

June 21st, 2023

Re: Opposition of new Fulton County Jail

Dear Fulton County Board of Commissioners, Atlanta City Council, the Chief Judge of the Superior, State and Magistrate Courts, DA Willis, SG Gammage, Sheriff Labat,

The undersigned groups are writing to express our disgust and dismay of the horrid conditions people like LaShawn Thompson and many others have endured and continue to endure inside the Fulton County Jail. It is unacceptable that Sheriff Patrick Labat, who has been in office for three years, has not adequately addressed the facility management and maintenance issues that continue to sustain the inhumane conditions within the facility. He has been permitted to wait for a \$2 billion windfall of Fulton County taxpayer dollars and other funds that should instead be used to create low-income housing, increase health and mental health services, subsidize skills training for county residents, and increase children and senior support programs.

The Board of Commissioners is allowing another jail system to be built without any accountability for addressing the systemic issues that will continue to expose the county to costly lawsuits that are not only about dilapidated infrastructure. They include policies and practices that violate people's civil rights such as the practice of prolonged solitary confinement on individuals with mental disabilities, indigent defendants being denied access to counsel, the rollback of bail reforms, and limiting access to pretrial services. These are the practices that sustain overcrowding in the jail. We strongly oppose expanding Fulton County's carceral footprint. We expect the county to focus on releasing individuals who are not a risk to the public and to provide critical community-based health and social services.

We understand that the overcrowding of the Fulton County Jail has been a key issue of public debate for years. And as a coalition with members who have been incarcerated in the Fulton County jail, we take the appalling conditions there very seriously. At the same time, we firmly oppose any effort to use the suffering in Fulton County Jail to justify jail expansion. Transferring people to Atlanta City Detention Center (ACDC) and other facilities has not been helpful. Indeed, we know that despite the Sheriff and this body pushing for the use of ACDC, the Sheriff never had the employees to transfer detainees to the new facility, and that is why he has only transferred 300 people.

The advocacy community has been sounding the alarm on jail overcrowding for decades. Indeed, the present condition of the jail did not emerge from nowhere. Instead, it is the result of negligence and refusal to proactively take appropriate measures by the Fulton County sheriff and other officials—despite being warned repeatedly by advocates that we would end up in our current situation.

For example, when the Fulton Public Defender's office filed a lawsuit challenging the jail's conditions at the beginning of the coronavirus pandemic, the County management and previous sheriff firmly opposed it, and instead responded by evicting the Public Defenders from their office in the jail. Similarly, Fulton County was warned by medical professional Dr. Greiffinger that the county must release eight hundred individuals in order to avoid a health disaster. Looking back further, the county has been the subject of multiple lawsuits, and even a federal settlement over its deplorable conditions.

Though County leadership did not take the necessary steps to prevent today's severe overcrowding, they do have the authority to mitigate and reverse it. Rather than continually demanding that Fulton County acquire the Atlanta City Detention Center, Sheriff Labat might instead draw on his constitutional authority as the county's jailer to collaborate with the appropriate partners to reduce the jail population.

Fulton County's failure to account for people's ability to pay when setting bail is a significant factor in the number of people held in jail. According to a recent ACLU report, as of September 2022, their analysis suggests that **435 people**, or **12%** of people held in Fulton County's custody, and specifically, **293 people**, or **10%** of people those held at the Fulton County Jail were held in custody because of inability to pay bail—*meaning a wealthier individual with the same charges and bail amount would be released*. Even worse, a substantial number of people in Fulton County custody have been held for lengthy periods of time due in large part to their inability to pay relatively low amounts of bail. Additionally, other Georgia jurisdictions, like Chatham County, generally release people charged only with misdemeanors on their own recognizance.

However, Fulton County detains hundreds of people charged only with misdemeanors, often for lengthy periods of time. ACLU's analysis shows that in Fulton County, at least **290 people** were detained on misdemeanor charges only. The median time in detention for people charged only with misdemeanors was **40 days**, and the mean was **106 days**. **Thirty percent** of these individuals were detained for more than **three months**. LaShawn Thompson, who had also been charged for a misdemeanor offense, is one of those people who suffered and died as a result.

Fulton County's failure to timely present cases to the grand jury has also greatly contributed to the number of people held in custody. As of September 2022, at Fulton County Jail, **44.9%** of people, or **1,299** of **2,892** people, had not yet been indicted in the first place. If Fulton County indicted people in compliance with required time limits under state law, it could significantly alleviate population pressure at the Jail. Georgia law requires that a person in jail must be provided bail or indicted within **90 days** of arrest. At the time of the aforementioned ACLU study, **750 people**, or **21%** of people held by Fulton County had been in custody for more than **90 days** without indictment. Alarming, **117 people** have been held in custody for more than one year without indictment; **12 people** had been held for over two years without indictment.

In addition, the recent study found that local law enforcement agencies, namely the Atlanta Police Department, failed to utilize established pre-arrest diversion programs designed to provide people experiencing poverty, mental health concerns, and substance use with community services and support. At Fulton County Jail, **105 people**, or **3.6%** of people in custody may have qualified for diversion programs like the Policing Alternatives and Diversion (PAD) program, but instead, were held in custody.

Members of our coalition have continually made various suggestions to help the Sheriff do so, and other partners such as the Public Defender and the Fulton County District Attorney (DA) Fani Willis have indicated their support for decarceration of the jail. In fact, in May of 2020, DA Fani Willis committed to, if elected, reducing the jail population to no more than 1,000 individuals. However, this has not happened although she also has had her budget increased by the Board of Commissioners. In lieu of a new jail, the following measures *alone* would sustainably eliminate overcrowding at the Fulton County Jail in the long-term: **(1) end jailing people simply because they cannot afford bond; (2) release most people charged only with misdemeanors with appropriate nonmonetary supports; (3) indict people charged with felonies in a timely manner; and (4) expand and incentivize pre-arrest diversion opportunities.** Other possibilities for reducing the jail population include: granting earned time credit to qualifying people, and working with the District Attorney, community supervision officers, and public defender to identify those who can be immediately released through, for example, recognizance bonds, sentence reductions, home monitoring, and other means.

Just as importantly, Fulton County and the City of Atlanta can stem the tide of arrests and entries into the jail through a number of means, including directing police officers, deputies, and other law enforcement agencies to use citation and release instead of arrest and booking, as well as by temporarily suspending the enforcement of bench warrants for a range of offenses considered to not pose a risk to public safety.

Likewise, in the long run, the city and county can invest in real social, economic, and public health solutions that reduce crime, improve individual health, and allow communities to thrive. We have also provided recommendations on this front. For example, through the Reimagine ACDC Task Force, we worked tirelessly to envision a Center for Equity and Wellness in the place of the jail, where individuals could go to receive necessary services and through which Atlanta could be transformed into a true hub of thriving communities.

Similarly, we've already seen that the Policing Alternatives and Diversion Initiative, of which Fulton County was a founding member, can help address the root causes of crime by responding to people's basic needs instead of criminalizing them.

In short, the Fulton County jail's present predicament is 1) not new, 2) was fully preventable, and 3) now that it has occurred, can be remedied by the county itself, without interfering with Atlanta's facilities and reforms or that of other counties.

There is no doubt that there will be books and analysis written in the coming years about mass incarceration in the 2010s and 2020s, who opposed it, and who facilitated it. The undersigned organizations are watching closely as public officials make clear where they fall in the debate over whether to expand our city and county's jailing apparatus, or to work together toward real solutions that keep people safe.

The strength of our work so far has helped position Atlanta and Fulton County as a national model for criminal legal reform, and we will continue to support those who align with our vision of true safety, accountability, and freedom, and oppose those who would resort to the failed tactic of trying to incarcerate our way out of harm.

We demand the Fulton Board of Commissioners:

- 1.) Call for the resignation of Sheriff Patrick Labat.
- 2.) Request the jail population be reduced immediately by: **(a) end jailing people simply because they cannot afford bond; (b) release most people charged only with misdemeanors with appropriate nonmonetary supports; (c) indict people charged with felonies in a timely manner; and (d) expand and incentivize pre-arrest diversion opportunities.** Other opportunities include granting earned time credit to qualifying people and releasing eligible people on recognizance bonds, sentence reductions, home monitoring, etc and other means.
- 3.) Request the police officers, deputies, and other law enforcement agencies to use citation and release instead of arrest and booking.
- 4.) Request the suspension of the enforcement of bench warrants for a range of offenses considered to not pose a risk to public safety.
- 5.) Request and approve a comprehensive building repair and facilities maintenance plan before any additional money is released to the Sheriff's department.
- 6.) Request weekly updates on the status of those transferred to other facilities including case dispositions.
- 7.) Publicize county pre-trial release data.

Sincerely,

Women on the Rise Georgia  
Georgia Coalition Against Domestic Violence  
Georgia Latino Alliance for Human Rights

Essie Justice Group  
National Alliance on Mental Illness  
Rise ReEntry Services  
Center for Employment Opportunities  
All of Us Or None – Georgia Chapter  
Georgia Detention Watch  
Legal Action Center  
Asian American Advocacy Fund  
Southern Center for Human Rights  
New Life Second Chance Outreach, Inc.  
Color of Change  
American Civil Liberties Union, Georgia