. 360.) This Court held a hearing to address the parties' arguments on October 5, 2023. (Doc. 389.)

¹ Plaintiffs also move to extend the settlement agreement, which the Court will consider in a separate order. (*See* Doc. 343 ¶ 10 ("The Magistrate Judge will only be required to determine if there is a material breach of the Agreement.").)

For the reasons stated below, it is **ORDERED** that Plaintiffs' motion for finding Defendant in material breach of the settlement agreement (Doc. 350) be **GRANTED**.

I. BACKGROUND

Plaintiffs, female inmates with serious mental illness formerly housed at the South Fulton Municipal Regional Jail ("South Fulton Jail"), filed this class-action lawsuit in 2019, alleging that conditions of confinement at the South Fulton Jail violated their constitutional rights.² (Doc. 1.) Following an evidentiary hearing, the Court granted a preliminary injunction in favor of Plaintiffs. (Doc. 94.)

In 2022, the parties entered into a settlement agreement, which was approved by the Court. (Doc. 343.) Among other things, the agreement required Defendant to provide "maintain a record of the exact times that the Covered Person is offered out-of-cell time and the exact times at which the Covered Person

² Plaintiffs have subsequently been moved to the Atlanta City Detention Center ("ACDC"). (Doc. 350 at 9 n.3.) However, the parties have continued to abide by the terms of the settlement agreement. (*Id.*; Doc. 359 at 4-5.)

returns to their cell if the out-of-cell time offer is accepted.”³ (*Id.* ¶ 23.)⁴ The agreement further required Defendant to provide certain amounts of out-of-cell time to Covered Persons. (*Id.* ¶¶ 22, 29.) It also required Defendant to document specific reasons for the denial of out-of-cell time and to follow certain procedures to evaluate whether the denial remains necessary. (*Id.* ¶¶ 24–25.) In addition, the agreement provided that the Magistrate Judge assigned to this case—the undersigned—would determine whether a party has materially breached the agreement, subject to review by the District Judge. (*Id.* ¶ 10.)

Plaintiffs subsequently filed the instant motion for finding Defendant in material breach of the settlement agreement. (Doc. 350.) According to Plaintiffs, Defendant is in material breach of the tracking and reporting requirements, out-of-cell requirements, and denial reporting requirements of the agreement. (*Id.* at 27–29.) Defendant has filed a response in opposition. (Doc. 359.) He contends that he is not in material breach of the agreement. (*Id.* at 9–12.)

³ According to the settlement agreement, “Covered Person” means “all people housed in the South Fulton Jail who experience serious mental illness and cannot function within the general population of the South Fulton Jail because of the nature or severity of their psychiatric disability.” (Doc. 343 ¶ 15.)

⁴ References to specific paragraphs in Doc. 343 are to provisions in the settlement agreement.

II. DISCUSSION

According to the settlement agreement, “[a] material breach is to be determined by applying the same standard used for a determination of contempt.” (Doc. 343 ¶ 10.) In a civil contempt proceeding, the moving party must demonstrate “by clear and convincing proof that the underlying order was violated.” *PlayNation Play Sys., Inc. v. Velez Corp.*, 939 F.3d 1205, 1212 (11th Cir. 2019) (internal quotation marks omitted). Once the moving party makes this showing, “the burden of production shifts to the alleged contemnor to show a present inability to comply that goes beyond a mere assertion of inability.” *Id.* (internal quotation marks omitted).

A court must not “focus on the subjective beliefs or intent of the alleged contemnors in complying with the order,” but instead must focus on “whether in fact their conduct complied with the order at issue.” *F.T.C. v. Leshin*, 618 F.3d 1221, 1233 (11th Cir. 2010) (internal quotation marks omitted). Similarly, “substantial, diligent, or good faith efforts are not enough; the only issue is compliance.” *Id.* at 1232. Nevertheless, “substantial, but not complete, compliance with the court order may be excused if it was made as part of a good faith effort at compliance.” *PlayNation*, 939 F.3d at 1213 (internal quotation marks omitted); *see also Newman v. Graddick*, 740 F.2d 1513, 1525 (11th Cir. 1984) (explaining that a “person who attempts with reasonable diligence to comply with a court order should not be

held in contempt”). This requirement is to be strictly construed. *Combs v. Ryan’s Coal Co.*, 785 F.2d 970, 984 (11th Cir. 1986). In making a good-faith effort at complying, the alleged contemnor must quickly “become aware of” any noncompliant issues “through its own efforts” rather than those of the complaining party, and it must “set about correcting” those issues in an expeditious manner. *Sizzler Fam. Steak Houses v. W. Sizzlin Steak House, Inc.*, 793 F.2d 1529, 1537 (11th Cir. 1986).

Plaintiffs argue that Defendant has materially breached the settlement agreement in three ways: he has failed to comply with the (1) tracking and reporting requirements, (2) out-of-cell requirements, and (3) denial reporting requirements of the agreement. (Doc. 350 at 27–29.)

A. *Tracking and Reporting Requirements*

According to the settlement agreement, Defendant is required to offer each Covered Person four hours of out-of-cell time per day, five days per week. (Doc. 343 ¶ 22.) In addition, Defendant must “maintain a record of the exact times that the Covered Person is offered out-of-cell time and the exact times at which the Covered Person returns to their cell if the out-of-cell time offer is accepted.” (*Id.* ¶ 23.) The agreement also provides that Defendant must keep track of such information in NoteActive—an electronic tracking system—or another similar

system. (*Id.*) Furthermore, Defendant is required to provide those records to Plaintiffs' and Defendant's counsel on a biweekly basis. (*Id.* ¶ 50.)

Plaintiffs argue that Defendant has failed to comply with the tracking and reporting requirements of the settlement agreement. (Doc. 343 at 27–28.) In particular, they point to numerous instances where Defendant has not provided accurate or consistent tracking information. Although the agreement requires Defendant to track all out-of-cell time through NoteActive, (Doc. 343 ¶ 23), Defendant actually uses a combination of NoteActive and handwritten logs, (Doc. 350-1 at 6–7.) Furthermore, “the records are regularly in conflict, making it near impossible to determine if all Covered Persons receive the amount of out-of-cell offerings required under the Agreement.” (*Id.* at 7.) For example, NoteActive records from August 18, 2022, indicate that J.C. was housed in H-5, but handwritten records from that same date indicate that J.C. was housed in H-3. (*Id.* at 15.) Similarly, NoteActive records from August 19, 2022, indicate that W.C. was housed in H-7, but handwritten records from that same date indicate that W.C. was housed in H-12. (*Id.*) As a result, it is unclear where these Covered Persons were located on these days. In addition, NoteActive records from September 14, 2022, did not contain any documentation regarding recreation or free time for H.K., but handwritten logs stated that H.K. was denied free time, and the time in and time out for recreation time were both listed as 1:33 p.m. (*Id.*)

In another instance of inconsistent records, NoteActive records from October 18, 2022, stated that W.C. attended group for approximately two hours, while handwritten logs stated that W.C. refused group. (*Id.* at 16.) These are only a few selections from the many examples provided by Plaintiffs. (*See id.* at 15–23.) In an email to Caitlin Childs, an investigator for Plaintiffs, Dr. Kenneth Ray, one of the compliance monitors for the settlement agreement, agreed that there were several conflicts between the NoteActive records and the paper records. (Doc. 351-10 at 3.)

Plaintiffs additionally contend that Defendant’s records do not reliably track who is considered a “Covered Person.” (Doc. 350 at 13, 27–28.) Defendant originally classified women with mental health levels of 1, 2, and 3 as Covered Persons. (Doc. 350-1 at 4.) Defendant did not produce records for women housed outside of the mental health pods – the B, C, and G pods – at the South Fulton Jail and stated that no Covered Persons were housed outside of the mental health pods. (*Id.* at 4–5.) Nevertheless, Defendant subsequently notified Plaintiffs that some Covered Persons were being housed in H pod, a nonmental health pod, due to a bed shortage. (*Id.* at 5.) Furthermore, in October 2022, Defendant listed only inmates with mental health levels of 1 and 2 as being Covered Persons. (*Id.*) However, according to Plaintiffs, Defendant subsequently stated that not everybody classified with mental health level 1 or 2 is a Covered Person. (*Id.*) In

addition, after the inmates were transferred from the South Fulton Jail to ACDC, Defendant stated that all Covered Persons were housed in 4NE, the facility's only mental health pod. (*Id.*) However, Plaintiffs "have continued to discover Covered Persons with mental health levels 1 or 2 housed in areas outside of the mental health pod, as was the case at the South Fulton Jail." (*Id.* at 6.) Plaintiffs are "not aware of any list produced by Defendant that reliably identifies all individuals Defendant considers Covered Persons." (*Id.* at 4.) Similarly, although the settlement agreement provides that Defendant must provide, among other things, "a list of all persons on the mental health caseload," (Doc. 343 ¶ 52), Plaintiffs state that they "have not consistently received a comprehensive mental health caseload list since the summer of 2022," (Doc. 350-1 at 6).

Relatedly, the settlement agreement requires Defendant to provide a list of all people on suicide watch. (Doc. 343 ¶ 50). However, Plaintiffs have identified numerous instances of people who were placed on suicide watch according to their medical records yet were not listed as having been placed on suicide watch according to the lists provided by Defendant. (Doc. 350-1 at 12-13.)

Based on the above, Plaintiffs have shown by clear and convincing evidence that Defendant has violated the settlement agreement by failing to comply with the agreement's tracking and reporting requirements. *See PlayNation*, 939 F.3d at 1212; (Doc. 343 ¶¶ 23, 50.)

Defendant argues that he is not in material breach of the tracking and reporting requirements. (Doc. 359 at 9–10.) In particular, he states that “not only is Defendant providing the information through the NoteActive system, but handwritten logs are also provided as back up to the electronic information.” (*Id.* at 9.) However, the evidence presented by Plaintiffs shows that the handwritten logs are not merely a physical backup record or even a supplementary record. Instead, in numerous instances, the NoteActive and handwritten records conflict, making it exceedingly difficult to determine what is actually happening. (*See, e.g.*, Doc. 350-1 at 15, 16; *see also* Doc. 382-1 at 8 (affidavit of Dr. Ray stating that his review of handwritten logs and medical records “corroborated Plaintiff’s concerns, revealing conflicts between the two sets of documentation”).) Defendant characterizes these discrepancies as minor, (Doc. 359 at 9), but there are simply too many inconsistencies to say that Defendant has made all reasonable efforts to comply with the settlement agreement’s tracking and reporting requirements. *See Newman*, 740 F.2d at 1525. Defendant has not shown that he has complied. *See Leshin*, 618 F.3d at 1233. Indeed, the first compliance monitor scorecard for the settlement agreement, covering April 2022 to January 2023, states that Defendant is only in partial compliance with Paragraphs 22, 23, and 50 of the settlement agreement. (Doc. 375-3 at 1.)

Defendant essentially contends that it is not possible for him to comply with the settlement agreement. (See Doc. 359 at 4 (“While the goals of the Agreement are certainly worth accomplishing, many of the actions required to demonstrate compliance, particularly the greatly increased reporting and documentation requirements, result in significant strain upon the already stressed resources of jail staff.”).) However, as discussed above, Defendant has not shown that he has made such an effort at complying that his incomplete compliance can be excused. See *PlayNation*, 939 F.3d at 1213; *Sizzler*, 793 F.2d at 1537. Defendant has not made “all reasonable efforts” to comply. *In re Lawrence*, 279 F.3d 1294, 1297 (11th Cir. 2002). Furthermore, Defendant ultimately is responsible for his own noncompliance. See *id.* at 1300 (“[W]here the person charged with contempt is responsible for the inability to comply, impossibility is not a defense to the contempt proceedings.” (internal quotation marks omitted)). In any event, Defendant’s claim that he is unable to comply because compliance would be overly burdensome is foreclosed by the terms of the settlement agreement itself: “The Fulton County Sheriff shall assign sufficient administrators, correctional officers and supervisors, and other staff members to the South Fulton Jail to carry out the terms of this Agreement.” (Doc. 343 ¶ 28.) Defendant does not allege that he has been given such insufficient resources that he cannot allocate enough staff to carry out the agreement. In the end, Defendant has not shown that it is

impossible for him to comply, nor has he shown that he has in good faith made all reasonable efforts to comply.

Accordingly, Defendant has materially breached the settlement agreement by failing to comply with the agreement's tracking and reporting requirements.

B. Out-of-Cell Requirements

As noted earlier, according to the settlement agreement, Defendant is required to offer each Covered Person four hours of out-of-cell time per day, five days per week. (Doc. 343 ¶ 22.) In addition, on the two days that Covered Persons do not receive four hours of out-of-cell time, Defendant is required to offer Covered Persons at least one hour of daily out-of-cell time. (*Id.*) Furthermore, Defendant is required to "offer out-of-cell, therapeutic activities to Covered Persons on at least five (5) days each week for at least 2 hours per day." (*Id.* ¶ 29.)

Plaintiffs argue that Defendant has failed to comply with the out-of-cell requirements of the settlement agreement. (Doc. 350 at 28–29.) They claim that this problem has been most acute for Covered Persons housed outside of the mental health pods. (*Id.* at 28.) For example, records from August and September 2022 for J.C., a Covered Person in H pod at the South Fulton Jail, show that J.C. did not receive adequate out-of-cell time for a sustained period. (Doc. 350-1 at 8.) In particular, for many days, NoteActive records for J.C. only indicated that J.C.

received free time and did not receive recreation, group therapy, or individual therapy. (*Id.* at 25–27.)

Several Covered Persons additionally state that they have not received adequate out-of-cell time as required by the settlement agreement. For example, C.C. states that she is often denied free time even when she is not on lockdown and that she was “denied out of cell time including free time, recreation, and group” in March 2023. (Doc. 350-2 at 3.) S.H. states that after she was moved to ACDC, she was housed in 4NE, the mental health pod, and received “between one and three hours per day out of my cell.” (Doc. 350-3 at 4.) Q.J. similarly states that after she was moved to ACDC, she received “no more than three hours out of my cell every day for free time.” (Doc. 350-4 at 4.) She also states that she sometimes “only received 45 minutes out of my cell.” (*Id.*)

Furthermore, the compliance monitor scorecard lists several areas where Defendant is only in partial compliance with the settlement agreement. (Doc. 375-3 at 1; *see also* Doc. 350-14 at 3.) In the first scorecard, covering April 2022 to January 2023, Defendant is listed as having substantial compliance with some of the out-of-cell time provisions of the settlement agreement and partial compliance with most of the out-of-cell time provisions. (Doc. 375-3 at 1.) With respect to Paragraph 22 of the settlement agreement, governing the amount of out-of-cell time that Defendant must offer, the notes to the scorecard explain that the records

“do not consistently evidence compliance as stated.” (Doc. 375-4 at 2.) The scorecard notes similarly state that, with respect to Paragraph 29—providing the amount of out-of-cell therapeutic time that Defendant must offer—tracking and medical records “do not consistently evidence compliance.” (*Id.* at 4.)

In the second scorecard,⁵ covering February to April 2023, Defendant is listed as in substantial compliance for Paragraph 22, (Doc. 375-5 at 1), but the notes to the scorecard contain the same language as before: namely, that “tracking records do not consistently evidence compliance as stated.” (Doc. 375-6 at 3.) Furthermore, Defendant is listed as remaining in only partial compliance for Paragraph 29. (Doc. 375-5 at 1.) The notes state that “[i]t needs to be clarified from the OOC [out-of-cell time] tracking logs whether 2 hours per day is being offered,” and they recommend ensuring “OOCT tracking records consistently demonstrate compliance with the provision.” (Doc. 375-6 at 5.)

Based on the above, Plaintiffs have shown by clear and convincing evidence that Defendant has violated the settlement agreement by failing to comply with

⁵ Dr. Ray subsequently withdrew the second scorecard based on discrepancies found by Plaintiffs, as he was no longer confident in the reliability of the records provided by Defendant. (Doc. 377-21 at 2.) He also stated in an affidavit that he revised Paragraph 23 from substantial compliance to partial compliance due to discrepancies and inconsistencies between the handwritten logs and medical records. (Doc. 382-1 at 7-8.)

the agreement's out-of-cell requirements. *See PlayNation*, 939 F.3d at 1212; (Doc. 343 ¶¶ 22, 29.)

Once again, Defendant contends that he has not violated the settlement agreement. (Doc. 359 at 10–11.) Yet Defendant's arguments are unconvincing. He claims that he "consistently offers Covered Persons out of cell time pursuant to the requirements of the Settlement Agreement and documents such offerings." (*Id.* at 10.) But as discussed above, Plaintiffs have shown otherwise. Plaintiffs have provided numerous instances where Defendant has not properly provided Covered Persons out-of-cell time as required by the settlement agreement. Defendant further contends that the move from the South Fulton Jail to ACDC has substantially improved experiences for Covered Persons. (*Id.* at 10.) That may be so, but as Plaintiffs have pointed out, there are still numerous instances where Covered Persons at ACDC are not receiving their full amount of out-of-cell time. Defendant also contends that he cannot force Covered Persons to accept out-of-cell time. (*Id.* at 10–11.) Defendant is correct, but his argument misses the mark: Plaintiffs' evidence shows that some Covered Persons are not receiving sufficient out-of-cell time even when they want it. Ultimately, Defendant's arguments that he has not violated the settlement agreement are unavailing.

Accordingly, Defendant has materially breached the settlement agreement by failing to comply with the agreement's out-of-cell requirements.

C. *Denial Reporting Requirements*

According to the settlement agreement, “Defendant may depart from the out-of-cell time requirements as outlined in this Agreement where doing so is necessary to prevent an immediate and substantial risk of serious harm to a person.” (Doc. 343 ¶ 24.) If Defendant denies out-of-cell time to a Covered Person, he must fully document the specific reasons for the denial and include “the name of the Covered Person, date and time of out-of-cell time denial, and a detailed, specific reason for the denial.” (*Id.*) In addition, the settlement agreement provides specific procedures for determining whether the denial of out-of-cell time remains necessary, including reviews by a correctional supervisor and a mental health professional. (*Id.* ¶ 25.)

Plaintiffs argue that Defendant has failed to comply with the denial reporting requirements of the settlement agreement. (Doc. 350 at 29.) According to Plaintiffs, Defendant claims that no Covered Persons have been denied out-of-cell time, but Plaintiffs provide statements from several Covered Persons declaring that they were denied out-of-cell time. (*Id.*; Doc. 360 at 17–18.) For example, C.C. states that she was “denied out of cell time including free time, recreation, and group” in February and March 2023. (Doc. 350-2 at 3.) Similarly, Q.J. states that she was denied out-of-cell time because her cellmate had an ongoing mental health crisis. (Doc. 350-4 at 3.) Furthermore, S.H. states that while

she was placed on lockdown, mental health staff did not check on her daily as required by the settlement agreement. (Doc. 350-3 at 4; *see* Doc. 343 ¶ 25.)

Plaintiffs also provide eyewitness reports that Covered Persons have been denied out-of-cell time without such denials being reported. (Doc. 360-1 at 3-5.) For example, counsel for Plaintiffs states that during a visit to ACDC on March 7, 2023, B.W. told counsel that she wanted to attend group, but a jail guard told counsel that B.W. was not allowed to attend group because she had been kicking her cell door earlier that day. (*Id.* at 3.) However, NoteActive records and handwritten logs for that day state that B.W. refused to participate in group. (*Id.* at 4.) Similarly, during the same visit, counsel met K.W. in her cell while group was going on. (*Id.*) K.W. told counsel that she was denied group time as punishment for her behavior the day before. (*Id.*) K.W.'s medical records corroborate K.W.'s report: a mental health professional (MHP) wrote in a mental health progress note for K.W. that she "advocated for patient to attend group," but the "officer verbalized patient's presence at group as a safety risk" because K.W. was known to become violent. (*Id.* at 5.) However, handwritten logs state that K.W. refused group, while NoteActive records state that K.W. attended individual therapy even though counsel did not observe any mental health professional providing individual therapy to K.W. in her cell at the listed time. (*Id.*; *see also, e.g.*, Doc. 378-1 at 10, 15 (medical record stating "MHP went to see

patient since she was unable to attend group based on safety concerns and aggressive behavior” versus NoteActive record stating “Refused Group - Therapeutic Activities”).)

Plaintiffs argue that such discrepancies between Defendant’s records and Covered Persons’ medical records are not mere aberrations, but instead are “pervasive.” (Doc. 360-1 at 9.) They point to medical records of numerous Covered Persons to show that many denials of out-of-cell time have been reported as refusals. (*Id.* at 9–11.) For example, “[i]n a review of approximately twenty Covered Persons’ medical and mental health records, at least sixteen Covered Persons had clearly documented denials which were reflected as ‘refused’ in Defendant’s handwritten and/or electronic out-out-of-cell time records.” (*Id.* at 9.)

Based on the above, Plaintiffs have shown by clear and convincing evidence that Defendant has violated the settlement agreement by failing to comply with the agreement’s denial reporting requirements. *See PlayNation*, 939 F.3d at 1212; (Doc. 343 ¶¶ 24, 25.)

Defendant again denies that he has failed to comply with the terms of the settlement agreement. (Doc. 359 at 11.) He points to an exhibit purporting to show that no Covered Persons have been denied out-of-cell time for more than 24 hours. (*See* Doc. 359-2.) Even accepting this exhibit as true, Defendant does not explain

the many discrepancies between Covered Persons' medical records and his own records showing denials of out-of-cell time as refusals. Ultimately, Defendant's argument is insufficient to rebut Plaintiffs' showing that Defendant has not been complying with the settlement agreement. Accordingly, Defendant has materially breached the settlement agreement by failing to comply with the agreement's denial reporting requirements.

III. CONCLUSION

Running a jail is undoubtedly a difficult task, especially when it comes to managing inmates with serious mental health concerns. Defendant truly is to be commended for improving conditions for the women in his care that the Court previously found "repulsive." (Doc. 73 at 54.) Yet it is clear that Defendant can do more – indeed, must do more – to meet the terms of his agreement with Plaintiffs.

Accordingly, for the reasons stated above, it is **ORDERED** that Plaintiffs' motion for finding Defendant in material breach of the settlement agreement (Doc. 350) be **GRANTED**.⁶

⁶ As provided by the settlement agreement, the determinations contained in this Order are subject to de novo review by the District Judge. (Doc. 343 ¶ 10.) The parties are advised that they must file any objections to the Order within 14 days of the entry date of this Order.

IT IS SO ORDERED, this 2nd day of January, 2024.



REGINA D. CANNON
UNITED STATES MAGISTRATE JUDGE

BREAKING THE CYCLE

Exploring Alternatives to a New Jail

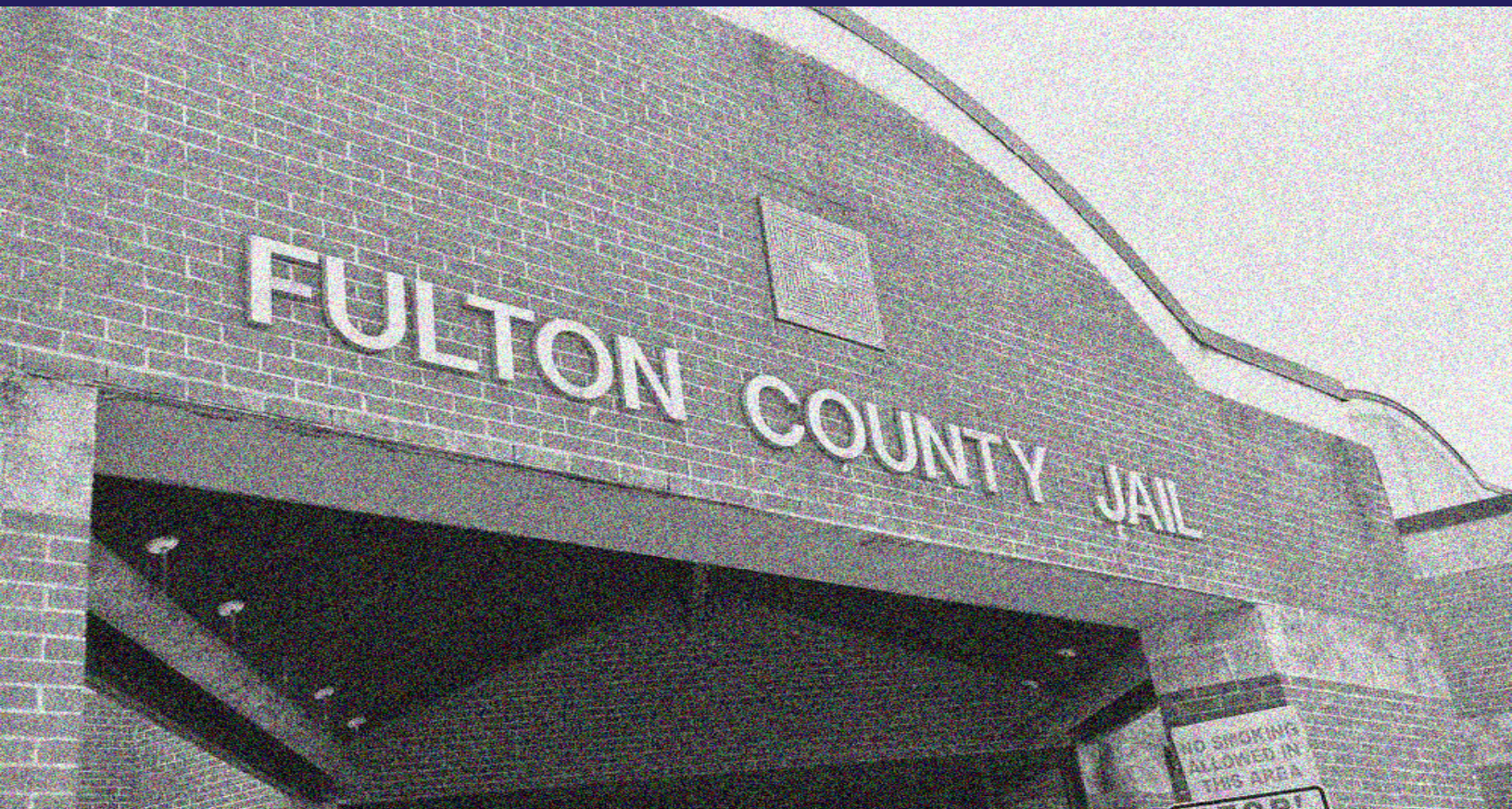


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Executive Summary

Fulton County's history shows building a new jail will not remedy the problems of jail overcrowding. In the 1980s, Fulton County leaders were similarly situated to those today with the Jefferson Street jail being intolerably overcrowded. The Jefferson Street Jail was filled with individuals sleeping on the floor for a lack of bedspace, insufficient personnel, inadequate plumbing, heating and ventilation, and inadequate medical facilities. Observers at the time remarked the jail was a "claustrophobic nightmare" where detainees would go as much as four months without seeing a judge. Thus, many individuals would plead guilty to anything if it would allow them to go home. Fulton County weighed its options and elected to build a jail on Rice Street that would be future proofed by doubling the footprint and being a modern facility. The Rice Street Jail was overcrowded and outdated the day it opened. Far from the cure to overcrowding, Rice Street has only brought frustration, litigation, and intolerable conditions.

Last year, Fulton County leaders leased bedspace at the Atlanta City Detention Center (ACDC) with similar intentions, to alleviate overcrowding by increasing the carceral footprint. As the ACLU of Georgia predicted, Fulton County leasing beds at ACDC did not eliminate overcrowding or meaningfully improve the conditions of Fulton County's detainees. While Fulton County has been authorized to use up to 700 beds at ACDC, the Sheriff has struggled to fill half those beds as individuals remained on the floor at Rice St. The Sheriff was never able to fully use the ACDC space because of a lack of staffing, an issue which precludes housing detainees at any of several jails around metro Atlanta.

Instead of adding jail beds, last year we advised Fulton County leaders that overcrowding in Fulton County could be solved by simply complying with state law regarding setting bond amounts, indicting cases timely, not detaining individuals for misdemeanors, and diverting eligible detainees from custody and into programs. Since our recommendations, thirteen individuals tragically died in custody, and some stakeholders began to make meaningful steps more in line with our recommendations, resulting in the detained population decreasing by more than 500 people.

While strides have been made towards alleviating overcrowding, there is still more work to be done. Last year our report suggested that following our recommendations could reduce the Fulton County Jail population by 728 individuals.¹ Our analysis this year shows that by reducing the number of individuals waiting for indictment and by releasing individuals who could not afford their bond, Fulton County reduced its incarcerated population by over 500 individuals. However, people are simply spending too much time in custody in Fulton County. Nationwide, people only spend an average of 30 days in custody in local jails. In Fulton County, however, the average person can expect to spend 291 days in custody. As such, we believe there is still much work to be done for the following reasons:

First, there are still too many individuals who are in custody simply because they cannot afford their bond. Last year we determined that there were 435 individuals who couldn't afford their bond. This year that number is down to 311. We believe this reduction is based on efforts by the Fulton County District Attorney's Office and Public Defender's Office to identify these individuals and grant them an affordable bond. However, this work is being done on the back end and Georgia law is clear this work should be done much earlier in the process. Georgia law requires courts to consider an individual's ability to pay when setting bond, which is done within 72 hours. If the Fulton County Judges were properly setting affordable bonds, these people could avoid unnecessary detention and reduce Fulton County's inflated average length of detention.

Second, there are still too many cases who have not been indicted within 90 days. Last year we identified 750 individuals who were in custody and who had not been indicted within 90 days. This year we identified 503. We, again, believe this reduction is the result of greater efforts by the Fulton County District Attorney to indict cases as quickly as possible. However, Georgia law is clear that the intent of the legislature was that no person should be in custody longer than 90 days without having their case indicted. The Solicitor's office has implemented an expedited process where misdemeanor cases can be completely resolved in the days after arrest, largely eliminating the need to incarcerate individuals who are charged with misdemeanors in Fulton County.

We recommend stakeholders continue their work to prevent unnecessarily lengthy incarceration, not only to avoid needlessly costing taxpayers, but also to reduce recidivism rates and increase safety in the community, results that are well-documented in the bulk of scholarship along this issue. We also propose that Fulton County accepts the Grand Jury's recent recommendation to renovate and repair the Rice St. facility in lieu of building a new jail (a plan that would save Fulton County over \$1.98 billion). This recommendation is supported by the weight of research that concludes that building more jail cells only supports those with a financial interest in building jails and does not make communities safer. Fulton County's history shows we cannot build our way out of overcrowding, and the ACLU of Georgia recommends Fulton County leaders let state law and evidence-based scholarship be our touchstone to reducing the overcrowding at Rice Street before considering any new jail building.

Background

For decades, Fulton County's jail has been overcrowded, understaffed, unsanitary, and unsafe. Our local media regularly reports these conditions (and the frustrations of local leaders on how to address them) describing "conditions become intolerable when the jail is crammed with overflows."² Local leaders have lamented that "we've got more people than we have beds" with seemingly the only relief being that "there's always the floor" for detainees to sleep on when bedspace is not available.³ Unfortunately, there is little opportunity for relief, as the court backlog has often led to individuals being given the choice of their day in court or being able to be released. One news article noted the following: "As the wheels of justice turn ever slower, a rash of inmates is transforming a short-term holding facility into a claustrophobic nightmare with many times you go four months without seeing a judge. . . and after four months in there many guys are ready to plead guilty whether they are guilty or not."⁴ This sentiment alone should require dire attention, as no person's culpability should be determined by their ability to weather inhumane pre-trial detention.

Unfortunately, in addition to the human cost of overcrowding, an excessive detained population will have negative effects on the jail itself, further exacerbating the problem. As a grand jury empaneled to investigate jail conditions noted, "the ever-present overcrowding is causing drastically accelerated deterioration of the building, thereby not providing humane conditions for the incarcerated."⁵ This report specifically described the conditions as including the "insufficient personnel, inadequate plumbing, heating and ventilation, inadequate medical facilities" that exist within Fulton County.⁶

While familiar to the concerns today, the above observations regarding the inhumane conditions for pre-trial detainees in Fulton County are not from 2023, nor are they even about the facility commonly known as Rice Street. These quotes are from the 1980s, when Fulton County was facing rampant overcrowding and insufficient facilities just like it is in 2023, local leaders then, just as today, were looking to get detainees "off the floor" and in safe and humane conditions. Local leaders then decided the only option was to build a new jail, what is now Rice St. However, leaders soon realized that measure would not solve the problem. "A new Jail will provide relief but offer no ultimate solution. [Rice St.] will be filled the day it opens," predicted the Atlanta Constitution before Rice St. opened.⁷ Unfortunately, history proved them right and we are in the same situation 40 years later. Not only is Rice St. currently under investigation by the Department of Justice for unconstitutional conditions,⁸ it has previously been under consent orders for unconstitutional living conditions and lack of proper staffing.⁹ Building Rice St. to prevent overcrowding simply made a more expensive problem for future residents of Fulton County.

Despite the benefit of hindsight, Fulton County leaders are ready to address the same problems of overcrowding with the same failed solution; building a new jail. In 2022, the Fulton County Commission paid \$1.2 million to consultants from architectural firms STV and TreanorHL to study the need for a new jail and were presented with the recommendation of a new \$2 billion

jail, quadrupling the jail footprint from what exists today.¹⁰ Building a new jail to address overcrowding ignores Fulton County's history as well as research that provides other solutions, such as reducing case processing times, reforming bond practices, and expanding diversion programs, which address overcrowding and promote public safety.¹¹

Last year, the ACLU of Georgia released our report "There Are Better Solutions: An Analysis for Fulton County's Jail Population, 2022," which was intended to be a road map for Fulton County leaders to address overcrowding without expanding the jail footprint.¹² A close analysis of data produced by the Fulton County Sheriff's Office indicated that population levels and conditions at the Fulton County Jail could have and should have been reduced and mitigated through common-sense measures. We demonstrated that if Fulton County considered a person's ability to pay bond, released people charged only with misdemeanors, ensured timely indictment, and if the law enforcement agencies can take referred eligible people to community diversion programs, these measures alone would eliminate overcrowding. Unfortunately, only after 13 people lost their lives in Fulton County custody have there been some efforts to implement these solutions.¹³ As we will demonstrate below, there is still more work to be done. These reforms must be fully implemented before any new jail is built so future generations in Fulton County are not faced with the exact same problem.

Findings

On October 26, 2023, Fulton County held 3,014 people in custody, this is a decrease from more than 3,500 individuals that were in custody when we evaluated the jail last year. While this decrease in the jail population suggests marked progress, our analysis shows that Fulton County still has failed to completely address the root causes of overcrowding. For instance, Fulton County's continued failure to account for people's ability to pay their bond has resulted in 362 individuals being held simply because they are too poor to afford their bond. Additionally, Fulton County still had 503 individuals in custody for over 90 days without having been formally charged and found 96 individuals in custody who could have been diverted at time of arrest. The greatest area of improvement this year was the reduction of people held on only misdemeanors, with only 85 individuals being held on misdemeanors (compared to almost 3.5 times that number of people last year).

While the ACLU of Georgia understands the need to support public safety, just as our report from last year indicated, there are still better solutions to address jail overcrowding than simply building a new jail. While much progress has begun to reduce the overcrowding in Fulton County, there is more work to be done before Fulton County has demonstrated a need for additional jail space. Specifically, to reduce the average length of stay to be in line with the national average, more work needs to be done to ensure that people are having their cases assessed and reasonable bonds set earlier in the process.

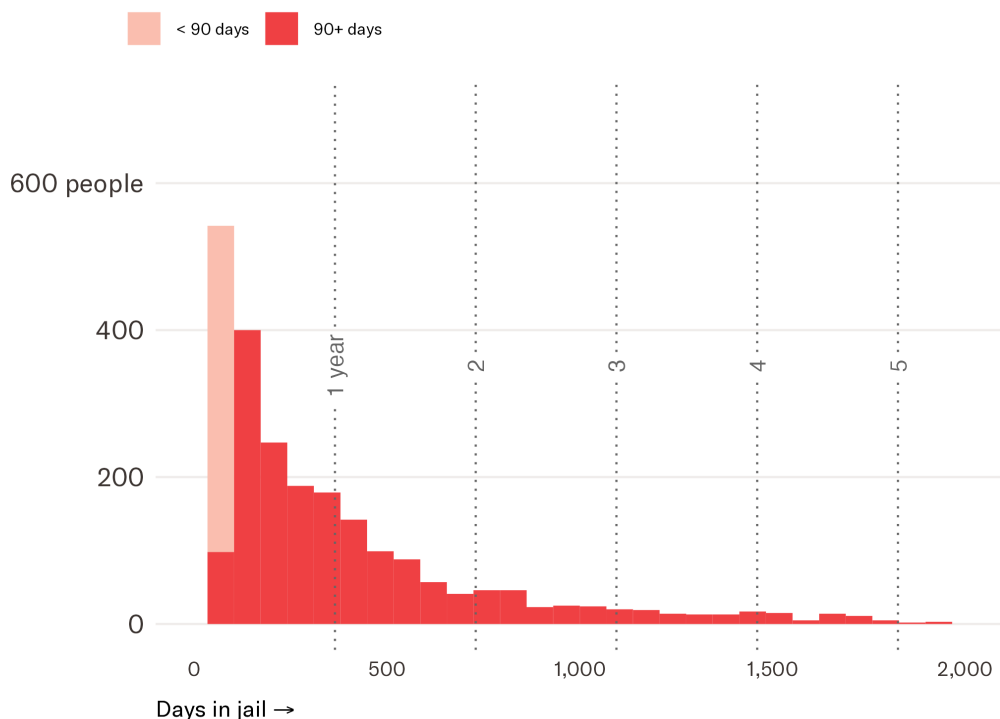
Report Findings

Fulton County has dramatically decreased its jail population, but people are still in custody for far too long.

Last year, data provided by Fulton County showed that Fulton County had 3,523 individuals in Fulton County custody, with 447 individuals sleeping on the floor. Our 2022 report provided recommendations that Fulton County could reduce its in custody population sufficiently to eliminate the need for any detainee to sleep on the floor. This year, Fulton County's jail population is down to 3,014, a reduction greater than the number needed to get individuals off the floor.

While the number of individuals in custody is trending in the right direction, people are simply being held for far too long in Fulton County Custody. The United States Department of Justice reports the average length of stay for a local jail is only 30 days.¹⁴ Our State Senate, when evaluating the Fulton County Jail suggested this 30-day number should be the target for average length of stay.¹⁵ Current data shows individuals spend 291 days (about 9 and a half months) in custody on average in Fulton County, a nearly 10-fold increase from what the number should be. This is a clear indication that while work is being done to reduce the jail population, it is not being done early enough in the process.

Figure 1
Distribution of days spent confined in Fulton County jails



Also of note, are the demographics of who is in custody in Fulton County. In Fulton County, 44 percent of the population is White, and 45 percent of the population is Black.¹⁶ In Atlanta, 48 percent of the population is Black, and 41 percent of the population is White.¹⁷ However, 89.6 percent of those in custody in Fulton County are Black and only 9.3 percent are White. Black people spend nearly 2 months on average longer in custody than White people.

Figure 2
Jail population and confinement breakdown, by race

Race	Number of people confined	Percentage of confined population	Average length incarcerated (days)
Black	2,702	89.6%	296.8
White	281	9.3%	238.3
Native Hawaiian/Pacific Islander	11	0.4%	116.0
Hispanic	7	0.2%	372.3
Asian	5	0.2%	277.4
Other	4	0.1%	149.5
Unknown/Missing	4	0.1%	450.2
Total	3,014	100%	290.9

Note: the “Other” category includes the four total people identified as “Indian”, “Multiracial” and “Other”. The “Unknown/missing” category includes the four total people identified as “Unavailable” or had null values for race.

A. As was true in 2022, continued incarceration of individuals simply because they are too poor to afford bond is the greatest driver of overcrowding in Fulton County.

According to the Georgia Council on Criminal Justice Reform, excessive pretrial detention leads to harsher criminal justice outcomes and the use of money-based bail exacerbates racial disparities in the criminal legal system.¹⁸ Requiring cash bail for individuals who are not a public safety risk or a flight risk is a significant factor to the overcrowding in all of Georgia's jails. Cash bail disproportionately results in the incarceration of people based on their income and race, and studies have consistently found that people who are victims of wealth-based detention receive much harsher sentences and worse outcomes than those who can bond out.¹⁹

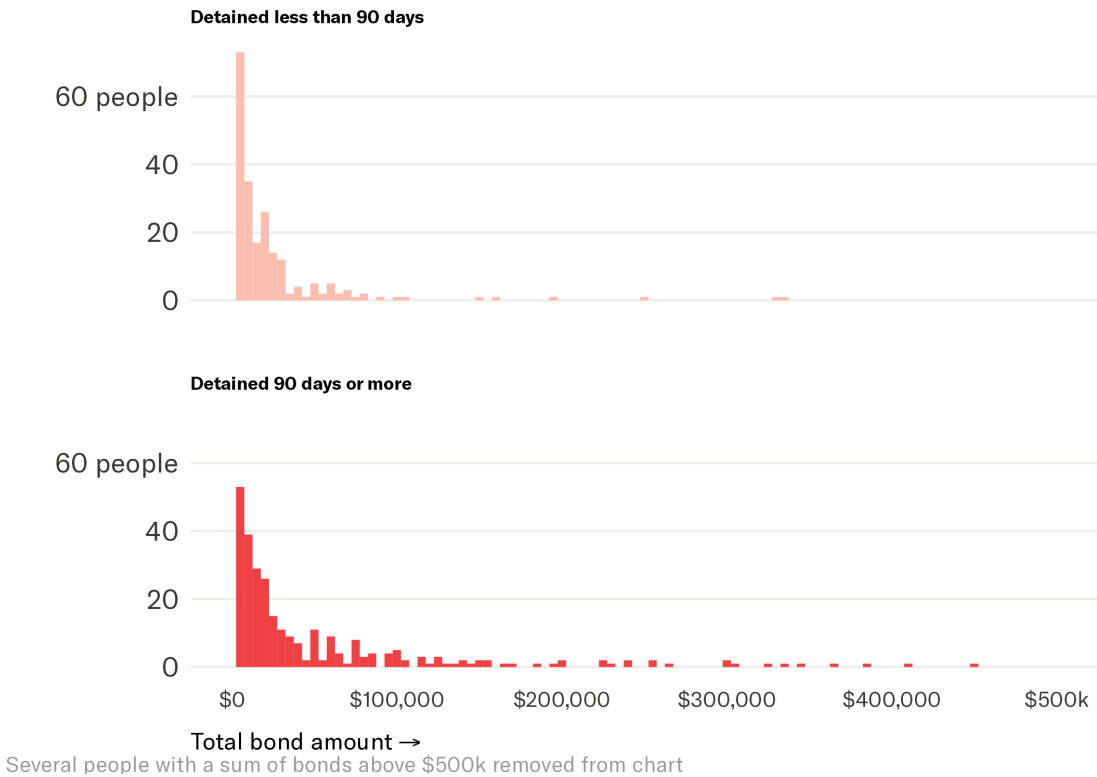
Recognizing the negative impact of wealth-based detention, the Georgia General Assembly passed a law in 2018 which requires authorities who set bail to consider a person's finances. This law requires that courts to set bond on all misdemeanor charges and can set bond on felonies if the individual meets certain criteria. When a bond is set, the court can impose only conditions which are necessary to ensure that the person attends court and to protect the safety of any other person. This law is especially important in Georgia where approximately 90 percent of those charged with criminal offenses are legally indigent and are likely unable to afford to post their own bond. This law was changed principally because keeping individuals in custody simply because they cannot afford bond was a major cause of overcrowding and actually causes more crime by driving up the rates of recidivism.²⁰ People held in jail pre-trial often lose their jobs and lose their ability to support their families.²¹ People held for only two or three days after arrest are more likely to be arrested for a new charge than people who are released on the first day.²² Importantly, these are individuals who are legally innocent and are simply awaiting their day in court.

Because cash bond is a major driver in jail populations, makes criminal justice outcomes harsher and less fair, and makes communities less safe, our analysis begins with whether Fulton County is keeping individuals in jail simply because they are too poor to pay their bond. Our analysis indicates that a significant percentage of people held by Fulton County remain in custody because of their inability to pay secured bail. To calculate this amount, we examined the number of people held in Fulton County with bonds that would be affordable for most people, and who had been held in custody for 90 days or longer. Because bail must be set within 72 hours of arrest, we estimated that individuals who have been in custody for 90 days have had sufficient time to secure funds for release, if they were available.

As compared to last year, we saw a significant reduction in this wealth-based detention, but still found that 362 individuals who had bonds under \$20,000 were still in custody. Of these individuals, 42.8 percent (155) had been in custody for at least 90 days, meaning they likely were only in custody because of their inability to pay their bond. We found 89 individuals with bonds that had been in custody over six months: 41 of those individuals had been in custody over one year, and 13 of those individuals had been in custody over 2 years.

Figure 3

Distribution of days spent confined in Fulton County jails for people unable to pay bond



Before writing this report, we met with Fulton County’s elected prosecutors, who both highlighted the work done by their offices to reduce the number of people held unnecessarily before trial. Fulton County District Attorney Fani Willis indicated that she personally reviews the incarcerated population to identify individuals who appear to have been detained because they cannot afford bonds, and she has been working towards releasing these individuals. We believe that this work is reflected in the significant reduction of the total jail population.

While we recognize these positive steps, bonds should be affordable from the onset and that is not the reality in Fulton County. Given that the total jail population has declined dramatically from last year, but the average length of stay is nearly 10 times higher than it should be, these issues should be addressed much earlier in the process. In Fulton County, the Magistrate Court is largely responsible for initially setting bond and it does not appear magistrate courts are considering an individual’s ability to pay when setting bond, as required by state law. In fact, the Chief Magistrate recently suspended one of her judges after he set an affordable bond,²³ and we are gravely concerned this reflects the culture in the court. We offered to meet the Chief Magistrate hoping to get her input on that case and why her judges are not considering individuals’ ability to pay for this report, but we received no response.

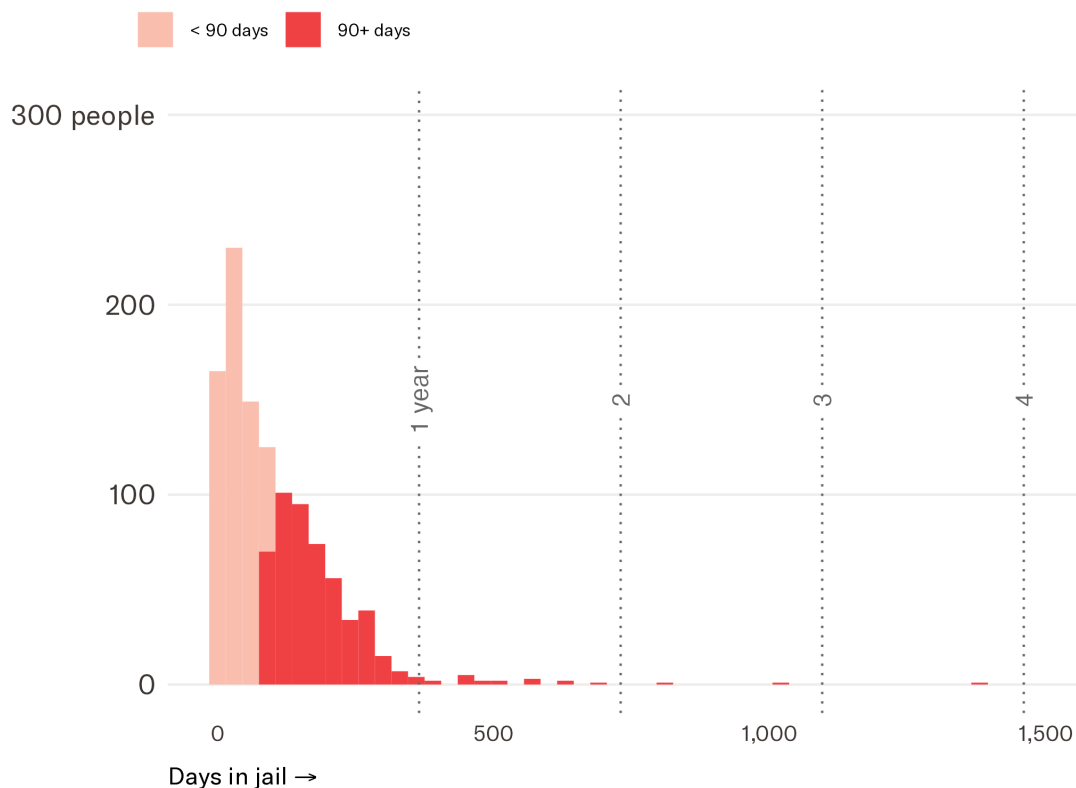
B. Fulton County’s delay in issuing indictments remains a major contributor to its jail population.

After an individual is arrested in Georgia, prosecutors must formally charge the person for their case to move forward. For felony cases, this is generally done by prosecutors seeking an indictment, a formal charging document that is returned by a grand jury. Under Georgia law, a criminal defendant who is arrested for a crime and denied bond must have their case presented to a grand jury within 90 days.²⁴ Otherwise, the defendant must be granted bond.²⁵ This statute protects against indefinite detention without grand jury review. The Georgia Supreme Court indicated the legislative intent of this law, one of the oldest in Georgia, was to ensure that no defendant must wait indefinitely for prosecutors to formally charge their case.²⁶ Unfortunately, hundreds of people in custody in Fulton County are forced to wait much longer than 90 days before their cases are indicted, sometimes waiting years.

This year showed improvement from last year’s numbers, but there is still much work to be done to ensure that no individual is in custody longer than 90 days without their case being indicted. This year we found that 1,114 individuals, or 37 percent of the total population, are detained while unindicted. A total of 45.2 percent (503) of these unindicted individuals were in custody for 90 days or more. Of those, 207 were in jail for over six months, 22 have been in custody for over a year, and 3 have been in custody for over 2 years. The average length of custody for those waiting for an indictment was 106 days. Despite the reduction from last year, individuals in Fulton County on average spend more than two weeks longer than the maximum of 90 days any individual should spend waiting for an indictment while in custody.

Figure 4

Distribution of days spent confined in Fulton County jails for people held without indictment



A major contributor to overcrowding is the failure to timely indict cases within 90 days, which has led to the average length of stay being 10 times higher than the suggested length. Without formal charges, unindicted cases cannot be resolved. We discussed this issue with District Attorney Fani Willis who indicated that her office does not indict cases until they are ready to prosecute, hoping to avoid situations where people are waiting months or years for cases that won't be prosecuted to be identified and dismissed. We want to give credit to this policy choice and note that some elements of indicting cases are outside of the DA's control. Georgia law, however, is clear that no one should be in custody indefinitely waiting for their charges, and these decisions need to be made within 90 days if prosecutors want a suspect to remain in custody. This reality may mean the prosecutor must make hard decisions on what to prioritize to keep the public safe, but that is a hard decision Georgia law requires.

The magistrate judges are not doing enough to identify unprosecutable cases from the onset as well, leaving untold defendants waiting months or years for someone to dismiss their case. Magistrate judges can evaluate cases for probable cause less than three days after arrest. Our office has reviewed hours of proceedings in magistrate court over the past year, and we are concerned that magistrate court judges are not consistently considering cases for probable cause at these hearings. Fulton County is not served by incarcerating people without probable cause and magistrate judges should be doing this analysis. Requiring individuals to remain in custody on charges for months or years on cases that do not have probable cause to prosecute does not keep Fulton County safer, and this practice contributes to the extreme average length of detention in Fulton County.

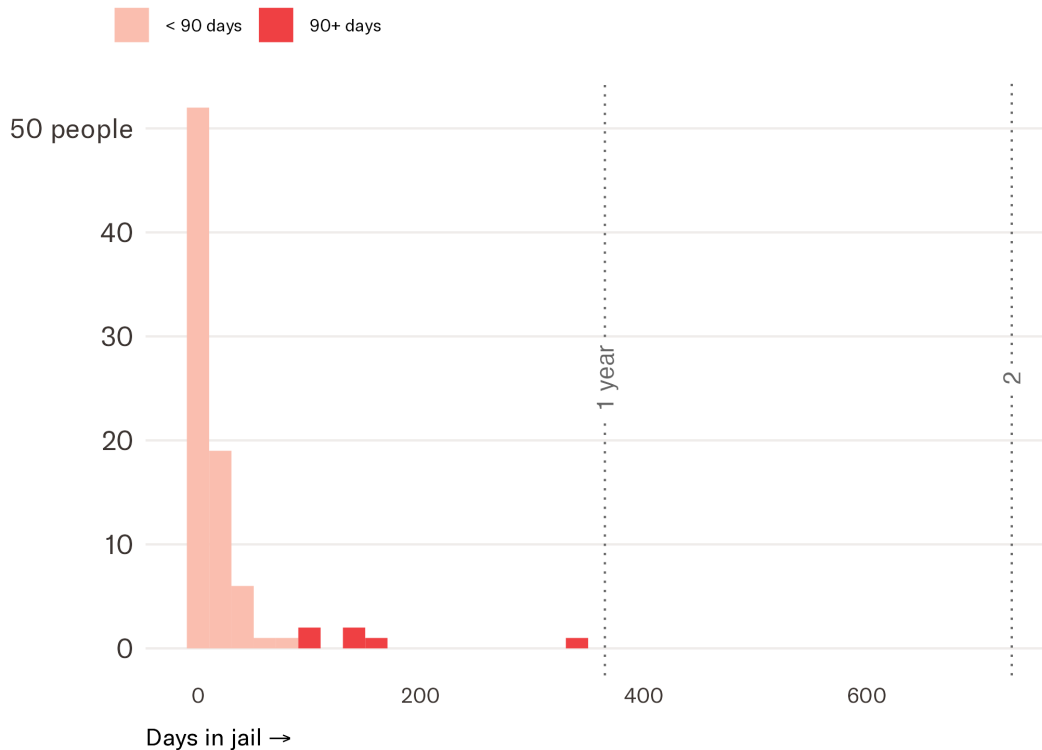
C. Fulton County has made a dramatic improvement in reducing the population of those charged with Misdemeanors.

Much of the work done by the Georgia Council of Criminal Justice Reform was focused on the negative effects of detaining individuals charged only with misdemeanors. These minor charges require bond to be set from the onset because Georgia's leaders recognized that detaining people for misdemeanors, even for a few days, has dramatic negative effects for those charged and the community.²⁷ As we indicated last year, jurisdictions around Georgia, including Chatham County, have generally ceased to jail people charged only with misdemeanors. In fact, the Fulton County Sheriff suggested to the Fulton County Commission in July that he may stop accepting those charged with misdemeanors into the Fulton County Jail.²⁸

Compared to last year, Fulton County was able to reduce those detained only on misdemeanors (whether awaiting trial, serving their misdemeanor sentence, or for violating probation) from 290 to only 85 individuals. Fulton County also reduced its average time in custody for those with only misdemeanors cases from 106 days to only 22 days. This number is below the target of 30 days, and most individuals charged with misdemeanors were released within 6 days.

Figure 5

Distribution of days spent confined in Fulton County jails for people charged with misdemeanors



We met with Solicitor-General Keith Gammage, the elected prosecutor responsible for misdemeanor cases, to hear what has worked to reduce the population of those charged with misdemeanors. Solicitor Gammage noted the implementation of the State Expedited Accusation Calendar system requires his office to work around the clock to ensure that prosecutors have the initial incident report and victim contact on the first day after an arrest so that formal charges, plea offers, and discovery may be sent the first day following an arrest. People in custody have an opportunity to plea less than a week after their arrest and have jury trials within 30 days. This system bypasses the Fulton County Magistrate bottleneck and reduces a process which took up to 10 months for arraignment down to potentially a single day. Solicitor Gammage noted some areas for improvement remain, but we want to highlight the positive steps that have been implemented.

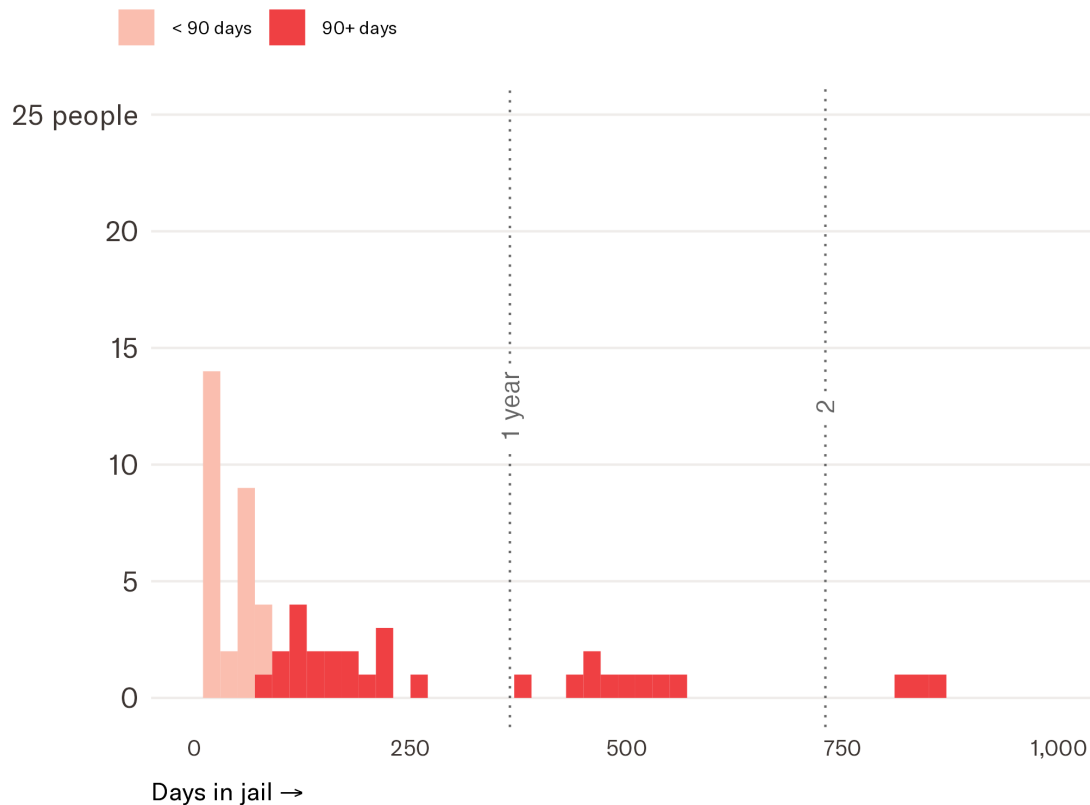
D. Pre-Arrest Diversion continues to be underutilized at a rate similar to last year.

Last year we noted Fulton County and the City of Atlanta have underutilized diversion programs and services. Although the City of Atlanta and Fulton County have made considerable strides to limit the influx of people into the criminal legal system by expanding diversion programs, like Policing Alternatives and Diversion Initiative (PAD), these programs have not been used to their full potential, nor have they been scaled to adequately serve the greater-Atlanta population.

Diversion programs have the potential to significantly impact jail overcrowding because in lieu of the normal criminal legal system cycle—booking, detention, prosecution, conviction, incarceration—people are instead referred into a trauma-informed intensive case-management program where they can receive a wide range of support services, such as transitional or permanent housing, drug treatment, and mental health care. Yet, in order for these programs to meaningfully reduce the number of people arrested and subsequently jailed, law enforcement officers in the greater-Atlanta area must exercise discretionary authority at point of contact to consistently divert individuals to a community-based, harm-reduction intervention for the over 150 diversion-eligible criminal offenses. We also note that presently only the Atlanta Police Department, Georgia Tech Police and MARTA Police can use PAD, despite there being many more agencies among the 15 cities in Fulton County that feed Rice St.

Figure 6

Distribution of days spent confined in Fulton County jails for people charged with diversion-eligible offenses



Last year we identified that 3.4 percent of the jail population, or 120 people, were in custody for divertible charges. This year that number was reduced to 96 people, but still approximately 3.2 percent of the jail population. We spoke to District Attorney Willis and Solicitor Gammage about

their respective diversion programs and were encouraged about their commitment to prosecution alternatives that support public safety and support individuals' avoidance of future criminal conduct. However, these programs largely only cover individuals following an arrest, while pre-arrest diversion ensures these individuals never have to face the conditions of incarceration in Fulton County.

The Atlanta Police Department is simply arresting too many people for low level offenses. Research by the Southern Center for Human Rights (SCHR) has shown that APD, despite having one of the best staffed, trained and funded departments in the country, is spending its resources arresting too many people for low-level offenses.²⁹ SCHR found that half of the arrests by APD were for low-level and non-violent offenses, many of which represent quality of life issues like mental illness, substance abuse, and homelessness. These are individuals who should be diverted for services instead of incarceration. Black Atlantans are 14.6 times more likely to be arrested for these types of offenses than White residents,³⁰ and we believe this is reflected in Black being a minority of the Fulton County population, but almost 90 percent of jail admissions. As Fulton County leaders address the issues in the criminal legal system, we should be looking at how excessive arrests are contributing to the jail overcrowding in Fulton County.

Narratives of Impacted Persons

While the statistics above speak for themselves that there is much more work to be done regarding the criminal legal system in Fulton County, we wanted to share some experiences of those incarcerated in Fulton County. We spoke with many justice-impacted individuals who offer the following:

“I experienced deplorable conditions that myself, along with many others, have experienced at Fulton County Jail. My intention is not to complain but to shed light on the sub par living conditions that inmates are made to go through on a daily basis. The overcrowding has made already unsanitary living conditions worse, and the jail has created an environment that is not only detrimental to physical health but also takes a toll on everyone’s mental health there. Many times, these meals are inadequate, and sometimes inedible due to being past expiration dates. Every person, regardless of status, deserves to be treated with dignity. I hope in speaking out, positive change can happen.”

“The overcrowding really amped up the tensions between people, which lead to more conflicts and fighting. When you have very limited personnel[sic] space it messes with you and creates problems. The bathrooms and showers were always a mess, and then the jail can’t handle our basic needs because there’s too many people. A lot of the people I knew didn’t even do anything violent, but they threw everyone together in the same conditions. It was terrible.”

“From the moment we stepped into Fulton County Jail it was steeped in neglect. Cells were filthy, there was no toilet paper, and prisoners were left to waste away in cells for days, screaming for help with no response from the guards. The guard hurled homophobic slurs, were verbally abusive. They denied us access to food and water. The guards joked about ‘shutting us up’ with their fists. They made good on these threats when someone was handcuffed and dragged into a private room.”

Recommendations

Before Fulton County spends any taxpayer money on building a \$2 billion jail, leaders must do more to ensure the community that we are not repeating the same failed process that allowed Rice Street to become what it is today. While stakeholders have made positive strides since last year, additional work must be done to address cases earlier and align Fulton County's 291-day incarceration average with the national average of 30 days.

We recommend the following actions to ensure individuals are not being held simply because their case has not been formally charged or because they are too poor to make their bond:

- Ensure that every police department in Fulton County is participating in pre-arrest diversion so that Fulton County can avoid the substantial costs and negative social impact of detaining individuals simply for substance abuse or mental health challenges or being unsheltered.
- Ensure the District Attorney, Judges of Magistrate Court, and Judges of Superior Court continue their efforts to identify and release any individual who is being held on bonds that they cannot afford and end wealth-based detention.
- Ensure that Judges of Magistrate Court begin assessing financial ability to pay with factual findings and only set bonds that individuals can afford at the first opportunity. Since 90 percent of individuals charged with a crime in Georgia are legally indigent, this likely means many will require a signature or nominal bond.
- Ensure that the District Attorney, Magistrate Court Judges and Superior Court Judges review any cases of individuals in custody for over 90 days without indictment to ensure that (1) bond is set, and (2) set at an amount the defendant can afford. The District Attorney should be notifying the Fulton County Chief Judge of individuals who have not been indicted after 45 days under Georgia law.
- Ensure the District Attorney continues to reduce the time to indict cases so that no one has to wait longer than 90 days in custody before their case is presented to the grand jury.
- Ensure that the Atlanta Police Department institutes mandatory citation or diversion practices, instead of booking, for any city ordinance violation or divertible offense to reduce the number of individuals being held because they are experiencing homelessness, substance abuse issues or mental illness.

In 1986, when Fulton County was facing a similar crisis, the County Sheriff set a standing release order prioritizing certain groups for release when the jail population met a certain threshold.³¹ We are providing this priority for release list below for consideration by Fulton County leaders to promote similar criteria today, with the benefit of hindsight and evidence-based recommendations validating such measures:

- Individuals in custody for fines or costs who have been in jail for five days;
- Individuals held for other jurisdictions who are otherwise eligible for bond;
- Individuals charged with misdemeanors who have been in custody more than 10 days;

- Individuals convicted of misdemeanors who have served more than 90 days of a sentence on those offenses;
- Individuals who have allegedly violated their probation or parole and have not had a hearing after 45 days; and
- Individuals who have been arrested for felony offenses, have a bond under \$5,000, and have been in jail for over 30 days.

While this list is imperfect, releasing these individuals would have the benefit of addressing much of the front-end backlog that exists within Fulton County today.

Finally, we want to lift up the recommendations from the 2023 grand jury panel which was responsible for the annual review of the Fulton County jail:²⁶

- Increase the Fulton County Sheriff's budget as necessary to accommodate recommended staffing levels. The grand jury found that, at most, it would require \$19.5 million to fully staff the jail and would substantially improve the operation and safety of the jail and reduce the number of costly lawsuits. This would be less than one percent of the cost of a new jail (which would require more staff to operate effectively regardless).
- Provide funding as needed to the Sheriff's Office to bring equipment and facilities within the jail into compliance. The grand jury reported that the Sheriff's office provided a "potentially over-estimated" figure of only \$13.1 million to bring the buildings into compliance, providing a significant improvement to jail operations, well-being and safety at less than one percent of the cost of a new jail.
- Advocate and partner with Fulton County offices and other related organizations to aggressively identify alternative means of rehabilitating inmates with mental health issues, those who are convicted of lesser crimes, or those charged with lesser crimes and awaiting indictment.
- Implement new policies and procedures involving the Sheriff's office and other county offices and supporting organizations as necessary to make reasonable attempts to contact family members, emergency contacts, or representatives of inmates with significant mental health issues to promote outside support for inmates and to increase the number of inmates who are able to post bond.

Conclusion

Our 2023 analysis shows that there have been some meaningful improvements in Fulton County, most of which represent a partial implementation of our recommendations from last year. This work is unfinished and will continue to be unfinished as long as a single individual is allowed to remain in custody simply because they are too poor to afford their bond or are languishing more than 90 days in custody without being indicted. We believe that Fulton County must look to its history and not repeat the mistakes of the 1980s - replacing meaningful reform with an expensive (but outdated and overcrowded) jail. If Fulton County eliminates wealth-based detention and timely indicts cases these measures alone will reduce the population sufficiently to avoid the need for an expensive new jail. At less than a one percent cost to a new jail, we can address all the attendant problems with jail overcrowding and eliminate the need for a new jail.

Methodology

This data report analyzes data obtained from the Fulton County Case Management System and online jail records. This data covers individuals jailed in Fulton County custody on one day: October 26, 2023. This analysis examines data available for people held in custody in Fulton County as a whole.

Data Sources. This report is based on publicly available data for October 26, 2023. This dataset included information about each person’s race, gender, book-in date, age, location, length of stay, bond amounts, charges, and case numbers. Case numbers are coded in a way that indicates whether a case is unindicted or indicted, and misdemeanor cases were identified by parsing through the remaining cases without case numbers on Odyssey.

Analysis. When analyzing data regarding bonds and ability to pay, we examined the number of people held in the county jails that were eligible for bond (had no marker of “no bond”, with outstanding bonds, and who had been held in custody for 90 days or longer. Because individuals should be brought before a judge within 72 hours of arrest, we estimated that individuals who have been in custody for 90 days have had sufficient time to secure funds for release, if they were available, and thus define “inability to pay” as any individual detained on bond for 90 days or more.

We summarized charge-level information for each individual based on unique booking ID. Total bond was calculated by summing all bonds for all of an individual’s charges. If any single charge was deemed not bond eligible due to a marker of “no bond”, that individual was deemed ineligible for bond-based release. We made one exception to this rule—if the only charge that was not bond-eligible for a given individual was a “Foreign Warrant,” we deemed that individual as bond eligible, given that if those individuals pay the remaining bond on substantive charges, they would no longer be in Fulton County, but would rather be transferred to different jurisdictions.

As mentioned, individuals’ indictment statuses could be determined through their associated case numbers, when provided. In cases with multiple case numbers per booking ID with one or more of those case numbers indicating unindictment, we defined the individual as unindicted only if there was also no case number with that individual that indicated indictment. Pre-arrest diversion eligibility was determined by manual review of the unique charges available in the data. Because charge descriptions, not charge codes, were made publicly available, we took a conservative approach when determining potential diversion eligibility and reported only misdemeanor offenses eligible for diversion. Thus, this report may underestimate the total number of individuals eligible for release via diversion programs. However, it is important to note that not all arresting agencies in Fulton County participate in pre-arrest diversion programs, such as PAD.

Length of stay was provided in days as of the date of the snapshot data report, October 26, 2023.

Assumptions and Limitations. This research, like all research, has limitations. This study is limited in its scope, as the data provided by and sourced from the Fulton County Sheriff's Office is a snapshot of the people in its custody on one day alone—October 26, 2023. The population of Fulton County Jail varies daily, and further analysis would be necessary to understand if the bond amounts, lengths of stay, and charges of people detained on October 26, 2023, are typical of individuals detained in the Fulton County jails. Nevertheless, because this was data provided by the Fulton County Sheriff's Office to the Justice Policy Board, analysis of this data offers important value and may be directly compared to analysis conducted by the Fulton County Sheriff's Office.

Our analysis makes assumptions about categories of individuals who could potentially be released from detention. It necessarily does not fully assess the circumstances of each individual that could make some people deemed “eligible for potential release” actually ineligible, or vice versa. For example, because we had little visibility into the individual reasons as to why a person would remain in custody even after bond was set, it is possible that some individuals could afford to pay bond but chose to remain in custody for other reasons. In addition, we are not able to determine in all cases whether detained individuals had underlying supervision holds that might prevent immediate release in their criminal case. Conversely, it is possible that some individuals who had been detained for fewer than 90 days were also detained due to inability to pay.

Likely due to a short difference in exactly when reports were pulled, there were three individuals that appeared as booked in Odyssey's Court Assignment data that were not found in the other Odyssey reports. Thus, we removed these three individuals from analysis. There were 126 individuals who were represented in all reports except Odyssey's Court Assignment data – meaning we had all information but associated case numbers – so we manually checked these individuals' case statuses.

Finally, this analysis takes the Fulton County Sheriff's Office data at face value, assuming that the data is complete and true without confirming bond amounts against independent sources. Any errors in the underlying data or the presentation of the data on Fulton County's inmate search website will be propagated in our analysis. Fulton County's website asserts that “no warranty is expressed or implied as to the accuracy or completeness of any information obtained through the use of this service.”

ENDNOTES

- ¹ Last year our report used data from September 14, 2022 as a snapshot in time of the jail population. This year we used data from October 26, 2023 as snapshot in time. All of our analysis of data and comparisons between years will be relying on the populations on these two dates.
- ² Fulton County Jail Swallows a Bitter Pill, Atlanta J. & Const., Jul. 14, 1989.
- ³ Amy Wallace, New Place, Old Problem: "Jail Warming" Guests Sleep on the Floor, Atlanta J. & Const., Jul 9, 1988.
- ⁴ Jails, Atlanta J. & Const., Jun. 2, 1988.
- ⁵ Fulton County Grand Jury, Alternatives to Incarceration as a Means of Relieving the Overcrowding Conditions in Georgia's Prisons, Atlanta J. & Const., Jan 3, 1983
- ⁶ Id.
- ⁷ Supra, n. 1.
- ⁸ Justice Department Announces Investigation into Conditions in Fulton County, Georgia Jail, United States Department of Justice, Jul. 13, 2023.
- ⁹ Consent Order, Harper v. Bennett, No. 04-CV-1416-MHS (N.D. Ga 2005).
- ¹⁰ Fulton Commission Receives New Jail Study, Atlanta J. & Const., Feb. 1, 2023.
- ¹¹ See Chris Mai, et al., Broken Ground: Why America Keeps Building More Jails and What It Can Do Instead, Vera Institute for Justice, Nov. 2019.
- ¹² There Are Better Solutions: An Analysis for Fulton County's Jail Population, 2022, American Civil Liberties Union, 2022.
- ¹³ Doug Reardon, Family of man slain in Fulton County jail: 'He didn't deserve that', Atlanta News First, Sep. 1, 2023.
- ¹⁴ See Jail Inmates in 2021 - Statistical Tables, U.S. Department of Justice, Dec. 2022.
- ¹⁵ Testimony of Sen. John Albers, Public Safety Subcommittee on the Fulton County Jail, Nov. 2, 2023.
- ¹⁶ Quick Facts: Fulton County Georgia, United States Census Bureau, Jul. 1, 2022.
- ¹⁷ Quick Facts: Atlanta city, Georgia, United States Census Bureau, Jul. 1, 2022.
- ¹⁸ Michael P. Boggs & Carey A. Miller, Report of the Georgia Council on Criminal Justice Reform 2017-2018, Georgia Council on Criminal Justice Reform, at 9, Feb 2018,
- ¹⁹ Id.
- ²⁰ Id.
- ²¹ Id.
- ²² Id.
- ²³ Judge suspended after setting \$2 bond for man facing serious charges, WSB-TV, Oct. 21, 2022.
- ²⁴ O.C.G.A. 17-7-50
- ²⁵ Id.
- ²⁶ Bryant v. Vowell. 282 Ga. 437, 439 ("OCGA § 17-7-50 is a legislative attempt to ensure that a person arrested based on a prosecutor's information or on an arrest warrant obtained by a law enforcement officer is not incarcerated indefinitely without any review by the grand jury") (2011).
- ²⁷ Supra, n. 11.
- ²⁸ Diedra Dukes, Sheriff suggests refusing non-violent offenders be booked into Fulton County Jail, Fox 5 Atlanta, Sep. 21, 2023.
- ²⁹ Pain and Power: Confronting Police Violence in Atlanta, Southern Center for Human Rights, Aug. 19, 2023.
- ³⁰ Id.
- ³¹ Jail, Atlanta J. & Const., December 23, 1986.

State Repression of the Movement to Stop Cop City and Defend the Atlanta Forest

JOINT SUBMISSION FOR THE 139TH SESSION OF THE UN HUMAN RIGHTS COMMITTEE
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UNITED STATES OF AMERICA

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The Southern Center for Human Rights is working for equality, dignity, and justice for people impacted by the criminal legal system in the Deep South. SCHR fights for a world free from mass incarceration, the death penalty, the criminalization of poverty, and racial injustice.

The University of Dayton Human Rights Center advances human rights by conducting research-driven, participatory advocacy; educating future practitioners; and fostering inclusive and reflective dialogue and learning that promotes innovation and deepens impact.

This report was co-authored by Tiffany Roberts of the Southern Center for Human Rights and Joel R. Pruce of the University of Dayton Human Rights Center with support from Maggie Ellinger-Locke, Staff Attorney, Thurgood Marshall Civil Rights Center, Howard University School of Law; and Dr. Yolande Tomlinson, Co-Director, Organization for Human Rights and Democracy; among others.

Executive Summary

This report is submitted for the United Nations Human Rights Committee's review of the United States during the Committee's 139th Sessions. The events detailed below evidence violations of human rights committed by agencies of the United States government based on the State's obligations under the International Covenant on Civil and Political Rights. In particular, the case highlights violations of Articles 6 (right to life), 18 (right to freedom of thought), 19 (right to hold opinions without interference), 21 (right of peaceful assembly), and 22 (right of free association). We argue, furthermore, that, when taken together, the evidence presented in this report illustrates a strategic and coordinated attack by various levels of the State to target, criminalize, and dismantle an intersectional social movement challenging police militarization and environmental degradation. The movement to Stop Cop City is a harbinger of what resistance looks like in the near future and the State's response is equally exemplary of what repression looks like as the twin existential threats of police violence and ecological collapse align.

Following the police murder of George Floyd on May 25, 2020, the United States experienced the largest mass movement in its history. Since then, state violence rose nationally and law enforcement agencies regrouped and strategized around how to better suppress constitutionally protected protests, especially those opposed to police violence and killings. Cop City, and the state response to the resistance against the facility, acts to silence protest and dissent, chill peaceful assembly, threaten thought, opinion, and expression, and use all tools of the state to repress the social movement to Stop Cop City, including criminalizing and killing protestors. The report draws particular attention to the shooting death of Manuel Paez "Tortugita" Terán, a queer Indigenous Environmental Human Rights Defender, by police during a coordinated raid against forest protectors.

This report describes a robust and concerted effort by the State under review to violate the human rights of individuals active in a broad social mobilization against police militarization and in defense of environmental protection. In so doing, the State not only criminalizes and punishes individuals for engaging in protected activities but also signals to thousands of other movement advocates and supporters that they could be targeted next. The State discourages the exercise of the rights to freedom of opinion and thought, and peaceful assembly and free association, which constitutes a clear transgression of its obligations under the Covenant. Supporters of Cop City, which include elected officials, the Atlanta Police Foundation, and private corporations, collude to violate rights and secure their own interests. State actions ranging from detaining journalists to charging bail fund operators as an organized criminal enterprise, indicate a clear preference for eliminating any mode of civil and popular resistance. These actions run contrary to treaty obligations and also to the viability of an open and democratic society.

The date of George Floyd's murder is listed on the racketeering indictment as the beginning of the contrived conspiracy laid out in the document, demonstrating that the state repression of the movement to Stop Cop City is not just about Cop City, but conceivably seeks to end any opposition, criticism, and limitations of policing and police violence, as such. The plans to build Cop City near Atlanta is but one such proposal. Many other jurisdictions are attempting to fund and build police training facilities so as to ready their forces for the next cycle of mass demonstrations and prepare law enforcement to quash future resistance movements.

Overview

1. Atlanta is sometimes referred to as “the cradle of the [United States] Civil Rights movement”¹ due in part to it being the birthplace of Dr. Martin Luther King Jr. and home to many champions of progress for people of African descent during many social movements following the abolition of chattel slavery.² Dubbed “the city too busy to hate” by Mayor Ivan Allen, Jr. in the 1960’s, Atlanta continues to be mistakenly regarded as an anomalous “Black Mecca”³ for racial harmony and upward mobility for Black people.⁴ This reputation distorts the reality of many Atlantans, who continue to suffer under the weight of high income inequality,⁵ increasing state violence,⁶ racially disparate criminal legal systems⁷ and the repression of social movements through politically motivated arrests and prosecutions.⁸
2. Under the leadership of Mayor Andre Dickens and the Atlanta City Council, and in coordination with Georgia Governor Brian Kemp⁹ and Georgia Attorney General Chris Carr,¹⁰ the quest to build one of the largest and most expensive law enforcement militarization facilities in the world—colloquially known as “Cop City”—has resulted in extreme abuses of law enforcement powers to arrest, charge, intimidate and, in at least one case, kill people opposed to the construction of the facility.¹¹ Perhaps even more disturbing are the arrests on movement infrastructure builders including bail fund workers, canvassers and legal observers. The coordinated bi-partisan assault on the social movement opposing Cop City represents an extreme escalation of repression, which aligns with the backlash responses in

¹ Clarissa Myrick-Harris, 2006, Atlanta in the Civil Rights Movement, Perspectives on History, December 1, 2006, <https://www.historians.org/annual-meeting/past-meetings/supplement-to-the-121st-annual-meeting/atlanta-in-the-civil-rights-movement-part-two>.

² Clarissa Myrick-Harris, 2006, The Origins of the Civil Rights Movement in Atlanta, 1880-1910, November 1, 2006, <https://www.historians.org/research-and-publications/perspectives-on-history/november-2006/the-origins-of-the-civil-rights-movement-in-atlanta-1880-1910>.

³ Dr. Maurice Hobson, Atlanta’s “Black Mecca” status is more complicated than it seems, <https://www.atlantamagazine.com/list/race-atlanta/atlanta-black-mecca-complicated/>.

⁴ Notably, in the 1960’s, former Atlanta Mayor Ivan Allen Jr., dubbed it “the city too busy to hate” as part of his quiet support of integration. By supporting legislation that effectively ended sanctioned segregation in the city in 1962, Allen contributed to the image of Atlanta as being an anomalous Southern city wherein racial tensions were not as severe as those in places like Birmingham, Selma and Montgomery.

⁵ Dylan Jackson, 2022, Atlanta has the highest income inequality in the nation, Census data shows, Atlanta Journal Constitution, November 28, 2022, <https://www.ajc.com/news/investigations/atlanta-has-the-highest-income-inequality-in-the-nation-census-data-shows/YJRZ6A4UGBFWTMYICTG2BCOUPU/>.

⁶ According to the City of Atlanta’s Use of Force Dashboard, police use of force has increased since 2020. <https://justicereform.atlantaga.gov/use-of-force>.

⁷ American Civil Liberties Union, There are Better Solutions, 2022, [https://www.aclu.org/report/there-are-better-solutions-analysis-fulton-countys-jail-population-data-2022#:~:text=Civil%20Liberties%20Union-.There%20Are%20Better%20Solutions%3A%20An%20Analysis%20of%20Fulton%20County's%20Jail.City%20Detention%20Center%20\(ACDC\)](https://www.aclu.org/report/there-are-better-solutions-analysis-fulton-countys-jail-population-data-2022#:~:text=Civil%20Liberties%20Union-.There%20Are%20Better%20Solutions%3A%20An%20Analysis%20of%20Fulton%20County's%20Jail.City%20Detention%20Center%20(ACDC).).

⁸ Sanya Mansoor, 2023, Georgia Is Using a Domestic Terrorism Law Expanded After Dylann Roof Against ‘Cop City’ Protesters, Time Magazine, May 2, 2023, <https://time.com/6276994/georgia-domestic-terrorism-law-cop-city/>

⁹ Atlanta News First, 2023, Gov. Kemp calls violence at police training center ‘outrageous’, June 26, 2023 <https://www.youtube.com/watch?v=imorhNjDxiA>

¹⁰ Doug Richards, 2023, Georgia’s attorney general speaks on public safety training center prosecutions, 11 Alive News, June 26, 2023 <https://www.11alive.com/article/news/crime/attorney-general-carr-cop-city-prosecutions/85-07b095b2-be86-42dd-963e-4730699e1b3f>

¹¹ Timothy Pratt, 2023, ‘Cop City’ activist’s official autopsy reveals more than 50 bullet wounds, April 20, 2023, <https://www.theguardian.com/us-news/2023/apr/20/manuel-paez-teran-autopsy-cop-city>.

many American cities¹² still reckoning with mass organized demonstrations in 2020 related to the state-sanctioned killings of George Floyd, Breonna Taylor, Ahmaud Arbery and others.¹³

3. Atlanta Police Department (APD) is one of the most resourced departments in the nation. Data shows that half of arrests by APD are for “low-level” and “non-violent” offenses,¹⁴ many of which were quality-of-life issues such as mental illness, substance use disorder, homelessness, and/or sex work, a common feature of policing in the U.S. When discussing Use of Force, The Police Scorecard, a national database analyzing policing encounters from over 14,000 law enforcement agencies, shows that APD reports using more force per arrest than most other departments. This rate is significantly higher than other police departments. Compounding that problem, Black people in Atlanta are 14.6 times more likely and Latinx people in Atlanta were 3.5 times more likely than their white counterparts to be arrested for these categories of offenses.¹⁵
4. If built, Cop City will likely exacerbate the disparate policing of Black people in Atlanta and surrounding jurisdictions. It will also affirm for cities across the United States that local governments may successfully respond to legitimate dissent by consolidating public and private resources to increase the dangerousness of law enforcement. While proponents of Cop City and the many proposed new police militarization facilities across the county¹⁶ allege that improved police training will reduce state violence in U.S. cities, data does not support the claim.¹⁷ Rather, tactical training encouraging law enforcement to respond to protesters as enemy combatants will likely result in more harm.
5. While Atlanta has historically been home to renowned figures including Dr. Martin Luther King, Jr., demonstrations of the scale of those in Selma and Montgomery were less frequently held in Atlanta. “The Atlanta Way,” a phrase used to describe the city’s model of governance centering the strategic partnerships between Black and white political elites and business owners, has frequently acted to subdue and obscure political unrest within the city. While one outcome of The Atlanta Way is superficial peace, another logical consequence is significant inhibition related to political demonstrations confronting local government. Prior to 2020, the last political uprising in Atlanta was the 1967 Atlanta Rebellion.¹⁸ Before that event, the Atlanta Race Massacre claimed at least 12 and as many as 25 Black lives and is sometimes identified by historians as being responsible for the emergence of The Atlanta Way.¹⁹ The escalating state response to protests from Occupy Atlanta to the

¹² Char Adams, 2021, Experts call ‘anti-protest’ bills a backlash to 2020’s racial reckoning, NBC News, May 18, 2021,

<https://www.nbcnews.com/news/nbcblk/experts-call-anti-protest-bills-backlash-2020-s-racial-reckoning-n1267781>

¹³ Reid J. Epstein & Patricia Mazzei, G.O.P. Bills Target Protesters (and Absolve Motorists Who Hit Them), New York Times, April 21, 2021, <https://www.nytimes.com/2021/04/21/us/politics/republican-anti-protest-laws.html>

¹⁴ The term “non-violent” is defined by law enforcement agencies in many ways but typically refers to incidents where physical bodily harm is threatened or caused by an offense.

¹⁵ Police Scorecard, Atlanta Police Department, <https://policescorecard.org/ga/police-department/atlanta>

¹⁶ For example, concerns have arisen in cities like Pittsburgh, where a proposal similar to Cop City is being considered. Jordana Rosenfeld, 2023, As construction begins on Atlanta’s “Cop City,” Pittsburghers are concerned about an allegedly similar local project, Pittsburgh City Paper, <https://www.pghcitypaper.com/news/as-construction-begins-on-atlantas-cop-city-pittsburghers-are-concerned-about-an-allegedly-similar-local-project-23424027>

¹⁷ Char Adams, 2021, Experts stress that more training won’t eradicate police violence, NBC News, April 15, 2021, <https://www.nbcnews.com/news/nbcblk/experts-stress-more-training-won-t-eradicate-police-violence-n1264092>.

¹⁸ Ernie Suggs, 2020, ‘Atlanta Way’ challenged after violent night of protests, Atlanta Journal-Constitution, May 30, 2020,

<https://www.ajc.com/news/atlanta-way-challenged-after-violent-night-protests/HWsEwkX0ZN6xD4kesoEISO/>

¹⁹ Kayla Edgett and Sarah Abdelaziz, 2021, The Atlanta Way: Repression, Mediation, and Division of Black Resistance from 1906 to the 2020 George Floyd Uprising,

Stop Cop City movement causes concerns that Atlanta's leadership will use all tools at its disposal to chill political dissent.²⁰

Background of Responses to Modern Social Movements in Atlanta

Occupy Atlanta

6. In 2011, the Occupy Atlanta movement followed the model of the Occupy Wall Street movement in New York City, USA.²¹ Then-Mayor Kasim Reed initially issued an executive order permitting Occupy protesters to demonstrate in a downtown Atlanta park but ultimately revoked the order,²² citing public safety concerns. Ultimately, Atlanta Police conducted a raid resulting in more than 50 arrests.²³ Since Occupy Atlanta, uprisings have continued with greater frequency in Atlanta both with respect to national and local issues.

2020: The Summer of George Floyd, Breonna Taylor, Ahmaud Arbery & Rayshard Brooks

7. Just as protests have become more frequent, the state response in Atlanta has become more severe. For example, in 2020, Mayor Keisha Lance Bottoms made history by inviting the Governor to deploy the National Guard to attack protesters in response to property damage occurring during a demonstration. Like other U.S. cities, Bottoms also implemented a 9:00 PM curfew, which resulted in over 600 arrests²⁴ of not only protesters—but people attempting to navigate the city for essential tasks. Amid protests spurred by police killings in other states, Atlanta Police killed Rayshard Brooks after he fell asleep in a fast food restaurant parking lot.²⁵ Atlanta Police used chemical agents against protesters during the summer of 2020, which also represents a problematic militarized response to social movement.²⁶

2020 Arrests of Legal Workers & Journalists

8. Even before Cop City protests, there were reports of protesters being kettled in Atlanta parks just before curfew, at least one instance of which resulted in the arrest of legal observers representing the

<https://atlantastudies.org/2021/10/04/the-atlanta-way-repression-mediation-and-division-of-black-resistance-from-1906-to-the-2020-george-floyd-uprising/>

²⁰ Micah Herskind, 2023, This is the Atlanta Way: a Primer on Cop City, Scalawag Magazine, https://scalawagmagazine.org/2023/05/cop-city-atlanta-history-timeline/?utm_source=partner.

²¹ Library of Congress, Occupy Atlanta, <https://www.loc.gov/item/lcwaN0006227/>

²² City of Atlanta, 2011, "Mayor Kasim Reed Announces His Intention to Revoke Executive Order for Occupy Atlanta," Press Release, October 24, 2011,

<https://www.atlantaga.gov/Home/Components/News/News/925/672?arch=1&npage=54&seldept=1>

²³ Associated Press, 2011, Arrests at Occupy Atlanta, Georgia Public Broadcasting, October 26, 2011

<https://www.gpb.org/news/2011/10/26/arrests-at-occupy-atlanta>

²⁴ Alex Whittler, 2020, Atlanta mayor, chief of police discuss what's next for curfew and coronavirus phases, Fox 5 News, June 4, 2020,

<https://www.fox5atlanta.com/news/atlanta-mayor-chief-of-police-discuss-whats-next-for-curfew-and-coronavirus-phases>

²⁵ Although the City of Atlanta paid a \$1 Million settlement to Brooks' family, all charges against officers were withdrawn by Atlanta District Attorney Fani Willis. See: Becky Sullivan, 2022, Atlanta to pay \$1 million to the family of Rayshard Brooks, killed by police in 2020, National Public Radio, November 11, 2022,

<https://www.npr.org/2022/11/22/1138650659/rayshard-brooks-shooting-police-atlanta-family>

²⁶ Associated Press, 2020, The Latest: Police use chemical agents on Atlanta protesters, September 24, 2020.

<https://safeatlanta.org/f/the-latest-police-use-chemical-agents-on-atlanta-protesters>

National Lawyers Guild.²⁷ In May 2020, Atlanta Police arrested a photojournalist from the University of Georgia while he documented a George Floyd demonstration.²⁸

Anti-Democratic Government Response to Stop Cop City Movement

9. The response to Cop City protesters represents the convergence of diverse anti-democratic tactics leveraged by several government agencies at once. While City of Atlanta officials sidestep democratic and lawful ballot measures through litigation and obstruction, state and municipal police forces coordinate raids on organizers and prosecutors leverage felony charges for constitutionally protected activity. Additionally, the Georgia General Assembly continues to weigh legislation attacking the right to dissent.²⁹ Corporate interests³⁰ backing the Atlanta Police Foundation provide additional financial and instructional support³¹ for the project, which lacks broad public support.³² The wholesale criminalization of the Stop Cop City movement is achieved by exploiting rare instances of property damage for the purpose of mischaracterizing the global movement against the facility as violent.

The Killing of Manuel Paez “Tortugita” Terán

10. In January 2023, the Georgia State Patrol (or GSP, a statewide police agency), cooperated with Atlanta and DeKalb County law enforcement to conduct a raid of the forest land occupied by protesters opposing the construction of Cop City. In so doing, they shot environmental protester Manuel Paez “Tortugita” Terán over 52 times, killing them³³ while their hands were raised.³⁴ A GSP

²⁷ National Lawyers Guild, Police Targeting NLG Legal Observers at Black Lives Matter Protests, June 7, 2020 “Reports from [National Lawyers Guild] chapters in multiple cities lead us to conclude that police are intentionally targeting [legal observers (“LO’s”)]. In Atlanta, LOs Megan Harrison and Asia Parks were arrested and held for 17 hours before being released. According to Harrison, she was walking down a line of protesters linking arms, taking names and dates of birth in case of arrest. When police attacked the crowd, she heard “get the girl in the green hat,” before being grabbed from behind and forcibly arrested.”

<https://www.nlg.org/police-targeting-nlg-legal-observers-at-black-lives-matter-protests/>

²⁸ Riley Bunch, 2023, Atlanta to pay settlement to photojournalist arrested in 2020, Atlanta Journal Constitution, May 8, 2023,

<https://www.ajc.com/news/atlanta-news/atlanta-to-pay-settlement-to-photojournalist-arrested-in-2020/LCM2OFAJC FBSNBJJVVGWYRBWM/>

²⁹ According to Piper Fund, Since 2017, all 50 states have “introduced bills that disincentivize speech”

<https://www.proteusfund.org/piper/right-to-protest/>. In Georgia, at least three of these bills were considered in the 2023 legislative session.

³⁰ Morgan Simon, 2023, Cops and Donuts Go Together More Than You Thought: The Corporations Funding Cop City in Atlanta, Fortune, May 14, 2023,

<https://www.forbes.com/sites/morgansimon/2023/03/14/cops-and-donuts-go-together-more-than-you-thought-the-corporations-funding-cop-city-in-atlanta/?sh=4ead83d6bc60>.

³¹ J.D. Capelouto, Shaddi Abusaid, 2022, Among U.S. police foundations, Atlanta is an outlier, Atlanta Journal-Constitution, September 16, 2022

<https://www.ajc.com/news/atlanta-news/among-us-police-foundations-atlanta-is-an-outlier/OKI6RLHDUBC6TKED HDITL53CIY/>. The Atlanta Police Foundation is one of the most well-funded police foundations in the United States. Police foundations are different from police unions because they do not negotiate terms of employment for officers, but rather raise money to augment the financial resources available to police. The Atlanta Police Foundation reported assets exceeding \$53 million dollars in 2021 in tax filings.

<https://atlantapolicefoundation.org/wp-content/uploads/2023/01/Atlanta-Police-Foundation-Inc-and-APF-Support-Inc-2021-Audited-Financial-Statements-FAC.pdf>.

³² R.J. Rico, 2023, ‘Stop Cop City’ activists pack Atlanta City Hall ahead of crucial vote, June 6, 2023,

<https://apnews.com/article/cop-city-vote-atlanta-city-council-d782604c15874e441570654ea362e0ef>.

³³ Terán used “they/them” pronouns.

³⁴ Although authorities claimed that Terán fired shots at officers, a second autopsy resulted in findings that refuted officer claims. <https://theintercept.com/2023/04/20/atlanta-cop-city-protester-autopsy>.

officer was also shot and hospitalized, with official reports claiming that Terán shot at officers who then returned fire.³⁵ Although Atlanta officials initially denied any involvement in the raid, body camera footage obtained through open records requests depicts Atlanta Police officers on site during the shooting and one Atlanta officer suggesting to another that the GSP who was shot, was struck by a fellow officer's bullet.³⁶ Law enforcement arrested³⁷ dozens of people for Domestic Terrorism. Many of those accused are logically also witnesses to police actions on the day in question. District Attorney Sherry Boston, responsible for cases filed in DeKalb County Georgia where the proposed site is located, withdrew her office from the 42 cases related to Cop City protests, including those alleging Domestic Terrorism, citing philosophical differences.³⁸

Attacking Movement Infrastructure through Arresting Canvassers, Legal Workers and Journalists

11. Although multiple police agencies have supported the Atlanta Police Department's campaign to build Cop City, Atlanta Police Department remains the primary architect of the law enforcement tactics undermining the Stop Cop City movement. A journalist covering a Stop Cop City protest was arrested by Atlanta Police in June 2022 and has filed suit against the city as a result.³⁹ In March 2023, a legal observer attorney employed by a non-profit law firm was arrested and charged with Domestic Terrorism, along with protesters.⁴⁰ That observer has also now been charged with racketeering. Finally, a 72 year-old movement lawyer and activist was arrested in June 2023 while canvassing in a strip mall in front of Home Depot, a corporate funder of Atlanta Police Foundation who also supports the Cop City.⁴¹

Arrest of Bail Fund Mutual Aid Workers

12. On June 1, 2023, as civil society convened for the 2nd Session on the Permanent Forum on People of African Descent in New York City, Atlanta Police coordinated a raid with the Georgia Bureau of

³⁵ Georgia Bureau of Investigation, Press Release, April 14, 2023

<https://gbi.georgia.gov/press-releases/2023-04-14/gbi-investigates-officer-involved-shooting-following-multi-agency>

³⁶ Michelle Garcia, 2023, Body camera footage released from cop city protest, NBC News, February 9, 2023, <https://www.nbcnews.com/news/nbcblk/body-camera-footage-released-cop-city-protest-shooting-rcna69927>.

³⁷ Criminal procedure in Georgia courts permits police to arrest individuals and later execute warrants alleging certain offenses, the contents of which inform complaints filed by prosecuting agencies. Criminal complaints related to felonies are sufficient to trigger high bond amounts and lengthy terms of pretrial incarceration while prosecutors decide whether criminal actions will be brought before a grand jury for formal indictment. Persons facing prosecution under the Georgia Domestic Terrorism statute were arrested, held pretrial and waited weeks for formal bond hearings. They have not been formally charged through indictment, but remain under court supervision through being subject to conditions enunciated in bond orders issued by the court.

³⁸ Tia Mitchell, 2023, Georgia's U.S. senators raise concerns about arrests of bail fund organizers, June 4, 2023, <https://www.ajc.com/politics/georgias-us-senators-raise-concerns-about-arrests-of-bail-fund-organizers/BCZ7FO2H3VCYNKOIMJLDUQR2HU/>.

³⁹ Wilborn P. Nobles III, 2023, Journalist sues city of Atlanta over arrest at training center site, May 17, 2023, <https://www.ajc.com/news/atlanta-news/journalist-sues-city-of-atlanta-over-arrest-at-training-center-site/UO3JMASGI5GVTCORAKPBUHVID4/>

⁴⁰ Charisma Madarang, 2023, Legal Observer Charged With Terrorism After 'Cop City' Sweep, March 7, 2023, <https://www.rollingstone.com/politics/politics-news/legal-observer-charged-terrorism-cop-city-1234691791/>

⁴¹ The Atlanta Police Foundation describes its work as "public-private partnership model" to "pursue, privately fund and implement programming that creates a safe and just city for every citizen of Atlanta, driving out crime and enhancing the safety of our neighborhoods" <https://atlantapolicefoundation.org/about-the-atlanta-police-foundation/>. Home Depot is among the private corporations supporting APF. Coverage of the Atlanta canvassers arrested on the premises of a Home Depot retail location may be found here:

<https://www.atlantaneewsfirst.com/2023/06/30/2-arrested-after-protest-ponce-de-leon-ave/>

Investigation (GBI) to arrest three bail fund workers in their home.⁴² The Network for Strong Communities operates the Atlanta Solidarity Fund, which emerged in 2020 as a resource for protesters arrested while advocating for an end to state violence. Allegations by the state include charity fraud and money laundering. During a hearing granting bond to the bail fund workers, Judge James Altman remarked that he did not find the charges “impressive,” seeming to point to their tenuous nature.⁴³ The outcry over the arrests was widespread and diverse, notably sparking statements from United States senators, congresspeople and others.⁴⁴ These arrests are the first of their kind in Georgia, but align with efforts in other states attacking bail funds⁴⁵ after the 2020 summer of George Floyd demonstrations. They also coincide with Georgia legislators’ efforts to crack down on exercises of free expression by undermining the protective infrastructure provided to social movements by nonprofit organizations.⁴⁶

Domestic Terrorism Charges

13. In 2017, the Georgia General Assembly passed a state statute purporting to target acts of domestic terrorism, in response to white gunman Dylann Roof killing 9 worshippers in a Black church in nearby South Carolina. The law provides:

(2) “Domestic terrorism” means any felony violation of, or attempt to commit a felony violation of the laws of this state which, as part of a single unlawful act or a series of unlawful acts which are interrelated by distinguishing characteristics, is intended to cause serious bodily harm, kill any individual or group of individuals, or disable or destroy critical infrastructure, a state or government facility, or a public transportation system when such disability or destruction results in major economic loss, and is intended to:

(A) Intimidate the civilian population of this state or any of its political subdivisions;

(B) Alter, change, or coerce the policy of the government of this state or any of its political subdivisions by intimidation or coercion; or

(C) Affect the conduct of the government of this state or any of its political subdivisions by use of destructive devices, assassination, or kidnapping.

Violations of this felony statute carry penalties of 15-35 years.⁴⁷

⁴² Associated Press, 2023, 3 Atlanta activists are arrested after their fund bailed out protesters of 'Cop City,' June 1, 2023, <https://www.npr.org/2023/06/01/1179427542/atlanta-cop-city-arrests>.

⁴³ Kate Brumback, 2023, Bond granted for 3 activists whose fund bailed out people protesting Atlanta ‘Cop City’ project, June 2, 2023, <https://apnews.com/article/police-training-center-arrests-cop-city-1468a138ed4b17ed394e4b1e4fe202fe>.

⁴⁴ Tia Mitchell, 2023, Georgia’s U.S. senators raise concerns about arrests of bail fund organizers, June 4, 2023, <https://www.ajc.com/politics/georgias-us-senators-raise-concerns-about-arrests-of-bail-fund-organizers/BCZ7FO2H3VCYNKOIMJLDUOR2HU/>.

⁴⁵ Walker Orenstein, 2021, Bill requiring public disclosure of groups covering cash bail is getting traction at the Minnesota Legislature, March 25, 2021, <https://www.minnpost.com/state-government/2021/03/bill-requiring-public-disclosure-of-groups-covering-cash-bail-is-getting-traction-at-the-minnesota-legislature>.

⁴⁶ Georgia legislator efforts align with the trending national attack on freedom of expression. See Rebecca Boone, 2023, Experts say attacks on free speech rising in the U.S., PBS News Hour, March 15, 2023. <https://www.pbs.org/newshour/politics/experts-say-attacks-on-free-speech-are-rising-across-the-us>

⁴⁷ Official Code of Georgia Annotated Section 16-11-220.

14. On December 15, 2022, Cop City protesters became the first people arrested and accused under this law in Georgia history.⁴⁸ Again in January 2023, additional protesters were charged, even as Georgia State Patrol officers, in coordination with the Atlanta Police Department, killed environmental protester Manuel Paez Terán during a raid. Later in June 2023, 23 people were similarly arrested and accused by law enforcement.⁴⁹ In total, 42 people have been arrested and accused of domestic terrorism for acts that range from sleeping in hammocks to throwing fireworks.⁵⁰ No one has been charged for any conduct even remotely similar to the racist violence of Dylann Roof, despite that tragedy being used to implement the law in 2017. Rather, the bill is being wielded to incarcerate protesters who oppose racial terror and state violence.

Racketeering Charges against Protesters

15. On September 5, 2023, Georgia Attorney General Chris Carr announced the prosecution of 61 people in an indictment⁵¹ under Georgia's Racketeer Influenced and Corrupt Organizations Act (commonly referred to as "RICO"). This indictment, in unprecedented fashion, alleges that the belief systems of those opposed to the construction of Cop City constitute a criminal enterprise. The document begins by maligning organizing tactics such as mutual aid as nefarious. By doing this, the Attorney General lays the groundwork for criminalizing conduct as benign as purchasing camping supplies as an overt act in furtherance of an ideological conspiracy.⁵² The far-reaching implications of this indictment include chilling freedom of expression, freedom of assembly, and community organizing that centers the well-being of marginalized communities most impacted by state violence and mass incarceration.

16. Of note, the date alleged as the inception of this "conspiracy" coincides with the day that George Floyd was killed by Minneapolis Police. The killing took place over a year before the land lease was approved to make way for Cop City and two years before funding was approved for the project. By connecting those indicted in 2023 to events leading to the mass protests of 2020, the government is explicitly positing the movement opposing Cop City as a response to the global movement to end state violence against Black people in the U.S.⁵³

17. The RICO indictment of Stop Cop City advocates reveals a significant surveillance of mundane organizing activity including the purchasing of equipment, communication between organizers

⁴⁸ Associated Press, 2022, 5 protesters arrested at Atlanta police training center, WABE, December 15, 2022, <https://www.wabe.org/5-protesters-arrested-at-atlanta-police-training-center/>

⁴⁹ Odette Yousef, 2023, Rights groups are alarmed over domestic terrorist charges in 'Cop City' protests, NPR, June 28, 2023, <https://www.npr.org/2023/06/28/1184726273/rights-groups-are-alarmed-over-domestic-terrorist-charges-in-cop-city-protests>

⁵⁰ Natasha Lennard, 2023, The Crackdown on Cop City Protesters Is So Brutal Because of the Movement's Success, The Intercept, January 27, 2023, "Police affidavits on the arrest warrants of forest defenders facing domestic terror charges include the following as alleged examples of terrorist activity: "criminally trespassing on posted land," "sleeping in the forest," "sleeping in a hammock with another defendant," being "known members" of "a prison abolitionist movement," and aligning themselves with Defend the Atlanta Forest by "occupying a tree house while wearing a gas mask and camouflage clothing." <https://theintercept.com/2023/01/27/cop-city-atlanta-forest/>

⁵¹ Associated Press, 2023, 61 indicted in Georgia on RICO charges, AP News, September 5, 2023, <https://apnews.com/article/atlanta-cop-city-protests-rico-charges-3177a63ac1bd31a1594bed6584e9f330> Text of the indictment, which was secured before the government announced its existence, may be found here: <https://www.fultonclerk.org/DocumentCenter/View/2156/CRIMINAL-INDICTMENT>.

⁵² For example, Count XI of the indictment alleges one count of Money Laundering by bail fund organizers for allegedly providing \$93.04 to an organizer for the purpose of purchasing camping supplies.

⁵³ Zohra Ahmed & Elizabeth Taxel, 2023, How Georgia Indicted a Movement, The Nation, September 12, 2023, <https://www.thenation.com/article/society/cop-city-indictment-atlanta/>.

through various encrypted messaging applications, The Attorney General concedes⁵⁴ that much of the communication is benign, but without pointing to corroborating evidence, alleges that those surveilled intend to commit property damage. Thus, surveillance serves as the basis for dangerous conjecture on the part of the state resulting in formal criminal charges being filed for otherwise lawful conduct.⁵⁵

Anti-Democratic Attack on Cop City Ballot Measure through Police Intimidation

18. While governments often encourage the electorate to engage important issues at the ballot box, the electoral component of the movement to stop Cop City has been met with bureaucratic obstruction and law enforcement repression. In May 2023, organizers launched the Cop City Vote campaign, centering a referendum that would allow Atlanta voters to decide whether Atlanta should revoke the lease between the city and the Atlanta Police Foundation for the proposed facility site.⁵⁶ Dr. Bernice King, daughter of Dr. Martin Luther King, Jr. and The King Center have repeatedly urged⁵⁷ the City of Atlanta to allow voters to decide the fate of Cop City. Nevertheless, Mayor Dickens and the majority of Atlanta City Council have rebuffed even the most established community actors in favor of heeding calls from the Atlanta Police Foundation.
19. Despite representations that he would allow the effort to move forward, Mayor Andre Dickens moved forward with a plea to federal courts to invalidate the petition.⁵⁸ The city's claims alarmed many because city lawyers effectively argued that the provision of the city charter authorizing ballot measures was illegal. In addition to litigating against organizers looking to put Cop City to a vote, Atlanta announced a petition verification process that utilized signature matching, which is widely regarded by experts as a mechanism of voter suppression.⁵⁹
20. In addition being criticized by advocates for deploying tools of voter suppression,⁶⁰ the City of Atlanta has arrested canvassers, including elder activist Lorraine Fontana⁶¹ to interfere with individual and collective freedom of expression represented by the ballot measure. In one instance, Atlanta City

⁵⁴ FN 53 Indictment at 43-44 “Communication from the Defend the Atlanta Forest management is conducted in many ways. Indeed, communication among the Defend the Atlanta Forest members is often cloaked in secrecy using sophisticated technology aimed at preventing law enforcement from viewing their communication and preventing recovery of the information. Members often use the dark web via...end-to-end encrypted messaging app Signal or Telegram, or use hand-held radios such as walkie talkies while in the forest...The communication paints itself as a ‘call to action’ so that its appearance is benign; nevertheless, Defend the Atlanta Forest members are aware of the purpose of these calls to action, and they include violence...”

⁵⁵ Numerous memos published by the Atlanta Police Department Homeland Security Unit detail social media monitoring of Stop Cop City organizers, keeping records of flyers, posts and other communication.

⁵⁶ Jocelyn James, 2023, Cop City Referendum Would Give Atlanta Voters a Voice on the Police Training Facility's Future, Teen Vogue, August 25, 2023 <https://www.teenvogue.com/story/cop-city-referendum-atlanta>

⁵⁷ John Ruch, 2023, King Center CEO Calls for Public Safety Training Center to Move, Saporta Report, April 11, 2023,

<https://saportareport.com/king-center-ceo-calls-for-public-safety-training-center-to-move/sections/reports/johnruch/>

⁵⁸ Associated Press, 2023, Atlanta petition drive to stop 'Cop City' is 'futile,' city's attorneys argue, WABE, June 23, 2023, <https://www.wabe.org/atlanta-petition-drive-to-stop-cop-city-is-futile-citys-attorneys-argue/>

⁵⁹ R.J. Rico, 2023, Activists furious Democratic leaders haven't denounced plan to check every 'Stop Cop City' signature, AP News, August 25, 2023,

<https://apnews.com/article/atlanta-cop-city-referendum-signatures-cd116086ae553d30840a6ae68a8af413>

⁶⁰ Eamon Whalen, 2023, Voting rights Groups Condemn Atlanta's Verification Process for Cop City Referendum, Mother Jones, August 23, 2023

<https://www.motherjones.com/politics/2023/08/voting-rights-group-stacey-abrams-fair-fight-georgia-cop-city-signature-matching/>

⁶¹ See Paragraph 11.

Councilmember Dustin Hillis was documented advising a neighborhood group on social media to call Atlanta Police Department leadership if they wanted to eject canvassers from a local park.⁶²

21. On September 11, 2023, organizers delivered approximately 116,000 signed petitions to the City of Atlanta Municipal Clerk.⁶³ The Clerk initially refused to accept the petitions but after negotiations with advocates, accepted the documents with the caveat that they would not begin the previously announced verification process before being heard on the matter pending before a federal court. The City's actions constitute repression of expression as communicated through democratic processes such as ballot initiative signatures while also using law enforcement to repress other protected forms of expression.
22. While the federal government has been mostly silent on the suppression and repression of the movement to Stop Cop City, the Federal Bureau of Investigation (FBI) forms part of a joint task force "formed to combat ongoing criminal activity" at the Cop City site.⁶⁴ The Department of Homeland Security has maligned Cop City activists and protesters, referring to them as "alleged DVEs [Domestic Violent Extremists]" who "[s]ince spring of 2022 [...] have cited anarchist violent extremism, animal rights/environmental violent extremism, and anti-law enforcement sentiment to justify criminal activity in opposition to a planned public safety training facility in Atlanta."⁶⁵ In addition, some of the affidavits and warrants used against Cop City activists and Solidarity Fund staff cited this DHS DVE language to justify the arrests.⁶⁶

Obligations under International Law

Scope and Relevance of the International Covenant on Civil and Political Rights (ICCPR)

23. The events detailed below evidence violations of human rights committed by agencies of the United States government based on the State's obligations under the International Covenant on Civil and Political Rights. In particular, the case highlights violations of Articles 6 (right to life), 18 (right to freedom of thought), 19 (right to hold opinions without interference), 21 (right of peaceful assembly), and 22 (right of free association). We argue, furthermore, that, when taken together, the evidence presented in this report illustrates a strategic and coordinated attack by various levels of the State to target, criminalize, and dismantle an intersectional social movement challenging police militarization and environmental degradation. The movement to Stop Cop City is a harbinger of what resistance

⁶² Atlanta Community Press Collective, July 7, 2023, Today on the Adams Crossing Neighborhood FB Page, residents were discussing ways to stop referendum signature gatherers from canvassing their neighborhood, X, <https://t.co/6hKvCH8Whw>

⁶³ Timothy Pratt, 2023, Outcry as Atlanta refuses to handle petitions over 'Cop City' police campus, The Guardian, September 11, 2023 <https://www.theguardian.com/us-news/2023/sep/11/atlanta-petition-police-cop-city-georgia>

⁶⁴ Georgia Bureau of Investigation, Five Arrested for Domestic Terrorism Charges at Site of Future Atlanta Public Safety Training Center, <https://gbi.georgia.gov/press-releases/2023-06-23/five-arrested-domestic-terrorism-charges-site-future-atlanta-public> (June 23, 2023.)

⁶⁵ DHS, National Terrorism Advisory System Bulletin, May 24, 2023, <https://www.dhs.gov/ntas/advisory/national-terrorism-advisory-system-bulletin-may-24-2023>.

⁶⁶ See Affidavit of SA Ryan Long, State Warrant and Mittimus-Georgia, DeKalb Cnty. (D0293186) (Dec. 15, 2022), https://s3.documentcloud.org/documents/23463024/domestic_terrorism_warrants.pdf#page=5; Alleen Brown, Documents show how 19 'Cop City' activists got charged with terrorism, Grist (Jan. 27, 2023), <https://grist.org/protest/atlanta-cop-city-terrorism/>; Kate Brumbuck, Bond granted for 3 activists whose fund bailed out people protesting Atlanta 'Cop City' project, AP News (June 2, 2023, 4:17 PM), <https://apnews.com/article/police-training-center-arrests-cop-city1468a138ed4b17ed394e4b1e4fe202fe>;

looks like in the near future and the State's response is equally exemplary of what repression will look like as the twin existential threats of police violence and ecological collapse align.

24. It is clear that the Atlanta Police Department, Fulton County District Attorney, Governor, General Assembly and Georgia Attorney General bear human rights obligations based on the State's ratification of the treaty on June 8, 1992. As interpreted in 2004 by HRC General Comment No. 31, "The obligations of the Covenant in general and article 2 in particular are binding on every State Party as a whole. All branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level - national, regional or local - are in a position to engage the responsibility of the State Party."⁶⁷ This position is re-affirmed in HRC General Comment No. 34 (2011), which takes as its object Article 19: Freedoms of Opinion of Expression, which has particular resonance in this case.⁶⁸
25. On December 5, 2022, elected leaders of the Atlanta City Council adopted a resolution (22-R-4708) declaring the city to be a "Human Rights City," a global initiative launched by the People's Decade for Human Rights Education following the 1993 World Conference on Human Rights in Vienna.⁶⁹ In the declaration, the Council commits to support of "international human rights principles embodied in the Universal Declaration of Human Rights (UDHR) and subsequent international human rights treaties." The resolution followed the appearance of Mayor Andre Dickens in Geneva in August 2022, when he traveled with the US government as part of its delegation to the treaty body session convened by the Committee on the Elimination of Racial Discrimination. City leadership is fully aware of international human rights mechanisms and their obligation to fulfill the responsibilities that accrue to State Parties.

Violations of International Law

26. The broad use of the criminal legal system to target civil society actors is best understood as a coordinated strategy by the State to silence and suppress the movement to Stop Cop City, and advance their own agenda to build a training facility for police militarization. Individuals and groups throughout the movement, engaging in peaceful, protected activities, have been threatened, detained, arrested, charged with crimes (including felonies that carry significant carceral penalties), had their homes invaded and property seized, and even killed. The violations laid out below describe the international legal grounding that covers these areas but the big picture must not be lost: The governmental actors responsible for these violations intend not only to harm individuals, but to intimidate anyone who would consider joining the movement and ultimately to stamp out the resistance to Cop City altogether, at whatever cost.

Right to Life (Article 6)

27. Article 6 of the ICCPR asserts that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." The police killing of the indigenous environmental human rights defender, Miguel Paez "Tortugita" Terán, described above in §10, constitutes a violation of international law. Furthermore, HRC General Comment 36 at §23 outlines how the State's duty to protect the right to life includes "special measures of protection toward persons in vulnerable situations whose lives have been placed at particular risk because of

⁶⁷ CCPR/C/21/Rev.1/Add.13.

⁶⁸ CCPR/C/GC/34.

⁶⁹ Text of the resolution is available at:

https://atlantacityga.igam2.com/Citizens/Detail_LegiFile.aspx?Frame=None&MeetingID=3671&MediaPosition=&ID=31546&CssClass=

specific threats or pre-existing patterns of violence,” naming in particular “human rights defenders,” “indigenous people,” “lesbian, gay, bisexual, transgender and intersex persons.”⁷⁰ Since all of these traits apply to Terán, and recognizing how individuals with intersectional identities are at a heightened risk for state violence, Terán deserved the “special measures” described here. However, rather than protection, they were met with deadly violence.

28. As the international community increasingly understands and articulates the convergence between human rights protection and environmental defense, “environmental human rights defenders” (EHRDs) serve a unique role in societies confronting state violence and ecological collapse. Since the UN General Assembly adopted a resolution that identified for the first time a “right to a clean, healthy and sustainable environment as a human right.”⁷¹ In an interpretation of this new right, a jointly-authored Information Note by UN Development Programme, UN Environmental Programme, and Office of the UN High Commissioner on Human Rights has defined EHRDs as “agents of change in protecting the environment and standing up for communities and individuals who are disproportionately impacted by environmental harm.”⁷² In Atlanta, individuals are defending the Waulanee Forest with their bodies, to protect the land slated to be cleared to make way for the police militarization facility.
29. The unique role of Human Rights Defenders was identified in the 1999 Declaration,⁷³ and their relationship to the mounting environmental crisis is further explicated through Human Rights Council resolutions in 2016 and 2019.⁷⁴ As environmental pressures become further exacerbated, EHRDs will become the frontline protectors that take risks in the defense of life itself and will require the full rights and protection described across international normative documents.

Right to Hold Opinions without Interference and Right to Freedom of Expression (Article 19)

30. General Comment No. 34 on Article 19 prohibits activities such as “harassment, intimidation or stigmatization of a person, including arrest, detention, trial or imprisonment for reasons of the opinions they may hold” (§9) as well as “any form of effort to coerce the holding or not holding of any opinion” (§10). The Comment also enumerates areas of civil society activity that are explicitly protected, including “political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (§11). Journalism is given special attention: “A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society” (§13). Anticipating the weaponization of “national security” rationales, §30 identifies the potential misuse of such justifications by the state.⁷⁵
31. State agencies responding to the movement to Stop Cop City have crossed many of the lines set out in General Comment No. 34. Legal observers, journalists, canvassers, and operators of a mutual aid fund have been directly assaulted and the use of “domestic terrorism” charges against peaceful activists confirm the Committee’s suspicion in §30. The concern around the widespread violations of rights

⁷⁰ CCPR/C/GC/36.

⁷¹ A/RES/76/300, on which the US government voted in favor and built on the Human Rights Council Resolution A/HRC/RES/48/13.

⁷² “What is the Right to a Healthy Environment?” available at <https://www.undp.org/sites/g/files/zskgke326/files/2023-01/UNDP-UNEP-UNHCHR-What-is-the-Right-to-a-Healthy-Environment.pdf>.

⁷³ Adopted by UN General Assembly Resolution A/RES/53/144.

⁷⁴ A/HRC/32/L.29 and A/HRC/RES/40/11, respectively.

⁷⁵ CCPR/C/GC/34.

captured in Article 19 is for the well-being and legal status of the individuals and their ability to freely exercise their rights, whether that is in professional capacity or not. More broadly, the environment of fear and risk for those who are considering participating in this civil society movement, to hold opinions and express them freely through collective action, is cultivated by the State's aggressive pursuit of punitive measures for individuals and groups engaged in protected activities.

32. The RICO charges indicting sixty-one individuals name specific areas of opinion and expression deemed to be criminal, including: anarchism, collectivism, mutual aid, and social solidarity. "Zines" (colloquial term for underground magazines and booklets) and letters of support are also included as documents that express these belief systems and further the "conspiracy." One need not examine the merit of these opinions or modes of expressions in order to understand that they clearly constitute protected activities under the Covenant.

Right to Peaceful Assembly (Article 21) and Right to Free Association (Article 22)

33. General Comment No. 37 on the right of peaceful assembly was adopted in July 2020,⁷⁶ in the midst of the largest mass mobilization in US history, in response to the police killing of George Floyd. The first sentences signal the profound nature of this right, especially as it connects with other key social objectives:

The fundamental human right of peaceful assembly enables individuals to express themselves collectively and to participate in shaping their societies. The right of peaceful assembly is important in its own right, as it protects the ability of people to exercise individual autonomy in solidarity with others. Together with other related rights, it also constitutes the very foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism. Peaceful assemblies can play a critical role in allowing participants to advance ideas and aspirational goals in the public domain and to establish the extent of support for or opposition to those ideas and goals. Where they are used to air grievances, peaceful assemblies may create opportunities for the inclusive, participatory and peaceful resolution of differences (§1).

The text is quoted here at length because, by opening the Comment in such grand fashion, the Committee describes Article 21 as a lynchpin right that connects directly to other democratic and civil rights, but almost more so invokes an essential quality inherent in peaceful assembly with macro consequences. The existence and recognition of this right has structural implications for the health of any society and its denial also has structural implications for the health of any society.

34. At §3, General Comment No. 37 links Article 21 with Article 22 by noting that the right to peaceful assembly "constitutes an individual right that is exercised collectively. Inherent to the right is thus an associative element."⁷⁷ Throughout the text, the Comment specifies a range of qualities that protected activity may possess: "assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs" (§6); "peaceful assemblies can sometimes be used to pursue contentious ideas or goals...[and] can cause disruption" (§7); "The role of journalists, human rights defenders, election monitors and others involved in monitoring or reporting on assemblies is of particular importance for the full enjoyment of the right of peaceful assembly" (§30); and "assemblies with a political message should enjoy a heightened level of accommodation and protection" (§32). The explication of obligations under Article 21 contained in

⁷⁶ CCPR/C/GC/37.

⁷⁷ Ibid.

these clauses captures a range of protected movement activities, despite the energies of the State to criminalize and punish precisely these expressions.

35. At §42, §67, and §68, the Committee advances a lengthy argument bounding “national security” justifications for targeting peaceful assembly,⁷⁸ which applies here due to the State’s use of “domestic terrorism” charges against forty-two individuals swept up at a music festival in the forest on March 5, 2023. At §42, General Comment No. 37 establishes that the nation must actually be facing some form of existential threat. The Committee cautions against using “ambiguous or overbroadly defined offences,” even in the event that an assembly becomes unlawful, nor can such charges “suppress conduct protected under the Covenant,” which is precisely what the current report alleges (§67). At §68, the Committee reiterates their stance in clear terms: “The mere act of organizing or participating in a peaceful assembly cannot be criminalized under counterterrorism laws.”
36. In regards to the indictments of sixty-one individuals associated with the movement detailed above in §15, General Comment No. 37 foreshadowed the specific ways in which the State has cracked down on social movement activity.⁷⁹ In §33, the Committee ensures that activities that make peaceful assemblies possible are also clearly protected: “Associated activities conducted by an individual or by a group, outside the immediate context of the gathering but which are integral to making the exercise meaningful, are also covered. The obligations of States parties thus extend to actions such as participants’ or organizers’ mobilization of resources; planning; dissemination of information about an upcoming event; preparation for and travelling to the event; communication between participants leading up to and during the assembly; broadcasting of or from the assembly; and leaving the assembly afterwards” (§33). Bail fund operators and other individuals who purchased supplies, including fuel for transportation, have been charged with felony crimes under local statute, in direct contradiction to the US government’s obligations under ICCPR.
37. At §98, General Comment No. 37 asserts that, “The full protection of the right of peaceful assembly depends on the protection of a range of rights.”⁸⁰ The Committee explicitly links Article 21 to Article 17 that covers the right to privacy, identifying the ways that surveillance of protestors and social movements infringes upon both, reinforcing their interdependence. At §61 and §94, the Committee details how the use of surveillance can have a “chilling effect” on the right to peaceful assembly.
38. Of particular note are the references in the General Comment to the conduct of law enforcement at the site of peaceful assembly.⁸¹ If police are dispatched to peaceful assemblies at all, they must do so with the goal of respecting and facilitating the assemblies and to ensure that the rights of all are protected (§74). The Committee is clear that police must exhaust all deescalating and non-violent means prior to using non-lethal force in their engagement with peaceful assemblies. “Any use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination applicable to articles 6 and 7 of the Covenant, and those using force must be accountable for each use of force” (§78). In fact, (§88) makes this point even firmer: “Firearms are not an appropriate tool for the policing of assemblies.” By this rationale, using lethal force against unarmed, non-violent Environmental Human Rights Defenders, such as Terán, is a prohibited act and a violation of human rights of state obligations under ICCPR.
39. The Special Procedures mandate holder on the rights to freedom of peaceful assembly and of association has been a consistent voice, especially in regards to Environmental Human Rights

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

Defenders. The inaugural Special Rapporteur, Maina Kiai, visited the United States in 2016 and remarked on “the increasingly hostile legal environment for peaceful protesters,” following visits to sites of uprising including Ferguson and Baltimore.⁸² In 2021, the current mandate holder, Clément Nyaletsossi Voule, issued a report on the essential nature of these rights to the advancement of climate justice: “as more people around the world organize to defend their lands and demand a green future, violent repression has also increased... The attacks have also led at times to the portrayal of climate justice activists as national security threats, rather than as front-line human and environmental rights defenders.”⁸³ The Special Rapporteur warns of the “use of the justice system against environmental activists” and urges that States “ensure that criminal laws penalizing activities such as usurpation, defamation, conspiracy, coercion, incitement of crime, terrorism, sedition and cooperation with foreign entities, which are often broad and ill defined, are not used to target environmental defenders and to create a chilling effect.”⁸⁴

Recommendations

40. Noting the comprehensive and authoritative report issued by the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights on “Protest and Human Rights” in 2019;⁸⁵ and the prior recommendations made by the Committee on the Elimination of Racial Discrimination to the State Party in 2022 to “investigate allegations of excessive use of force during peaceful protests... against human rights defenders belonging to racial and ethnic minorities by law enforcement officers. The Committee further recommends that the State party develop and adopt legislation and strengthen its measures to protect human rights defenders, including those working on the rights of racial and ethnic minorities, indigenous peoples and non-citizens.”⁸⁶
41. Recalling the urgent response by the UN Human Rights Council in its initial resolution in June 2020 following the murder of George Floyd that “requests the High Commissioner to examine government responses to anti-racism peaceful protests”⁸⁷ and the report produced in July 2021⁸⁸ that set out a four-point action plan that included as its third point a series of highly relevant guidelines:
 - a. “Ensure that people of African descent and those who stand up against racism are protected and heard, and their concerns are acted on.
 - i. Ensure effective participation and/or representation of people of African descent, in particular women and youth, at every level in State institutions, including law enforcement and the criminal justice system, and policy-making processes.
 - ii. Recognise past and current contributions by individuals and organisations that stand up to racism, and encourage and support solidarity across equality movements.
 - iii. Ensure full respect for the rights to freedom of expression and peaceful assembly, and recognize the right to peaceful protest as a way of effecting change.
 - iv. Protect the safety and rights of organisers, participants, observers and journalists in protests with particular attention to members of groups that are or have been subjected to racial discrimination.

⁸² A/HRC/35/28/Add.2 at §32.

⁸³ A/76/222 at §18.

⁸⁴ Ibid at §29 and §68.

⁸⁵ Full text available at <https://www.oas.org/en/iachr/expression/publications/Protesta/ProtestHumanRights.pdf>.

⁸⁶ CERD/C/USA/CO/10-12.

⁸⁷ A/HRC/RES/43/1.

⁸⁸ A/HRC/47/53.

- v. Investigate effectively, impartially and in a timely manner, any allegation of human rights violations or abuses against individuals and organisations that stand up against racism.”

42. In order for the United States government to provide “effective remedy” for all those individuals harmed by the human rights violations described herein, as is the duty of all State Parties under ICCPR Article 2, we urge the Committee to take up the following recommendations in their engagement with the State:

- a. The appropriate jurisdictions must dismiss all charges against protestors immediately, in particular with respect to those individuals charged under Domestic Terrorism and Racketeer Influenced and Corrupt Organizations (RICO) statutes;
- b. Accordingly, the United States must ensure that any restriction on the right to freedom of assembly, including the imposition of administrative or criminal sanctions, complies with the strict requirements of the Covenant, and in particular ensure the full compliance of criminal processes of those criminally prosecuted for terrorism and/or conspiracy to commit a crime, with international standards;⁸⁹
- c. The federal government must initiate a thorough investigation into the killing of indigenous Environmental Human Rights Defender, Manuel Paez Terán, and the agencies that coordinated the raid resulting in their death, including the Georgia State Patrol, Atlanta Police Department and DeKalb County Police Department;
- d. The federal government must initiate a thorough investigation of the Georgia State Patrol, Georgia Bureau of Investigation and its taskforce, the Atlanta Police Department, and DeKalb County Police Department and any private agencies, including the Atlanta Police Foundation, acting at the behest of these agencies in response to the movement to Stop Cop City, in areas that include but not limited to:
 - i. Repression of protected activity, including the rights to peaceful assembly and free association, and the rights to freedom of opinion and free expression;
 - ii. Arbitrary arrest and detention;
 - iii. Racially disparate policing practices;
 - iv. Use of force;
 - v. Harassment; and
 - vi. Surveillance.
- e. Following the above investigations, if the federal government finds fault, adequate compensation and reparation must be issued to impacted people and their families, in accordance with the State’s treaty obligations;
- f. The United States, at federal, state, and local levels, must adopt new, explicit protections for human rights defenders, including environmental, Black, brown, indigenous, and LGBTQIA Human Rights Defenders, as well as journalists and legal observers, to ensure that they can adequately carry out their work free from surveillance and threats, in accordance with the “special measures” provision of General Comment No. 36;
- g. The United States should adopt legislation, regulation, and other manner of guidance that:
 - i. Reduces unnecessary criminal justice interaction, including by avoiding repressive policing;
 - ii. Defaults to relying on non-law enforcement means to ensure the safety of protestors, such as ensuring protections for legal observers, marshals, and community-based security formations.

⁸⁹ See Human Rights Committee, Observaciones finales sobre el octavo informe periódico de Colombia [Final observations on Colombia's 8th periodic report], CCPR/C/COL/CO/8 September 4, 2023, para. 37(d).

- h. The City of Atlanta must place the referendum on the ballot (referenced above at §18-21) and permit voters to decide whether the lease of the property for the police training center should be nullified. The City should withdraw all pending litigation opposing the referendum effort and honor the result of the election.
- i. In line with recommendations to the United States from the Committee on the Elimination of All Forms of Racial Discrimination in 2014⁹⁰ and again in 2022,⁹¹ the United States should adopt a national action plan to combat systemic racism and structural racial discrimination in a coherent and comprehensive matter, in consultation with individuals and groups of society affected by racial discrimination.

Conclusion

- 43. The evidence contained in this report describes a robust and concerted effort by the State under review to violate the human rights of individuals active in a broad social mobilization against police militarization and in defense of environmental protection. In so doing, the State criminalizes and punishes individuals for engaging in protected activities but also signals to thousands of other movement activists that they could be next. The State chills and discourages the exercise of rights to freedom of opinion and thought, and peaceful assembly and free association, which constitutes a clear transgression of treaty obligations. Supporters of the police training facility, which include elected officials, the Atlanta Police Foundation, and private corporations, collude to violate rights and secure their own interests. State actions ranging from detaining journalists to charging bail fund operators as an organized criminal enterprise, indicate a clear preference for eliminating any mode of civil and popular resistance. These actions run contrary to treaty obligations and also to the viability of an open and democratic society.
- 44. A larger context for this assault on human rights norms and democratic values must be acknowledged and appreciated: Following the police murder of George Floyd on May 25, 2020, the United States experienced the largest mass movement in its history. That date is listed on the RICO indictment as the beginning of the contrived conspiracy laid out in the document, demonstrating that the state repression of the movement to Stop Cop City is not just about Cop City, but actually seeks to end any opposition, criticism, and limitations of policing and police violence, as such. The plans to build Cop City near Atlanta is but one such proposal. Many other jurisdictions are attempting to fund and build police training facilities so as to ready their forces for the next cycle of mass demonstrations and prepare law enforcement to put down future resistance movements.
- 45. The most grand, global context for this assault on human rights norms and democratic values must also be acknowledged and appreciated, in conclusion: Repression in Atlanta mirrors the state violence against environmental and human rights defenders around the world. As the planet continues to warm, threatening the persistence of stable societies and all life on earth, Environmental Human Rights Defenders, such as Terán, will need deeper and more profound protections than ever before.

⁹⁰ CERD/C/USA/CO/7-9.

⁹¹ CERD/C/USA/CO/10-12.

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Concluding observations on the fifth periodic report of the United States of America*

1. The Committee considered the fifth periodic report of the United States of America¹ at its 4050th and 4051st meetings,² held on 17 and 18 October 2023. At its 4067th meeting, held on 30 October 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its fifth periodic report in response to the list of issues prior to reporting prepared under that procedure.³ It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive Aspects

3. The Committee welcomes the adoption by the State party of the following legislative and policy measures:

(a) The Respect for Marriage Act on 13 December 2022, and Executive Orders 14075 "Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals", of 15 June 2022, and 13988 "Preventing and combating discrimination on the basis of gender identity or sexual orientation", of 20 January 2021;

(b) Executive Orders 14101 "Strengthening Access to Affordable, High-Quality Contraception and Family Planning Services", of 23 June 2023; 14079 "Securing Access to Reproductive and Other Healthcare Services", of 3 August 2022; 14076 "Protecting Access to Reproductive Healthcare Services", of 8 July 2022; and Presidential Memorandum "Protecting Women's Health at Home and Abroad", of 28 January 2021;

(c) Executive Orders 13985 "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government", of 20 January 2021, and 14091 "Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government", of 16 February 2023;

(d) Executive Order 14074 "Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety", of 25 May 2022;

* Adopted by the Committee at its 139th session (9 October - 3 November 2023).

¹ [CCPR/C/USA/5](#).

² See [CCPR/C/SR.4050](#) and [CCPR/C/SR.4051](#).

³ [CCPR/C/USA/QPR/5](#).

(e) Executive Order 14031 “Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders”, of 28 May 2021;

(f) Executive Order 14021 “Guaranteeing an Educational Environment Free from Discrimination on the Basis of Sex, including Sexual Orientation or Gender Identity”, of 8 March 2021.

C. Principal matters of concern and recommendations

Domestic implementation of the Covenant

4. The Committee remains concerned at the lack of measures to effectively incorporate the Covenant in the domestic legal order. It regrets the lack of sufficient information on the implementation of the provisions of the Covenant at the territorial level in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the United States Virgin Islands. It also regrets that the State party maintains the position that the Covenant does not apply with respect to individuals under its jurisdiction, but outside its territory, despite the interpretation to the contrary of article 2, paragraph 1, by the Committee’s established jurisprudence, the jurisprudence of the International Court of Justice and State practice (art. 2).

5. The State party should take all measures necessary to ensure that all rights protected under the Covenant are incorporated and given full effect in its domestic legal order at the federal, state, local and territorial levels. The Committee reiterates its previous recommendation⁴ that the State party should interpret and apply the Covenant in good faith, in accordance with the ordinary meaning to be given to its terms in their context, including subsequent practice, and in the light of the object and purpose of the Covenant, and review its legal position to acknowledge the extraterritorial application of the Covenant under certain circumstances, as outlined, inter alia, in the Committee’s general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant. In this respect, the Committee recalls and underscores that the Covenant applies with regard to all conduct by the State party’s authorities or agents adversely affecting the enjoyment of the rights enshrined in the Covenant by persons under its jurisdiction, regardless of the location. The State party should also reconsider its position regarding its reservations, declarations and understandings to the Covenant with a view to withdrawing them. It should further raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are invoked before the domestic courts and taken into account in their decisions. It should also consider acceding to the Optional Protocols to the Covenant.

National human rights institution

6. While acknowledging the information provided by the State party regarding the continued discussions on the establishment of an independent national human rights institution, the Committee regrets the general nature of the information provided and the lack of progress towards establishing such an institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (art. 2).

7. Recalling its previous recommendations,⁵ the State party should establish an independent national human rights institution in accordance with the Paris Principles as a matter of priority, with a mandate to ensure implementation of the Covenant and monitor compliance with its provisions at the federal, state, local and territorial levels.

Accountability for past human rights violations

8. The Committee is deeply concerned at the limited number of prosecutions and convictions of members of the Armed Forces and other agents of the State party for human rights violations, including the use of torture or other cruel, inhuman or degrading treatment

⁴ CCPR/C/USA/CO/4, para. 4.

⁵ CCPR/C/USA/CO/4, para. 4 (d).

or punishment of detainees under its custody, as part of its so-called “enhanced interrogation techniques” and in the context of the CIA secret rendition, interrogation and detention programmes. It continues noting with concern that many details of the CIA programmes remain secret, creating obstacles for accountability and redress for victims and their families (arts. 2, 6, 7, 9, 10 and 14).

9. **The Committee reiterates its previous recommendations⁶ that the State party adopt concrete measures to ensure that all cases of unlawful killing, torture or other ill treatment, unlawful detention or enforced disappearances are effectively, independently and impartially investigated; that perpetrators, including persons in positions of command, are prosecuted and, if convicted, sanctioned; that the responsibility of those who provided legal pretexts for manifestly illegal behaviour be established; and that victims and their families are provided with effective remedies. It further reiterates that the State party should declassify and release the report of the Senate Special Committee on Intelligence into the CIA secret detention programme, and consider the full incorporation of the doctrine of “command responsibility” in its criminal law.**

Hate crimes and hate speech

10. While noting the measures taken by the State party to combat hate crimes, including the COVID-19 Hate Crimes Act of 2021 and the Emmet Till Anti-lynching Act of 2022, the Committee is concerned about the persistence of hate crimes, including mass shootings, and hate speech against people of African descent, Indigenous Peoples, persons of Hispanic/Latino origin, persons of Asian descent, members of Muslim and Jewish communities, migrants, asylum seekers and against persons based on their real or perceived sexual orientation and gender identity, including by politicians and high-level officials, as well as in the media and on social media platforms. It is also concerned at the underreporting of hate crimes by law enforcement agencies to the Federal Bureau of Investigation (FBI) due to the voluntary nature of such reporting, which has led to a lack of statistical data on hate speech (arts. 2, 6, 20 and 26).

11. **The State party should consider withdrawing or narrowing its reservation to article 20 of the Covenant and strengthen its efforts to combat hate crimes and hate speech, and in particular:**

- (a) **Take effective measures to prevent and publicly condemn hate speech, particularly those by politicians and high-level officials;**
- (b) **Intensify action to tackle the prevalence of online hate speech, in close cooperation with Internet service providers, social networking platforms and the groups most affected by hate speech;**
- (c) **Reinforce awareness-raising campaigns for public officials and the general public aimed at promoting respect for human rights and diversity;**
- (d) **Effectively implement and enforce existing legal and policy frameworks on combating hate crimes, and provide effective training to law enforcement officials, judges and prosecutors to investigate hate crimes;**
- (e) **Improve data collection regarding hate crimes, including by making the reporting of hate crimes to the FBI mandatory for all law enforcement agencies;**
- (f) **Investigate hate crimes thoroughly, ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and provide access to victims and their families to full reparation.**

Racial profiling

12. The Committee welcomes the adoption of the Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, Gender Identity, and Disability of May 2023. However, it remains concerned

⁶ CCPR/C/USA/CO/4, para. 5.

about the persistence of the practice of racial profiling by law enforcement officials, including practices by Customs and Border Protection (CBP) and by Immigration and Customs Enforcement (ICE), targeting certain ethnic and racial minorities, in particular people of African Descent, Indigenous Peoples, persons of Hispanic/Latino origin and Muslims. It is also concerned with the lack of legislation explicitly prohibiting this practice (art. 2, 9, 12, 17 and 26).

13. **Recalling its previous recommendations,⁷ and in line with the recommendations made by the Committee on the Elimination of Racial Discrimination,⁸ the Committee calls on the State party to:**

(a) Prohibit racial profiling in federal, state and local legislation, taking into account initiatives like the “End Racial and Religious Profiling Act” and the “George Floyd Justice in Policing Act”;

(b) Investigate and prosecute all allegations of racial profiling and provide effective remedies to the victims;

(c) Collect disaggregated data for all incidents, complaints and investigations of racial profiling by law enforcement agencies, including CBP and ICE;

(d) Train federal, state, local and territorial law enforcement officials on ethnic and cultural awareness and the unacceptability of racial profiling.

Racial disparities in the criminal justice system

14. While noting the impact of the First Step Act in reducing the federal prison population, the Committee continues to be concerned that persons belonging to racial and ethnic minorities, in particular people of African descent, Indigenous Peoples and persons of Hispanic/Latino origin, are overrepresented in the criminal justice system, are disproportionately placed and held in pre-trial detention and affected by parole and probation sentences, and are more often subject to prison labour and harsher sentences (arts. 2, 9, 14 and 26).

15. **Recalling its previous recommendations,⁹ the State party should take additional measures to effectively eliminate racial disparities at all stages of the criminal justice system, including by reducing unnecessary criminal justice interventions; increasing the use of alternatives to incarceration; ensuring that bail requirements are reasonable and supporting alternative systems of pretrial release that do not rely on cash bail; amending regulations and policies leading to racially disparate impacts at the federal, state, local and territorial levels, such as mandatory minimum sentencing policies, including for drug offenses; and ensuring that parole and probation sentences are only applied when necessary and are proportionate to the offense.**

Discrimination on the basis of nationality

16. The Committee welcomes Presidential Proclamation 10141 “Ending Discriminatory Bans on Entry to the United States”, of 20 January 2021, which revoked Proclamation 9645 of 24 September 2017, commonly known as the “Muslim ban”, and efforts at mitigating its prolonged impact. However, it is concerned that the impacts of the proclamation of 2017 are still ongoing, including prolonged delays in family reunification caused by the ban, procedural hurdles, and a considerable backlog of visa applications, particularly affecting those whose applications were rejected during the ban, and the lack of effective measures to prevent future discriminatory bans (art. 2, 17, 23, 24 and 26).

17. **The State party should intensify its efforts to rectify the impact of Presidential Proclamation 9645 and ensure an accessible, fair and effective reconsideration process for all visa applicants that continue to be affected by the ban, in particular those that applied for family reunification. It should also adopt additional measures to prevent**

⁷ CCPR/C/USA/CO/4, para. 7.

⁸ CERD/C/USA/CO/10-12, para. 19.

⁹ CCPR/C/USA/CO/4, para. 6.

future discriminatory bans, including legislative measures such as the No BAN Act initiative.

Gender equality

18. While welcoming the various measures taken by the State party to advance gender equality, including the establishment of the White House Gender Policy Council in 2021, the Committee regrets the lack of explicit guarantee in the Constitution against sex and gender-based discrimination (arts. 2 and 3).

19. The State party should redouble its efforts to guarantee protection against sex and gender-based discrimination in its Constitution, including through initiatives such as the Equal Rights Amendment. The State party should also consider ratifying the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol.

Violence against women

20. The Committee recognizes the efforts made by the State party to prevent and combat violence against women and girls, including the adoption of the first National Plan to End Gender-Based Violence, released on 25 May 2023, and the last reauthorization of the Violence Against Women Act (VAWA) in 2022. Nonetheless, it is concerned at the persistence of violence against women, including domestic and sexual violence, and that low-income women, women of African descent, Indigenous women, women of Hispanic/Latino origin, immigrant women, women in detention and women with disabilities are among the main victims of such violence. It is also concerned at reports of the prevalence of sexual violence against women and girls in schools and institutions of higher learning as well as within the State Party's armed forces. While acknowledging the adoption of the Strengthening the Opposition to Female Genital Mutilation Act (Stop FGM Act) in 2020, the Committee is concerned at reports indicating that implementation of the law has been slow and that not all states have specific laws against FGM (arts. 3, 6, 7, 14, 17, 24 and 26).

21. The State party should intensify its efforts to prevent, combat and eradicate all forms of violence against women and girls, including domestic violence and sexual violence, paying special attention to women from minority and marginalized groups, in particular by:

(a) Encouraging and facilitating the reporting of cases of violence against women and girls, ensuring the safety of women who come forward, and protecting them from retaliation, including those who are in the military and in educational settings;

(b) Ensuring that cases of violence against women and girls are thoroughly and effectively investigated, and that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions;

(c) Providing victims with access to effective remedies, including access to civil remedies for military service members, as well as means of protection and legal, medical, financial and psychological assistance, notably access to accommodations or shelters and other supportive services;

(d) Strengthening its efforts to provide law enforcement officials, prosecutors, judges and lawyers with appropriate training to effectively deal with cases of violence against women and girls, including on combating gender stereotypes and judicial bias against women;

(e) Effectively implementing laws, policies and programmes at all levels, *inter alia*, the VAWA, Executive Order 14021, the Campus Save Act and the recent legislation that establishes the Offices of Special Trial Counsel within the State party's armed forces;

(f) Encouraging states to pass legislation that prohibits and criminalizes all forms of FGM and to effectively implement the Stop FGM Act.

Missing and murdered indigenous women and girls

22. The Committee welcomes the issuing of Executive Order 14053 “Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People” of 15 November 2021. However, it is concerned that indigenous women and girls are disproportionately affected by life-threatening forms of violence, homicides and disappearances. It is also concerned at the absence of comprehensive data surrounding murdered and missing indigenous women and at the lack of adequate resources that hinders effective and culturally appropriate investigations and processing of cases (arts. 3, 6, 7, 14, 17, 24 and 26).

23. The State party should intensify its efforts at the federal, state, local, tribal, and territorial levels with a view to prevent the occurrence of murders and disappearances of indigenous women and girls, in consultation with indigenous women’s organizations and families of the victims. It should also improve data collection and analysis to better understand the extent and causes of the missing and murdered indigenous women crisis. In addition, it should ensure that cases of missing and murdered indigenous women and girls are effectively and thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims and their families are provided with adequate remedies and effective access to legal, medical, financial, and psychological assistance.

Discrimination based on sexual orientation and gender identity

24. While noting the various legislative and policy initiatives adopted at the Federal level, the Committee is concerned at the increase of state legislation that severely restricts the rights of persons based on their sexual orientation or gender identity, such as laws that, inter alia, ban and, in some instances, criminalize gender-affirming health care for transgender persons; forbid transgender individuals from using restrooms or from participating in school sports that corresponds with their gender identity; and limit discussions on sexual orientation and gender identity issues in schools. It is also concerned at reports on the discriminatory treatment that persons continue to face based on their sexual orientation or gender identity, particularly in access to housing, employment and treatment in correctional facilities as well as social stigmatization, harassment and violence (arts. 2, 3, 6, 7, 17, 23 and 26).

25. The State party should adopt all measures necessary to ensure that state laws that discriminate against persons based on their sexual orientation and gender identity are repealed and that comprehensive legislative initiatives prohibiting discrimination on those grounds, such as the Equality Act, are adopted at the federal, state, local and territorial levels. It should also intensify its efforts to combat violence against and discrimination of persons based on their sexual orientation and gender identity, including with regard to access to housing, health, employment and in correctional facilities. It should further ensure that any act of discrimination, harassment and violence is investigated, perpetrators are brought to justice and victims are provided with effective remedies and redress.

Maternal mortality, voluntary termination of pregnancy and sexual and reproductive rights

26. While welcoming the adoption of the White House Blueprint for Addressing the Maternal Health Crisis of 24 June 2022, the Committee is deeply concerned at the increase of maternal mortality and morbidity in the State party, which has the highest rate of maternal mortality among developed countries, and particularly affects women from vulnerable and minority groups. It is also deeply concerned that racial and ethnic minorities have the highest rates of maternal mortality in the country, in particular women of African descent and Indigenous women, and notably Native Hawaiians and other Pacific Islander people. It is further concerned that in various states, midwifery is severely restricted, banned or even criminalized, limiting the availability of culturally sensitive and respectful maternal health care for those with low income, those living in rural areas, people of African descent and indigenous communities (arts. 2, 3, 6, 7, 17 and 26).

27. **In line with the recommendations made by the Committee on the Elimination of Racial Discrimination,¹⁰ the State party should redouble its efforts to prevent and combat maternal mortality and morbidity and to eliminate discrimination and disparities in the field of sexual and reproductive health and rights, in particular racial and ethnic disparities, and integrate an intersectional and culturally respectful approach in policies and programmes aimed at improving women's access to comprehensive sexual and reproductive health services and at reducing the high rates of maternal mortality and morbidity. It should further take steps to remove restrictive and discriminatory legal and practical barriers to midwifery care, including those affecting midwives in communities of people of African descent and Indigenous peoples.**

28. The Committee welcomes the information provided by the State party's delegation on the various measures adopted at the Federal level to address "the immediate and devastating impact on women's health and rights" of the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, of 24 June 2022. However, it is alarmed at the increase of legislation, barriers and practices at the state level that impede women's access to safe and legal abortion, *inter alia*, the criminalization of various actors linked to their role in providing or seeking abortion care, including health care providers, persons who assist women to procure an abortion, notably family members, and the pregnant women seeking an abortion. It is also deeply concerned at restrictions to inter-state travel, bans on medication abortion, and surveillance of women seeking abortion care through their digital data for prosecution purposes. Furthermore, the Committee is deeply concerned at the profound impact of these measures on the rights of women and girls seeking an abortion, including the rights to life, privacy and not to be subject to cruel and degrading treatment, and in particular at the disproportionate impact on women and girls with low incomes and from vulnerable groups, those living in rural areas, and those belonging to racial and ethnic minorities (arts. 2, 3, 6, 7, 17 and 26).

29. **In the light of the Committee's general comment No. 36 (2018) on the right to life and in line with the recommendations made by the Committee on the Elimination of Racial Discrimination,¹¹ the State party should take all the necessary measures at the federal, state, local and territorial levels to ensure that women and girls do not have to resort to unsafe abortions that may endanger their lives and health. The State party should, in particular:**

(a) **Provide legal, effective, safe and confidential access to abortion for women and girls throughout its territory, without discrimination, free of violence and coercion, including through the adoption of legislative initiatives such as the Women Health's Protection Act;**

(b) **Put an end to the criminalization of abortion by repealing laws that criminalize abortion, including laws that apply criminal sanctions to women and girls who undergo abortion, to health service providers who assist women and girls to undergo abortion and to persons who assist women and girls to procure an abortion, and consider harmonizing its legal and policy framework with the World Health Organization's Abortion Care Guidelines (2022);**

(c) **Ensure that the professional secrecy of medical staff and patient confidentiality are observed, including by strengthening privacy protections under the Health Insurance Portability and Accountability Act, and protect women seeking abortion care from surveillance of their personal digital data for prosecution purposes;**

(d) **Remove existing barriers impeding access to abortion care, including inter-state travel restrictions, and refrain from introducing new barriers;**

(e) **Continue its efforts to guarantee and expand access to medication abortion.**

¹⁰ CERD/C/USA/CO/10-12, para. 36.

¹¹ CERD/C/USA/CO/10-12, para. 36.

Death penalty

30. While welcoming the reinstatement of a temporary moratorium on federal executions and the increasing number of states that have abolished the death penalty, the Committee remains gravely concerned at the continuing use of the death penalty and at racial disparities in its imposition, with a disproportionate impact on people of African descent. It is also concerned at reports of a high number of persons wrongly sentenced to death and at the lack of compensation or adequate compensation for persons who are wrongfully convicted in retentionist states. It regrets the lack of information regarding the allegations of the use of untested lethal drugs to execute prisoners and about reported cases of excruciating pain caused by the use of these drugs and botched executions (arts. 2, 6, 7, 9, 14 and 26).

31. **In the light of the Committee's general comment No. 36 (2018) on the right to life and recalling its previous recommendations,¹² the State party should:**

(a) Establish a de jure moratorium at the federal level, engage with retentionist states to achieve a nationwide moratorium, and take concrete steps towards abolition of the death penalty;

(b) Adopt further measures to effectively ensure that the death penalty is not imposed as a result of racial bias;

(c) Strengthen safeguards against wrongful sentencing to death and subsequent wrongful execution, guarantee effective legal representation for defendants in death penalty cases, including at the post-conviction stage, and ensure adequate compensation for persons wrongfully convicted as well as appropriate support services such as legal, medical, psychological and rehabilitation services;

(d) Guarantee that all methods of execution fully comply with article 7 of the Covenant.

Killings using armed drones

32. The Committee remains seriously concerned at the continuing practice of the State party of killings in extraterritorial counter-terrorism operations using armed drones, the lack of full and continuous transparency regarding the legal and policy criteria for drone strikes, the alleged possibility of variations through classified plans, as well as the lack of accountability for the loss of life and for other serious harm caused, particularly to civilians. The Committee notes that the State party maintains its position that extraterritorial counter-terrorism operations, including drones strikes, are conducted in the course of its armed conflict with Al-Qaida and associated forces in accordance with its inherent right of national self-defence, and that they are governed by international humanitarian law as well as by the current Presidential Policy Memorandum that establishes standards and procedures that govern the use of lethal force outside of various active hostilities. However, it reiterates its concern about the State party's broad approach to the definition of "armed conflict", including an overbroad geographical and temporal scope.¹³ While noting the adoption of the Civilian Harm Mitigation and Response Action Plan (CHMR-AP), the Committee is seriously concerned that it only applies to lethal strikes carried out by the Department of Defence and not by other agencies such as the Central Intelligence Agency (CIA). It is further concerned at the very limited use of ex gratia payments to affected civilians and their families in recent years (arts. 2, 6 and 14).

33. **In light of the Committees' general comment 36 on the right to life, the Committee reiterates its previous recommendations¹⁴ that the State party should revisit its position regarding legal justifications for the use of deadly force through drone attacks, and:**

(a) Ensure that any use of armed drones complies fully with its obligations under article 6 of the Covenant, in particular, with respect to the principles of

¹² CCPR/C/USA/CO/4, para. 8.

¹³ CCPR/C/USA/CO/4, para. 9.

¹⁴ CCPR/C/USA/CO/4, para. 9.

precaution, distinction and proportionality in the context of an armed conflict, as well as with its international human rights and international humanitarian law obligations;

(b) Disclose the criteria for drone strikes, subject to operational security, including the legal basis for specific attacks, the process of target identification and the circumstances in which drones are used;

(c) Provide for independent supervision and oversight of the specific implementation of regulations governing the use of drone strikes;

(d) In armed conflict situations, take all feasible measures to ensure the protection of civilians in specific drone attacks, and track and assess any civilian casualties, as well as all necessary precautionary measures in order to avoid such casualties;

(e) Conduct independent, impartial, prompt and effective investigations of allegations of violations of the right to life, ensure that those responsible are prosecuted and, if convicted, punished with appropriate sanctions;

(f) Strengthen, improve and expand the CHMR-AP to all lethal strikes carried out by the State Party, including those by the CIA; ensure that victims and their families are provided with an accessible and effective remedy where there has been a violation, including adequate compensation; and establish accessible accountability mechanisms for victims of allegedly unlawful drone attacks who are not compensated by their home governments.

Gun violence

34. While welcoming the adoption of the Bipartisan Safer Communities Act in 2022 and the establishment of a federal office for gun violence prevention in September 2023, the Committee is gravely concerned at the increase in gun-related deaths and injuries, which disproportionately affects racial and ethnic minorities as well as women and children (arts. 2, 6 and 26).

35. **Recalling its previous recommendations,¹⁵ the State Party should take all necessary measures to abide by its obligation to effectively protect the right to life and prevent and reduce gun violence by, inter alia, strengthening its legislative and policy measures requiring background checks for all private firearm and ammunition acquisition and transfer; banning assault weapons and high-capacity magazines; restricting access to firearms by those most at risk of abusing them, including persons under domestic violence restraining orders, and ensuring the right to effective remedies, including by repealing immunities for any entity operating in the firearms industry.**

Excessive use of force by law enforcement officials

36. The Committee remains deeply concerned at police brutality and the excessive and deadly use of force by law enforcement officials, including by Customs and Border Protection (CBP) officers, which has a disparate impact on people of African descent, Indigenous peoples, persons of Hispanic/Latino origin, migrants and asylum seekers. It is also concerned at reports of the lack of accountability in the majority of cases of excessive and deadly use of force by law enforcement officials (arts. 2, 6, 7 and 26).

37. **Recalling its previous recommendations,¹⁶ the State party should:**

(a) Review the federal and state regulations, standards and operational procedures governing the use of force by law enforcement officials and bring them into conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement;

¹⁵ CCPR/C/USA/CO/4, para. 10.

¹⁶ CCPR/C/USA/CO/4, para. 11.

(b) Ensure that all allegations of excessive use of force are investigated promptly, thoroughly and impartially, that those responsible are prosecuted and, if found guilty, are punished, and that the victims or their families obtain redress;

(c) Make the data collection and the reporting of excessive or deadly use of force mandatory for law enforcement agencies at all levels for its inclusion in the Federal Bureau of Investigation's database and ensure that the data is publicly available.

Climate change and the right to life

38. While noting the adoption of Executive Order 14008 "Tackling the climate crisis at home and abroad", of 27 January 2021, the Committee regrets the lack of specific information about measures taken to adopt a precautionary approach to protect persons, including the most vulnerable, from the negative impacts of climate change and natural disasters, such as the heavy floods, wildfires and extreme heat that the State party has faced in recent years. The Committee also notes the State party's efforts to ensure access to clean, safe and affordable water for its population, but it is concerned by various water crises in the State party, such as the leaking of high levels of lead into water systems and outbreaks of Legionnaires' disease in Flint, Michigan, which disproportionately impact people of African descent and Indigenous Peoples (art. 6).

39. In the light of the Committee's general comment No. 36 (2018) on the right to life, the State party should intensify efforts to prevent and mitigate the effects of climate change and environmental degradation, including by strengthening its legal framework, and take adequate steps to adopt a precautionary approach to protecting persons, especially the most vulnerable, from the negative impacts of climate change and natural disasters. It should also reinforce existing measures to prevent life-threatening water crisis, including toxic contamination of water systems, and ensure access to safe and clean water for its population.

Criminalization of homelessness

40. The Committee is concerned about reports of an increase of state and local laws criminalizing homelessness, of violence against homeless persons as well as at the higher risk of premature death that they experience due to homelessness. It is also concerned about the disproportionate impact of homelessness on persons who are marginalized because of their real or perceived sexual orientation or gender identity, persons with disabilities, and racial and ethnic minorities, particularly people of African descent, Indigenous Peoples and persons of Hispanic/Latino origin (art. 2, 6, 7, 9, 17 and 26).

41. The Committee reiterates its previous recommendations¹⁷ that the State party should:

(a) Abolish laws and policies criminalizing homelessness at all levels, and adopt legislative and other measures that protect the human rights of homeless people;

(b) Offer financial and legal incentives to decriminalize homelessness, including by conditioning or withdrawing funding from state and local authorities that criminalize homelessness;

(c) Intensify efforts to find solutions for the homeless, in accordance with human rights standards, including by redirecting funding from criminal justice responses towards adequate housing and shelter programmes;

(d) Review criminal records policies and practices that can lead to homelessness.

Prohibition of torture

42. While noting the information provided by the State party that a range of federal and state laws prohibit conduct constituting torture or cruel, inhuman or degrading treatment or

¹⁷ CCPR/C/USA/CO/4, para. 5.

punishment, the Committee is seriously concerned that the specific offence of torture has not yet been introduced at the federal level (art. 7).

43. **Recalling its previous recommendations,¹⁸ the State party should review its position and enact legislation prohibiting torture as a distinct offence that is fully compliant with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and with article 7 of the Covenant, in order to enhance torture prevention and ensure that evidence and confessions obtained through torture is inadmissible in legal proceedings, without exception. It should also:**

(a) **Conduct thorough, independent and impartial investigations into all allegations of torture and ill-treatment in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) committed by law enforcement officials and prison officials, including against individuals in facilities under its jurisdiction but outside its territory, ensuring that perpetrators are prosecuted and, if convicted, punished in accordance with human rights standards and that victims receive reparation;**

(b) **Strengthen the training on human rights of judges, prosecutors and law enforcement officials, including on the Principles on Effective Interviewing for Investigation and Information Gathering (the “Méndez Principles”);**

(c) **Ensure that all persons deprived of their liberty have access to an independent and effective complaints mechanism for the investigation of allegations of torture and ill-treatment.**

Solitary confinement

44. While taking note that Executive Order 14074 states that restrictive housing in Federal detention facilities is to be used rarely, applied fairly, and subject to reasonable constraints, the Committee is concerned at reports of the extensive use of solitary confinement in the State party, including prolonged and even indefinite confinement, and of its use with respect to juveniles and persons with mental disabilities and health needs (arts. 7, 9 and 10).

45. **Recalling its previous recommendations,¹⁹ the State party should bring all legislation and practice on solitary confinement, at the federal, state, local and territorial levels, in line with the Covenant and the international standards as reflected in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). It should also prohibit the use of solitary confinement for juveniles and persons with intellectual or psychosocial disabilities in prison.**

Life imprisonment without parole

46. The Committee regrets the lack of sufficient information on the measures adopted by the State party to make parole available and more accessible to all prisoners, including those sentenced to life imprisonment. It is also concerned at reports indicating that persons of African descent are disproportionately subject to life imprisonment without parole sentences (arts. 2, 7, 10 and 26).

47. **Recalling its previous recommendations,²⁰ the State party should prohibit and abolish the sentence of life imprisonment without parole for juveniles, irrespective of the crime committed, as well as the mandatory and non-homicide-related sentence of life imprisonment without parole. It should also make parole available and more accessible to all prisoners, including those sentenced to life imprisonment. It should further consider establishing a moratorium on the imposition of sentences to life imprisonment without parole.**

¹⁸ CCPR/C/USA/CO/4, para. 12.

¹⁹ CCPR/C/USA/CO/4, para. 20.

²⁰ CCPR/C/USA/CO/4, para. 23.

Detainees at Guantánamo Bay

48. The Committee welcomes that the State party facilitated the technical visit by the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism to the United States and Guantánamo Detention Facility, which took place at the beginning of 2023. The Committee also notes the President's efforts to reducing the detainee population and ultimately closing the Guantánamo Bay facility. However, it remains deeply concerned that no timeline for closure of the facility has been provided and that some of the detainees have been held in the facility without trial or without any charges for more than 20 years. While noting the information provided by the State party that it is committed to ensuring safe, humane and legal care of detainees, including appropriate medical care, it is concerned at reports of the lack of specialist care and facilities to address the complex health issues of detainees (arts. 7, 9, 10 and 14).

49. **Recalling the Committees' previous recommendations,²¹ the State party should expedite the transfer of detainees designated for transfer and the closure of the Guantánamo Bay facility. It should also put an end to the system of administrative detention without charge or trial and ensure that detainees are afforded the fair trial guarantees enshrined in article 14 of the Covenant. It should further adopt measures to provide specialized health care to detainees.**

Elimination of slavery, trafficking in persons and forced labour

50. While noting the updated National Action Plan to Combat Human Trafficking of 2021 and the National Strategy to Combat Human Trafficking of 2022, the Committee remains concerned by the persistence of human trafficking practices, including those involving children, the criminalization of victims of trafficking on prostitution related charges, the insufficient identification of trafficking victims, and the limited access to effective protection, in particular for non-citizen victims. It is also concerned that workers entering the State party under H-2A and H-2B work visa programmes are at high risk of becoming victims of trafficking and/or forced labour, in particular agricultural workers; that many employers force agricultural workers to pay for housing, food, medical care or safety equipment despite the legal requirement that employers should pay these costs; and that there is a lack of effective inspections by competent authorities (arts. 2, 8, 9, 14 and 26).

51. **The State party should redouble its efforts to combat trafficking in persons by, inter alia, increasing victim identification; strengthening its preventive measures; prosecuting and punishing those responsible, and providing effective remedies to all victims without discrimination, including protection, rehabilitation and compensation. It should also take measures to prevent the criminalization of victims of sex trafficking, including child victims and non-nationals. In addition, it should increase its efforts to ensure full protection against forced labour for all categories of workers, particularly in the agricultural sector, including by increasing on-site inspections.**

Children in migration

52. The Committee profoundly regrets that as a consequence of the State party's "Zero tolerance policy" more than 5,000 children were forcibly separated from their parents at its southern border. While welcoming the rescission of the policy on 27 January 2021 and the establishment of the Interagency Task Force on the Reunification of Families in February 2021, the Committee is concerned at reports that hundreds of children remain separated from their families (arts. 2, 6, 7, 9, 12, 24 and 26).

53. **The State party should redouble its efforts to ensure the reunification of all separated children with their families, guarantee that such family separations are prohibited in the future and ensure that victims have access to effective remedies and receive full reparation, including adequate compensation and appropriate support services.**

²¹ CCPR/C/USA/CO/4, para 21.

Treatment of aliens, including refugees and asylum-seekers

54. While acknowledging the challenges involved with regard to the increasing number of migrants arriving on the territory of the State party and noting the actions taken by the State party to address these challenges, the Committee is gravely concerned with recent measures adopted by the State party, in particular the administrative rule “Circumvention of Lawful Pathways”, the CBP One mobile application, and the “enhanced expedited removal” procedure, excessively restrict effective protection of the right to seek and enjoy asylum as they compromise the quality of the assessment of individual protection needs and increase the risk of breaches of the principle of non-refoulement. The Committee is also concerned at reports of the continued use of mandatory and prolonged detention of immigrants; the lack of adequate access to legal counsel; poor conditions of detention, including overcrowding and inadequate access to food, water and medical care, leading to deaths of numerous detained persons, including children; and instances of violence, ill treatment and abuse in public and private migrant detention facilities, including sexual violence, and use of prolonged solitary confinement (2, 6, 7, 9, 10, 12-14, 24 and 26).

55. **The State party should take all measures necessary to enhance protection of migrants, refugees, and asylum seekers, without discrimination, and in particular should:**

(a) **Review its overall immigration policy and legislation with a view to bringing them in line with international human rights and humanitarian standards, withdraw the measures that do not allow for an adequate assessment of individual protection needs and that increase the risk of refoulement, and ensure effective access to fair and efficient asylum procedures that provide adequate protection against refoulement;**

(b) **Ensure that migrants and asylum-seekers, including individuals in detention, have access to legal aid services and language interpretation;**

(c) **Ensure that immigration detention is used only as a measure of last resort and for the shortest possible period of time, and increase the use of alternatives to detention that are respectful of human rights, including the right to privacy, instead of surveillance-based technology alternatives;**

(d) **Improve the living conditions and treatment of persons in public and private migrant detention facilities, and ensure that they are in conformity with international standards;**

(e) **Adopt additional measures to prevent deaths of individuals in migrant detention facilities and ensure that these cases as well as all instances of violence, ill treatment and abuse are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are provided with full reparation and appropriate protection and assistance.**

Right to privacy

56. The Committee remains concerned at the overbroad scope of Section 702 of the Foreign Intelligence Surveillance Act (FISA), which allows for the surveillance of a wide range of electronic communications of foreign nationals outside of the United States, who are not protected against unreasonable searches under the Fourth Amendment of the State party’s constitution. It is further concerned at reports that loopholes of the Act may also allow law enforcement officials to have broad access to incidentally captured communications of nationals of the State party, without a warrant (“backdoor searching”), and at the lack of clear and transparent oversight mechanisms. The Committee is also concerned at reports that government agencies, such as Immigration and Customs Enforcement (ICE), resorted to databases of personal information systematically collected by private entities without individuals’ consent, particularly for surveillance purposes and without proper mechanisms for protecting the right to privacy (art 2, 17 and 26).

57. **Recalling its previous recommendations,²² the State party should ensure that its surveillance activities, both within and outside its territory, conform to its obligations under the Covenant, including article 17, and that any interference with the right to privacy complies with the principles of legality, proportionality and necessity, regardless of the nationality or location of the individuals whose communications are under surveillance. It should also adopt and effectively enforce at all levels, through independent, impartial and well-resourced authorities, data privacy legislation for the public and private sectors that complies with international human rights law, including safeguards, oversight and remedies to effectively protect the right to privacy. It should further ensure that those responsible are brought to justice, and if found guilty, punished with appropriate sanctions, and that victims of human rights violations and abuses linked to the use of surveillance systems have access to effective remedies.**

Freedom of expression

58. The Committee notes with concern reports of harassment and intimidation against journalists and media outlets by some government authorities and political figures as well as instances of threats and attacks against journalists and media workers by law enforcement officials and private individuals. It is also concerned at the passing of anti-boycotting laws by some states aimed at sanctioning individuals and enterprises who attempt to boycott foreign countries and corporations for their alleged involvement in human rights violations. It is further concerned by the increase of laws and regulations at the state level that ban educational materials and books dealing with certain topics such as sexual orientation and gender identity, race or history of slavery (art. 2, 19, 24 and 26).

59. **In the light of the Committee's general comment No. 34 (2011) on freedoms of opinion and expression, the State party should:**

(a) **Redouble its efforts to ensure that officials refrain from any attacks against, harassment and intimidation of journalists and media outlets and ensure that all illegal acts against journalists are promptly, thoroughly, independently and impartially investigated and those responsible brought to justice and if found guilty, punished with appropriate sanctions;**

(b) **Adopt federal measures to protect journalists against improper intrusions from federal agency investigations and surveillance;**

(c) **Adopt measures to review anti-boycotting laws that may restrict the exercise of freedom of expression, with a view to bringing them into line with article 19 of the Covenant;**

(d) **Increase its efforts to ensure that state laws and school districts regulations on educational materials and books fully comply with article 19 of the Covenant.**

Freedom of assembly

60. The Committee is concerned at the increase of legislation and other measures at the state level that severely restrict the right to peaceful assembly. It is also concerned by the use of anti-terrorism laws to prosecute peaceful protestors, including anti-racism demonstrators, environmental activists and indigenous protestors. It is further concerned at reports of excessive use of force by law enforcement officers and private security companies during peaceful protests as well as of surveillance, arbitrary arrests and mass detention of peaceful demonstrators. (art. 2, 6, 7, 9, 21 and 26).

61. **In the light of the Committee's general comment No. 37 (2020) on the right of peaceful assembly, the State party should:**

(a) **Effectively guarantee and protect the right of peaceful assembly and ensure that any restrictions, including administrative and criminal sanctions against**

²² CCPR/C/USA/CO/4, para. 22.

individuals exercising that right, comply with the strict requirements of article 21 of the Covenant;

(b) **Ensure that all allegations of excessive use of force, arbitrary arrest and detention in the context of peaceful assemblies are investigated promptly, thoroughly and impartially, that those responsible are brought to justice and if found guilty, punished with appropriate sanctions, and that victims obtain full reparation;**

(c) **Provide appropriate training to law enforcement officials on the right of peaceful assembly, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.**

Rights of the child

62. The Committee is concerned at reports of the high number of children who are separated from their families and placed in the child welfare facilities of the State party. It is also concerned at the overrepresentation of children belonging to racial and ethnic minorities in the child welfare system, in particular children of African descent and indigenous children. The Committee is also concerned at reports of high levels of police presence at schools and of harsh disciplinary practices in the school system, including school-related arrests, suspensions and referral to law enforcement, that result in children's early entry into the criminal legal system ("school to prison pipeline"), which disproportionately affects children with disabilities and children from racial and ethnic minorities. It is further concerned about the fact that marriage under the age of 18 years is legally permitted in forty-one states of the State party (art. 2, 23, 24 and 26).

63. **In line with the recommendations made by the Committee on the Elimination of Racial Discrimination,²³ the State party should adopt measures to reduce the harmful impact of child welfare interventions, increase due process protections for parents, and review poverty-related circumstances or lack of financial resources as factors that can trigger child welfare interventions, including by amending or repealing the Child Abuse Prevention and Treatment Act, the Adoption and Safe Families Act and the Adoption Assistance and Child Welfare Act. It should also take active steps with a view to ending the permanent placement of police in schools and law enforcement involvement in student discipline as well as to preventing and eliminating discriminatory bias in the administration of student discipline. It should further adopt measures at all levels in order to prohibit marriage under the age of 18 years.**

Voting rights

64. While noting the actions taken by the State party to guarantee equal access to voting, including Executive Order 14019 on promoting access to voting, the Committee is concerned at the increase of legislative initiatives and practices at the state level that limit the exercise of the right to vote, inter alia, partisan gerrymandering, restrictions on voting by mail and on ballot collection, and burdensome voter identification requirements. It is also concerned about the disproportionate impact of these measures on low-income voters, persons with disabilities, and racial and ethnic minorities as well as at reports of increasing harassment and attacks against election officials. The Committee remains concerned at the persistence of state-level felon disenfranchisement laws and at the lengthy and cumbersome voting restoration procedures. It is further concerned at massive and disproportionate campaign expenditures through election-related advertisements and other communications ("outside spending"), which is managed independently from candidates' campaigns and do not require disclosure of the sources, which reportedly gives excessive influence on the elections to anonymous groups and individuals (arts. 2, 25 and 26).

65. **Recalling its previous recommendations,²⁴ the State party should:**

(a) **Take all necessary measures to ensure that all persons entitled to vote are able to exercise that right, including by eliminating excessive burdens on voters that**

²³ CERD/C/USA/CO/10-12, para. 44.

²⁴ CCPR/C/USA/CO/4, para. 24.

could result in de facto disenfranchisement, and ensuring that polling stations are accessible, particularly in states with weak election infrastructure and for persons with restricted accessibility;

(b) Fully restore the Voting Rights Act and increase funding and other resources for federal agencies to enforce federal voting rights legislation, and enact additional legislation to reinforce the voting rights of its population, such as the pending John R. Lewis Voting Rights Advancement Act and the Freedom to Vote Act;

(c) Ensure that electoral districts are drawn by non-partisan commissions who are subject to checks and balances and that they do not have the purpose or the effect of denying or abridging the right to vote based on racially discriminatory grounds;

(d) Conduct thorough and effective investigation on the harassment and attacks against election officials, ensure perpetrators are prosecuted, and if convicted, punished with appropriate sanctions;

(e) Redouble its efforts to ensure that all states reinstate voting rights to felons who have fully served their sentences or are on parole; provide inmates with information about their voting restoration options; remove lengthy and cumbersome voting restoration procedures; and review automatic denial of the right of imprisoned felons to vote;

(f) Ensure that rules governing campaign funding guarantee an equal right to take part in the conduct of public affairs and ensure the free choice of voters, including by enacting additional legislation on campaign expenditure such as the Democracy is Strengthened by Casting Light on Spending in Elections (DISCLOSE) Act.

Rights of Indigenous Peoples

66. While noting the measures adopted by the State party with regard to the rights of Indigenous Peoples, such as the Presidential Memorandum on “Tribal consultation and strengthening nation-to-nation relationships” of 2021, the Committee is concerned at the obstacles to the recognition of Indigenous Peoples, which impede non-federally recognized communities to enjoy the same rights in relation to policies and activities that affect them. It remains concerned at the lack of protection of indigenous lands and sacred sites from the impact of extractive industries, military infrastructure, and toxic and nuclear waste. It is further concerned at reports of the lack of timely and meaningful consultation with Indigenous Peoples and the State party’s restrictive interpretation of the principle of free, prior and informed consent (arts. 1, 2, 26 and 27).

67. Recalling its previous recommendations,²⁵ the State party should redouble its efforts to ensure the promotion and protection, both in law and in practice, of the rights of Indigenous Peoples, in particular with respect to land, territory and natural resources. It should also:

(a) Eliminate undue obstacles and facilitate the recognition of Indigenous Peoples;

(b) Adopt measures to guarantee access of Indigenous peoples to their lands and sacred sites and to effectively protect their lands and sites from any adverse impact of extractive industries, military infrastructure and toxic and nuclear waste;

(c) Ensure meaningful and good faith consultations with Indigenous Peoples, ensuring their active and effective participation, in order to obtain their free, prior and informed consent before adopting and implementing any measures that may substantially affect their rights, way of life and culture, including in relation to infrastructure or development projects;

²⁵ CCPR/C/USA/CO/4, para. 25.

(d) Take additional measures to honour the treaties that it has entered into with Indigenous Peoples and strengthen mechanisms for consultation with Indigenous Peoples on their implementation.

D. Dissemination and follow-up

68. The State party should widely disseminate the Covenant, its fifth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public.

69. In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 3 November 2026, information on the implementation of the recommendations made by the Committee in paragraphs 29 (maternal mortality, voluntary termination of pregnancy and sexual and reproductive rights), 61 (freedom of assembly) and 65 (voting rights) above.

70. In line with the Committee's predictable review cycle, the State party will receive in 2029 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies, which will constitute its sixth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in 2031 in Geneva.

**Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia, and related intolerance: End of visit statement: United States of America,
Oct 31-Nov 14, 2023**

Background to the visit

I visited the United States of America between 31 October and 14 November 2023. I travelled to Washington DC, Detroit, Los Angeles, New Orleans, Baton Rouge, and Atlanta and met with representatives from federal, State and city Governments, State Government officials and service providers. I also met with over 80 civil society groups working on racism, racial discrimination, xenophobia, and related intolerance affecting Black people, Latino persons, Asians, Jewish communities, indigenous peoples, migrants, Muslim individuals, and Arab communities. I visited a women's prison in California, Skid Row in Los Angeles, an academic institution in California, a not-for-profit museum based on a former plantation in Louisiana, the area known as Cancer Alley in Louisiana, and a women's health centre in Atlanta, Georgia.

I wish to thank the Federal Government for the invitation to visit the United States of America and for their efforts to facilitate meetings with multiple federal departments. I also wish to express my thanks to all the federal and state government officials who engaged in a dialogue with me.

I express my appreciation to all the civil society groups and individuals that met with me during my visit. I was inspired by the dedication, resilience, and commitment that I observed amongst civil society actors and activists working tirelessly to address racism, racial discrimination, xenophobia, and related intolerance. I deeply appreciate those who shared their personal stories with me to help me understand the contemporary forms of racism in the United States of America.

Overall impressions

The United States of America is at a critical juncture in the fight against racism, racial discrimination, xenophobia, and related intolerance. On the one hand, issues of racism and racial discrimination have gained increased attention in recent years. The murders of George Floyd, Breonna Taylor and many others, the racially disparate impact of the COVID-19 and the large-scale racial justice protests in 2020 brought some of the realities of continuing systemic racism, more into the mainstream American consciousness. Following the sustained advocacy of civil society groups and human rights activists and the election of the Biden-Harris administration in 2020, this racial reckoning has been translated into notable efforts for racial justice and initiatives designed to improve racial equity. Such initiatives include Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; Executive Order 14091 on Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; and equity action plans across federal Government entities.

On the other hand, it was abundantly clear throughout my visit that many continue to face persistent, multi-faceted and mutually reinforcing forms of systemic racism and racial discrimination. I have heard that initiatives taken by the Government have not yet translated into significant improvements in the lived experiences of the most excluded individuals and do not adequately address the white supremacy, underlying power imbalances and historical drivers which underpin contemporary forms of racism and racial discrimination. Moreover, I am concerned about the limits of the Federal Government's power to address racial discrimination and the apparent antipathy of many right-wing actors to racial equality. I note with deep concern coordinated pushbacks against racial justice initiatives. I am concerned about gaps in the federal government's commitment to the key international racial justice standards, particularly the Durban Declaration and Programme of Action (DDPA). Many individuals I met described a need to fight for all their basic rights and how there is often vicious push back against hard-won gains. Such a tug of war for the rights of those from racial and ethnic groups is inconsistent with

the robust national protection of the inalienable rights enshrined within the international human rights law standards that the United States of America have ratified.

I observed, with profound concern, a climate characterized by deep political politization and volatility, economic uncertainty, extreme income and wealth inequality and severe damage to the fabric of American society. These trends are creating fertile ground for hatred, including the othering, stereotyping, and scapegoating of those from several groups, including Black individuals, Latinos, migrants, Asians, Jewish communities, Muslim individuals, and Arabs. I was saddened by multiple testimonies from those who expressed that they are profoundly scared for their safety and for the future of their society. One individual pertinently described the current climate as “a powder keg, where we don’t know what will explode next”.

At such a critical junction, it is vital that the United States Government, including both federal and state authorities, urgently address pervasive hate and stay the course to eliminate systemic racism and racial discrimination. This will require significantly increased investment, wholesale improvements in the political, public, and civic participation of those from racially marginalized groups and further actions to increase the civility of the political and societal climate. Moreover, anti-racism efforts must be more effectively anchored in addressing the white supremacy, underlying power imbalances and historical drivers of racism and racial discrimination.

Issues of concern

During my visit I received information about a wide range of human rights issues, which are of profound concern to me. I will detail these concerns and my recommendations to the United States Government in my report to the 56th session of the Human Rights Council in June 2024. My recommendations will include suggestions on how the issues below can be addressed, as well as on how an overarching reparatory justice approach should be taken to address and transform systemic forms of racism that were established by past injustices.

Persistent systemic racism and intersecting forms of discrimination

I observed that many from racially marginalized groups in the United States of America, particularly Black communities, continue to experience persistent systemic racism, defined as “a complex, interrelated system of laws, policies, practices and attitudes in State institutions, the private sector and societal structures that, combined, result in direct or indirect, intentional or unintentional, de jure or de facto discrimination, distinction, exclusion, restriction or preference on the basis of race, colour, descent or national or ethnic origin. Systemic racism often manifests itself in pervasive racial stereotypes, prejudice and bias and is frequently rooted in histories and legacies of enslavement, the transatlantic trade in enslaved Africans and colonialism”.

One individual I met with described systemic racism in the United States of America as “being in the air we breathe”, another described it impacting the lives of those from racially marginalized groups “from cradle to grave”. These quotes articulate the pervasive, pernicious, and unrelenting, nature of systemic racism. Whilst I will elaborate on specific issues of concern below, I wish to emphasize that I see them as deeply interrelated manifestations of systemic racism that have shared root causes and historical drivers, which need to be addressed in a holistic and reparatory manner.

Black individuals are often most severely impacted by systemic racism as rooted in histories and legacies of enslavement, the transatlantic trade in enslaved Africans and colonialism. However, it was made clear to me by those I met during my visit that the white supremacy and settler colonialism that is inherent to systemic racism also contributes to other forms of racism, racial discrimination, xenophobia and related intolerance, including manifestations that impact indigenous peoples, Latinos, migrants, Asians, Jewish communities, Muslim individuals, and Arabs. Additionally, many in the United States face multiple, intersecting and mutually compounding forms of discrimination, including

on the basis of race, colour, descent, national or ethnic origin, sex, gender, gender identity, sexual orientation, nationality, migration status, disability, religion and/or socioeconomic status.

Voter disenfranchisement

One of the ways that systemic racism and white supremacy are upheld is by blocking the ability of those from racial and ethnic groups to accumulate political power, I am appalled by reports of sustained legislative efforts at the state level to suppress the votes of those from racially marginalized groups, including Black people, indigenous peoples, and persons of Hispanic/Latino origin. Over 100 pieces of state legislation have followed the 2013 US Supreme Court decision in *Shelby County, Alabama v. Holder*, which eviscerated Section 4(b) of the 1965 Voting Rights Act. It was brought to my attention that voter suppression techniques include gerrymandering, the continuation of voting restrictions for persons with felony convictions, restrictive voter ID laws, limiting access to polling locations and the curtailment of early and absentee voting.

Such laws and practices stop individuals from exercising their fundamental right to vote, disenfranchising large numbers of those from racial and ethnic groups. They are in clear contravention of international human rights law standards, including the International Convention on the All Forms of Elimination of Racial Discrimination (ICERD) and the International Covenant on Civil and Political Rights (ICCPR), and fundamental democratic principles and norms. As such, I welcome federal measures to promote access to voting, including Executive Order 14019 on Promoting Access to Voting, as well as steps taken by some state Governments, including Michigan, to uphold voting rights for all. I call upon the United States of America to urgently implement the recent recommendations of both the Committee on the Elimination of Racial Discrimination and the Human Rights Committee on this issue, including the full and urgent restoration of the 1965 Voting Rights Act.

Racial discrimination in education

Article 5 of the ICERD provides for equality in the enjoyment of several rights, including to education and training. Despite such protections, deep educational segregation, and stratification on the basis of race and ethnicity persists in the United States of America. I was informed that many from racially marginalized groups tend to go to kindergarten to grade 12 (K12) schools that are highly racially and ethnically homogenous. Due to economic inequality, poverty, and significant inequities in the investment of public resources, children from these communities tend to experience overcrowded classrooms, a lack of qualified teachers, and insufficient extracurricular activities.

Second rate educational provisions can lock children from racial and ethnic groups into poverty and economic exclusion by shaping their access to subsequent education and employment opportunities. Disengagement as a result of poor-quality education, combined with the other ways that systemic racism shapes the childhoods of children from racial and ethnic groups, can also contribute to behavioural issues. I am concerned that rather than address the root causes of such behavioural issues, schools have implemented zero-tolerance policies that impose severe punishment for infractions of school rules leading to increased suspensions and expulsions and, in some cases, school-based arrests. I heard that such policies are often applied in a racially discriminatory manner due to unconscious bias, racial stereotyping, and the tendency to “adultify” children from racially marginalized groups. This has created a “school to prison pipeline”, in which children, disproportionately from racially marginalized groups, are pushed out of schools and into the juvenile justice system.

I am also concerned by information I received about legislative and other measures to exclude critical race theory from curricula; racism and racial discrimination experienced by those attending K-12 schools and universities; schools serving racial and ethnic groups operating outside of educational accountability systems; and the historical underfunding of Historically Black Universities and Colleges.

Affirmative action in college admissions

I am deeply disheartened by the Federal Supreme Court's 2023 decision in *SFFA v. Harvard* and *SFFA v. UNC*, which effectively eliminated race conscious admissions despite the persistence of societal inequalities, including deep educational segregation, and stratification, which powerfully shape access to higher education and the benefits that many universities historically gained from slavery. I wish to remind the United States of America that Article 2 of ICERD obligates State parties to take special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of their human rights.

I believe in the transformative potential of higher education to help end generational cycles of poverty and social exclusion. It can provide access to opportunities for those from marginalized racial and ethnic groups to gain economic and political power and disrupt systemic racism. Diverse student bodies have the potential to enhance the educational experiences of all and help to build societal tolerance and respect for difference and diversity. I urge federal and state entities to continue and expand such efforts. I also call upon universities to do everything within the scope of the law to create pathways for those from racially marginalized groups to access higher education and remind such institutions that enabling access to higher education can be a way of providing reparation to Black students.

Poverty and economic inequality

I am concerned by reports I received about the overrepresentation of Black, Indigenous and persons of Hispanic/Latino origin within the population living in poverty. I wish to remind the Government that they have broad obligations under article 2 of ICERD to take effective and immediate action against all forms of racial discrimination, including those that relate to social and economic inequality.

My concerns about such inequities are compounded by reports about the criminalization of poverty whereby petty offences, such as driving without a license or being unable to pay outstanding civil fines and fees are used to lock people in the criminal justice system. Criminalizing poverty in this way becomes a driver of mass incarceration, which often further impoverishes people, exemplifying how the different manifestations of systemic racism mutually reinforce and compound one another.

I am also deeply concerned by reports of significant racial income and wealth gaps driven by factors such as employment related discrimination, systemic racism limiting the ability of families from racially marginalized communities to build generational wealth, and the explicit extraction and exploitation of resources from these communities. I will expand upon these issues and the Government measures taken to address them in my report to the Human Rights Council.

Housing, spatial segregation and homelessness

I was shocked by the high level of homelessness amongst Black people, which I witnessed during my visit. I visited Skid Row in Los Angeles and witnessed many homeless Black people, particularly men, in Washington DC, other areas of Los Angeles, Detroit, New Orleans and Atlanta. I also received information about high levels of homelessness in places that I could not visit, including Florida and amongst Native American indigenous communities. I received information that Black people and indigenous communities are overrepresented amongst unhoused persons. Many such unhoused people suffer from mental health problems and substance abuse.

Despite high and racially inequitable levels of homelessness, I received concerning information about the shutting of Government services for unhoused persons, including in Los Angeles and Atlanta, including in cases where the building that had been used to provide services was desirable to developers. I was also concerned by reports of a lack of appropriate services for unhoused LGBTI persons and women. Many people I met with described how gentrification of areas traditionally occupied by racial and ethnic groups is a key driver of a lack of affordable housing and homelessness and a factor in the

shuttering of service provision for the unhoused, as well as laws and policies that criminalize homelessness.

I was astounded by the information I received about laws and policies that criminalize homelessness, including the targeting of encampments, the banning of the sharing of food with unhoused people and the disproportionate application of criminal sanctions for loitering, jaywalking, or consuming alcohol amongst unhoused persons. Like the criminalization of poverty, such practices unnecessarily and cruelly contribute to mass incarceration.

I also received deeply concerning information about spatial segregation along racial lines as a result of the legacies of the racist practice of redlining, other barriers to home ownership and gaps and deficits in the quantity and quality of affordable and/or Government subsidized housing.

Environmental racism

I was shocked by the environmental racism that I witnessed and received information about during my visit. The global climate and ecological crises are simultaneously racial justice crises. The devastating effects of the climate and ecological crises are disproportionately borne by those who face racial discrimination, exclusion, and conditions of systemic inequality and racism. This is despite the facts that such groups have often contributed the least to the ongoing crises because of their exclusion and discrimination. These groups are disproportionately concentrated in “sacrifice zones”, which are regions rendered dangerous and even uninhabitable owing to environmental degradation. Whilst many sacrifice zones are in the global south, there are some such areas in the United States of America, including cancer alley, which I visited in Louisiana.

Cancer alley refers to an area along the Mississippi River, which used to be an area where many plantations operated and is inhabited mainly by Black communities. It has been subjected to an onslaught of petrochemical plants due to predatory land acquisition practices and zoning laws and decisions that have privileged the commercial interests of big businesses. This has led to the displacement of many from their homes, communities, and roots, as well as the large-scale extraction of resources and wealth from Black communities. The concentration and intensity of industrial activity has resulted in severe environmental degradation and pollution, leading to a high concentration of serious and life-threatening health conditions, including cancer, autoimmune diseases, eczema, and asthma. I was appalled to hear about an 18-month-old Black baby living in cancer alley, who was close to reaching the recommended lifetime limit of one toxic chemical. The acquisition of land which was formally used as plantations by corporations and its use for extractive and harmful practices is deeply culturally and racially insensitive. I was shocked to hear of corporate activities in areas which are believed to be burial sites for those formally enslaved. Despite the extreme adverse and racially disparate effects of the petrochemical industry and the already intense concentration of factories in the cancer alley area, more industrial projects are being planned in the region.

Cancer alley is an emblematic example of a “sacrifice zone” in the United States of America and the flagrant disregard of the rights of those from racially marginalized groups to benefit corporate interests. I was also shocked by reports of other manifestations of environmental racism, including the Flint water crisis; the water crisis in Jackson, Mississippi; and proposals to destroy large parts of South River Forest in Atlanta to make way for a large-scale police training facility, known as “Cop City”, despite the racially inequitable impact of the project and the land having historical significance to both Black and indigenous communities. I am also concerned about the vulnerability of racial and ethnic groups to extreme weather events. I will expand upon such issues further in my full report to the Human Rights Council.

Racially discriminatory food systems

Those from racial and ethnic groups, including Black, Latino and Indigenous peoples experience food insecurity at disproportionate rates compared to the rest of the population. Many people I met described “food swamps”, geographical areas in which only poor-quality food is available, and “food deserts”, areas in which no food is available. The areas where those from racially marginalized groups live and work are disproportionately food swamps and food deserts according to the information that I received.

Individuals from racially marginalized groups are also more likely to experience the harmful effects of failed food assistance policies and the systemic racism baked into a food system is that is grounded in racially discriminatory land acquisition and use, exploitative labor, and corporate food dependence. In relation to such trends, I received concerning information about the severe exploitation of migrant workers who perform farmwork under H2A visas, the exclusion of Black farmers from federal support to farmers and gaps and weaknesses in the SNAP program. I will expand upon further in my report to the Human Rights Council.

The multiple manifestations of systemic racism inherent to the US food system and racially inequitable patterns of food insecurity that result from it contravene the prohibition of all forms of racial discrimination under article 2 of ICERD, as well as other human rights standards, including the Universal Declaration of Human Rights. I recommend that the Government takes urgent action to address racially discriminatory food systems and their impact, including racial inequities in food insecurity. Such measures should include the adoption of a rights-based national plan to end hunger, based on meaningful participation with the most affected communities.

I am concerned about the food insecurity and lack of food sovereignty experienced by indigenous peoples, because of the dispossession of their land, the denial of their right to self-determination, and a destruction of their traditional cultural practices. I urge the re-doubling of efforts to ensure the promotion and protection of the rights of indigenous Peoples, with respect to land, territory, and natural resources due to their impact on indigenous peoples’ way of life, culture, and food systems.

Inequitable healthcare and health outcomes

The racially inequitable morbidity and mortality rates witnessed during COVID-19 laid bare the systemic racism in the United States’ healthcare system. During my visit, I heard how racial and ethnic minority groups, throughout the United States, experience higher rates of illness and death across a wide range of health conditions, including diabetes, hypertension, obesity, asthma, and heart disease, when compared to whites. These health outcomes are determined by various manifestations of systemic racism, including issues relating to access to quality food, as described above, access to healthcare services and racism and unconscious bias amongst healthcare providers. I received many reports about the lack of access to healthcare amongst racial and ethnic groups due to a lack of facilities, particularly in rural areas; racially inequitable health insurance coverage; and gaps within insurance provisions. I was also concerned by information about racial disparities in access to mental health services, as I will explore in my report to the Human Rights Council.

I am deeply concerned by the racially inequitable impact of both the maternal mortality crisis and US Supreme Court decision in *Dobbs v. Jackson Women’s Health Organization*. It is shocking that minority women, particularly Black and indigenous women, can neither choose to safely have a child within the United States healthcare system nor choose to freely have a safe, legal abortion. I welcome measures taken by the Government to address this crisis, including the White House Blueprint for Addressing the Maternal Health Crisis, the Executive Order 14076 on Protecting Access to Reproductive Healthcare Services, the Executive Order 14079 on Securing Access to Reproductive and Other Healthcare Services, and the Executive Order 14101 on Strengthening access to affordable, high-quality contraception and family planning services. I however urge that the Government takes further steps, focusing on the provision of comprehensive, inclusive, and culturally sensitive sexual and reproductive health services,

Gun violence

I am deeply concerned by the high and growing rates of gun-related deaths and injuries and the disparate impact of such tragedies on Black individuals, indigenous peoples, and Latino communities, including children and young people from such groups. Black children and teens are 14 times more likely to die from gun homicide than their white counterparts. Such violence destroys the fabric of communities and leads to extensive secondary trauma as people needlessly lose family members, friends, and peers. I am shocked that firearms injuries, which are entirely preventable, were the leading cause of child death in the United States of America in 2022. The disproportionate impact of gun violence on children from racially marginalized groups, is another tragic manifestation of the way that American society systemically applies an “adultification” bias to children from racially marginalized groups.

I perceive many of the root causes of the gun violence impacting racial and ethnic groups to often be grounded in systemic racism. I heard in Detroit about how societal trends including unprocessed grief and trauma from the disproportionate losses suffered during the COVID-19 pandemic, intergenerational trauma, drug use driven by societal exclusion and the lack of treatment options as determined by race, and the absence of socio-economic opportunities resulting from sustained community disinvestment, were contributing to current patterns of gun violence. The failure of the Government to effectively control firearms and the significant commercial interests of the firearms industry also need to be acknowledged as key root causes.

I welcome the Bipartisan Safer Communities Act in 2022 and the establishment of a federal office for gun violence prevention in September 2023, as well as the efforts of some states, including Michigan, to address gun related harm. I call on federal and state officials to examine gun violence in a holistic and trauma informed manner and to invest in addressing the root causes to prevent the ongoing loss of life.

Racial discrimination in law enforcement and the criminal justice system

I was appalled by the reports I received of dehumanizing racial discrimination within law enforcement and at every stage of the criminal justice system, particularly impacting Black, Arab, Islamic, indigenous, and Latino individuals. I heard of many harrowing parallels between the current criminal justice system and historical patterns of slavery and racial segregation.

I am deeply concerned about reports of:

- The surveillance and over-policing of Black, Arab, Islamic, indigenous, and Latino communities, including in regions within 100 kilometers of United States’ borders where the Customs and Border Patrol (CBP) claim jurisdiction, and the lack of trust amongst these populations in the police and other law enforcement officials.
- Racial profiling by police officers and officers from a range of law enforcement agencies, including those, such as Immigration and Customs Enforcement (ICE) and CBP.
- The tendency of police officers and other law enforcement officials to escalate, rather than de-escalate situations, including those resulting from stops based on racial profiling.
- The lack of a regulatory framework on the use of force by law enforcement officials that enshrines the principles of legality, precaution, necessity, proportionality, accountability, and non-discrimination, as established in international human rights law standards.
- The excessive and lethal use of force by law enforcement officers, who are often able to hurt and kill those from racially marginalized groups with impunity due to factors including the qualified immunity provisions and protections provided by police unions.
- Gaps in the consistent provision of good quality legal defense for those accused of crimes who cannot afford their own legal counsel, due to a lack of adequate funding, which can disproportionately affect those from Black, Latino, and indigenous communities, who are overrepresented amongst those living in poverty.

- The disproportionate placement of those from racially marginalized groups in pre-trial detention.
- Legislation that allows for life without the possibility of parole (LWOP) and other “death by incarceration” (DBI) sentences, including for non-violent offences; offences, such as felony murder, where the accused was not directly involved in the commission of a violent crime; and cases in which women’s offending behavior took place in a context of domestic violence and abuse.
- The disproportionate use of “death by incarceration sentences” amongst Black and Latino individuals. Without the chance of parole, the rehabilitative function of the prison system is negated, reducing it to a tool of segregation and exploitation.
- The exception to the prohibition of slavery in the 13th amendment in cases where it constitutes: “punishment for crime whereof the party shall have been duly convicted.”
- Poorly unpaid or unpaid forced prison labor, including for private companies that profit from the labor of prisoners. I received reports that such work is sometimes hazardous, including in conditions which are remarkably like historical patterns of chattel slavery. I received shocking information about the descendants of slaves, imprisoned in Louisiana State Penitentiary, which is located on a former plantation, being forced to pick cotton whilst being patrolled by armed, white men on horseback.
- The continued incarceration in Louisiana of Black individuals who were convicted by non-unanimous juries under Jim Crow eras laws, despite the US Supreme Court ruling them unconstitutional in their 2020 decision in *Ramos v. Louisiana*.
- The racially disproportionate use of solitary confinement, including in cases where it is used to punish those who refuse hazardous forced prison labor.
- The overcrowding of prisons and the use of jails for long-term detention, despite such facilities not having suitable facilities and programs.
- Poor conditions of detention in both jails and prisons, including inadequate health care; the lack of gender appropriate facilities and services for women, including LGBTI women, from racially marginalized groups in the jail and prison system; the absence of culturally appropriate services, including for indigenous peoples; and violence, including sexual violence, allegedly perpetrated by detainees and prison officials.
- Racial disparities in the granting of clemency and parole.
- The racially inequitable impact of fines and fees at all stages of the criminal justice system.
- The significant investment of public funds in law enforcement and mass incarceration concurrent with historical underinvestment in schools, health services, housing, basic infrastructure, and public transport within communities most impacted by racial discrimination in law enforcement and the criminal justice system.
- A failure to debunk the public narrative that over policing and mass incarceration effectively ensure public safety, despite such paradigms not being grounded in evidence.

I welcome efforts to reform legislation, such as the End Racial and Religious Profiling Act, the George Floyd Justice in Policing Act and the First Step Act, as well as steps taken by the Department of Justice to reduce the inequitable impact of fines and fees within the criminal justice system. However, real progress towards criminal justice reform, as an essential component of racial justice, requires deeper transformation of public safety and criminal justice paradigms, practices, and systems.

Racially discriminatory migration governance

During my visit, I received information about racist and xenophobic ideologies, and institutionalized laws, policies, and practices, which together have a racially discriminatory effect on individuals’ and groups’ access to citizenship, nationality, and immigration status. I am deeply concerned by reports about:

- The mandatory detention of non-citizens without due process or access to legal representation, in detention centres under inadequate conditions, which has a disparate impact on Black asylum-seekers.
- A lack of language access in the immigration system.
- Reports of the excessive use of force by Customs and Border Protection and Immigration and Customs Enforcement officers, resulting in the killing of undocumented Black migrants.
- Prevention through Deterrence” policies and practices that aim to prevent Black and other non-White migrants from other racial and ethnic groups from ever reaching the U.S. or to discourage them from ever attempting to come.
- The externalization and militarization of U.S. border control.
- Violations of the principle of non-refoulement.
- The prison to deportation pipeline, where individuals, often from racial from immediately transferred to federal Immigration and Customs Enforcement (ICE) detention after release from state prisons.
- The failure to recognize that many push factors for migration, such as climate change and conflict and insecurity are rooted in colonialism and slavery or to consider reparative citizenship as a form of reparatory justice.

I urge the Government to urgently eradicate all forms of racism and racial discrimination in migration governance systems.

Racial discrimination and digital technologies

I wish to express my concern about information that I received about the increasing use of artificial intelligence (AI) technologies within many facets of public life, including healthcare, migration management and law enforcement, despite the experimental nature of such technologies and significant potential for algorithmic bias and the deepening of racial inequalities. I welcome that Executive Order 14110 on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence was announced during my visit and urge that the Government to pay due regard to the need to prevent racial discrimination in the development and use of AI.

I am also concerned by other issues relating to digital technologies, including racial disparate access to digital technologies; the unreliable nature of some digital technologies used for essential Government services, such as the monitoring systems required by those on probation and the CBP One app; and the language inaccessibility of many of such technologies, including the CBP One app.

Protection from caste based discrimination

I am concerned by reports I received during my visit that caste-based discrimination is multi-faceted and highly prevalent across the United States of America. My concerns in this regard are compounded by the fact that caste is not a protected ground in most anti-discrimination legislations at the federal and state levels, meaning there is no legal recourse for victims. Moreover, such a lack of legal protections contributes to the insidious and invisible nature of caste-based discrimination and creates a culture of impunity for perpetrators.

I commend Seattle for recently adding caste as a protected grounds within state anti-discrimination legislation. I am concerned and disappointed that similar efforts to add caste to the list of protected grounds in California’s anti-discrimination legislation were vetoed by the Governor despite being passed by both houses of the state legislator. I reject the rationale provided by the Governor that existing provisions provide protection from caste-based discrimination. I wish to highlight that ICERD provides protection from caste-based discrimination, as a form of descent-based discrimination, and that the convention should be integrated into the domestic legal order at the national and state levels. I urge the Government to take steps to ensure that caste is added as a protected grounds in federal and state level anti-discrimination legislation.

Hate speech and hate crime

I am deeply concerned by the high and growing levels of racist hate speech, including online hate speech, and hate crime. Data published by the Federal Bureau of Investigations (FBI) in 2022) recording 11,634 hate crime incidents involving 13,337 offenses. Such figures, despite being very high, are likely an underestimate due to gaps and weaknesses in hate crime reporting, according to information I received during my visit. I welcome measures taken by the Government to address hatred, including the Attorney General's Memorandum on Improving the Department's Efforts to Combat Hate Crimes and Hate Incidents and I recommend the continuation and expansion of such efforts.

Anti-Black hate

I am deeply concerned by information that I received during my visit that indicated that anti-Black hate crime continues to be the most common form of such hatred in the United States of America. Extremism, accelerationist ideologies, white supremacist ideas, and the glorification of terrorist activities targeting members of racial or ethnic groups have become more integrated in mainstream politics. They are also more widely disseminated, including through the sharing and amplification of such hateful materials on mainstream social media platforms. These forms of racist hatred have motivated many race-based hate crimes, including for example in El Paso, Texas; Buffalo, New York; and Jacksonville, Florida

Whilst welcoming Government initiatives on hate incidents, I did not receive information about specific measures to address pervasive anti-Black hatred. I urge that the Government include targeted measures to prevent and address anti-Black hatred, including criminal investigations and prosecutions, when appropriate.

Anti-Asian hate

I received concerning information about high levels of anti-Asian hatred, including verbal harassment, bullying, micro-aggressions, and discriminatory treatment in shops and on public transport. It was described to me how Asians experience cyclical patterns of hate, which often involve scapegoating Asians for adverse events, such as the COVID-19 pandemic.

I welcome steps taken at the federal level to address anti-Asian hate, including the COVID-19 Hate Crimes Act and the Presidential Memorandum Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders in the United States, as well as state legislation such as the Increasing Safety for Public Transit Riders Bill and the Protecting Customers' Civil Rights at Businesses Bill in California. I urge the continuation and expansion of efforts to prevent and protect against anti-Asian hatred. I also wish to express my concern about reports that Alien land laws have had a racially discriminatory impact on Asians and urge the United States of America to repeal all such provisions.

Antisemitism

My visit has taken place in the direct aftermath of the escalation of violence in Israel and the occupied Palestinian territories on 7 October 2023. I am deeply concerned by reports that such events have been a catalyst for unacceptable rises in antisemitic hate speech, including online hate speech, threats, and violence. I was saddened to hear from Jewish individuals how scared they are within the current climate. This is particularly concerning given the already high levels of antisemitism, as reflected by data for 2022, recently published by the FBI. This data showed records levels of antisemitism in the United States. Single-bias anti-Jewish hate crime incidents in 2022 totaled 1,222 in 2022, which was a 37% increase, compared to 2021, Assaults, as the most serious form of antisemitism, increased 26 percent in 2022, compared to 2021.

Given the corrosive impact of antisemitic hatred on American society and democracy, I welcome the establishment of the Interagency Policy Committee on Antisemitism, Islamophobia, and Related Forms

of Bias and Discrimination, led by the White House Domestic Policy Council and National Security Council and its development of the US National Strategy to Counter Antisemitism, published in May 2023. I urge the Government urgently develop effective responses, in full consultation with Jewish communities, to address recent rises in antisemitism, including through the investigation of, and where appropriate, prosecution of criminal acts.

Islamophobia

I am also deeply concerned by the ways that escalation of violence in Israel and the occupied Palestinian territories on 7 October 2023 have been a catalyst for unacceptable rises in Islamophobia and anti-Arab and anti-Palestinian hate. Such incidents included hate crimes, employment-based discrimination and bullying and discrimination in schools. I am saddened by reports that affected communities feel fearful and that the current climate is reminiscent of the Islamophobia and anti-Arab hate that characterized the 9/11 period. I am also deeply concerned by reports about the restriction of the rights to freedom of expression and freedom of assembly of those, including Arabs and those of Islamic faith, who have expressed their views and/or protested about events since 7 October.

I welcome that the Interagency Policy Committee on Antisemitism, Islamophobia, and Related Forms of Bias and Discrimination is developing a national strategy on Islamophobia. I recommend that they also urgently develop responses to recent rises in such forms of hate, in full consultation with affected communities, including the investigation of, and where appropriate, prosecution of criminal acts. I also urge all State entities to restrain from any activities that restricts or criminalizes freedom of expression or assembly amongst Arabs and those of Islamic faith.



Input for Country Visit to the USA

24 April-5 May 2023

Via Email ohchr-emler@un.org

International Independent Expert Mechanism
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The SPLC Action Fund and Southern Center for Human Rights jointly submit the following input regarding the over-policing of Black people and communities in Atlanta, Georgia, and invite the EMLER to include Atlanta in its upcoming country visit and to meet with impacted community groups.

The extreme over-policing of Black people and communities in the US is not limited to majority white cities. The City of Atlanta, Georgia, where the population stands at nearly 50% Black, provides a stark example of how the systemically racist underpinnings of law enforcement in the US permeate police departments regardless of who oversees them. [Publicly reported data](#)¹

¹ The Police Scorecard is the largest public national database evaluating and comparing police department outcomes in The United States. The data sample includes 13,200 municipal police departments and 2,800 county sheriff's departments respectively. To calculate comparisons across departments, each agency is assigned a score from 0-100 based on how well it addresses serious threats to public safety, avoids the use of force, is accountable for employee misconduct, solves serious crimes, minimizes bias and discriminatory practices, and minimizes financial burden on communities. The scores are aggregated to show how each agency compares to others across four areas of policing. To ensure appropriate comparisons, municipal police departments are evaluated in comparison to similar-sized jurisdictions. For example, Atlanta's police department would be compared to other municipal police departments in jurisdictions with populations above 200,000 people. More information about The Police Scorecard's methodology is available [here](#).

demonstrates that, compared to other metropolitan areas in the US, the Atlanta Police Department (APD) has more officers per capita than 89% of other police departments and receives funding exceeding that of more than 70% of other departments. While representing just under 50% of the city's population, Black Atlanta residents make up 90% of arrests by APD, and 88% of those killed by APD. The vast majority of all [uses of force by APD](#) are inflicted on Black people – 85% of men, and 91% of women, who experienced a use of force in 2022 were Black.²

Atlanta also illustrates that excessive and violent policing do not make cities safer. Despite greater uses of force (53% more force used during arrests than other US police departments) and more frequent police shootings per arrest (56% more), the incidence of gun violence in Atlanta remains high. At the end of December 2022, the Atlanta Journal-Constitution [reported](#) that the city experienced a record-breaking homicide rate for the third year in a row. The 162 homicides investigated by APD during 2022 represented the highest number since 1996. Meanwhile, Atlanta's Office of Violence Reduction remains almost entirely unstaffed.

While all of the evidence suggests that more and more policing is not the answer, Atlanta seeks to further escalate its over-policing through the construction of the proposed "Atlanta Public Safety Training Center." Popularly dubbed "Cop City" because it would include a mock city for training exercises, the facility's estimated cost is more than \$90 million. Atlanta business interests pushing for the construction of Cop City through organizations like the Atlanta Committee for Progress include the leadership of major corporations, a number of which were also involved in the ultimately successful efforts several years ago to push a major provider of shelter and services for the homeless (a mostly Black population in Atlanta) out of the building it owned on prime downtown real estate.

Atlanta's push to build Cop City brings anti-democratic and environmental racism dimensions to the already well-recognized negative impacts of over-policing on Black

² This data derives from [Atlanta's Use of Force Dashboard](#), a collaborative effort between the Mayor's Office, Atlanta Police Department (APD), the Atlanta Citizen Review Board (ACRB), and Atlanta Information Management (AIM). Its purpose is to increase transparency, build public trust, and encourage fact-based discussions around police performance in Atlanta. The dashboard is updated quarterly and includes data on use of force incidents, demographics of subjects and officers involved, outcomes of investigations, and a video evidence submittal portal for the public to report incidents.

communities. The site, in the far southeastern reaches of the Atlanta, abuts [heavily Black neighborhoods that have often been ignored](#) over past decades. For example, the area is a food desert that lacks adequate grocery stores to offer ready access to fresh foods.

An [earlier plan](#) to preserve the forest and make improvements that would have enhanced the area's appeal was abandoned in favor of Cop City despite enormous public outcry. Importantly, the construction site is city owned, but outside of city limits. This leaves Black residents who are most impacted by the plan no formal avenues to resist it. "Public input" sessions hosted by the Atlanta Police Foundation, which is coordinating funding for Cop City, featured slide show presentations by police department representatives, but members of the public were not given an opportunity to speak, suggesting that the sessions were mere window dressing for decisions that were already firmly made. [70% of callers](#) who left comments on the project with the Atlanta City Council before the final vote spoke in opposition to it.

Cop City also presents a number of [environmental threats](#) to the residents of the surrounding area. The construction of Cop City would destroy between 85 and 380 acres of [forest](#) that city officials had [previously called](#) vital to the environmental health of the region. In addition to causing the destruction of important forest acreage, the facility would include several shooting ranges, some operating in close proximity to a waterway known as Intrenchment Creek, which is popular for sport fishing. The US Environmental Protection Agency says placing a shooting range near a waterway poses the risk of lead contamination to local wildlife and to people who may come in contact with the water. Heavy metal runoff would also result from explosives trainings at the facility. Toxic chemicals that leach from police munitions into ground water and soil can remain for decades and can threaten human health when they enter the water system and the food supply through agriculture and fishing.

Since even before Atlanta's city council voted to proceed with the construction of Cop City, community and environmental activists have engaged in ongoing protests, and many have occupied the forest in an effort to prevent it from being bulldozed. Government response to the protests have been extreme. Georgia Governor Brian Kemp and Atlanta Mayor Andre Dickens have [labeled the forest protestors "terrorists,"](#) and police have repeatedly raided the area, arresting protestors and charging them with "domestic terrorism."

Police violence at the Cop City site came to a head on January 18, 2023, when dozens of police officers from state and local law enforcement agencies conducted a “clearing” operation to forcibly evict protestors from their forest encampment. One activist, 26-year old Manuel Terán (also known as Tortuguita), died after being shot at least thirteen times. Law enforcement agencies involved in the operation initially insisted that officers fired in self-defense and announced that there was no bodycam footage of the raid, but [APD later released video](#) relevant to the shooting. One of the most disturbing aspects of the footage is that it indicates a wounded officer, whose injuries were the basis for the claims of self-defense, was likely [the victim of “friendly fire”](#) after the shooting of Tortuguita.

Atlanta’s planned Cop City represents an alarming escalation of the over-policing of Black people and communities in the US. We urge the EMLER to include Atlanta in its US country visit plans to hear from representatives of the numerous community groups that have organized to oppose it. SCHR and SPLC will be pleased to facilitate a meeting with the community, to invite city council members to also meet with the experts, and to organize a tour of the area to potentially include a Cop City site visit.

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