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March 3, 2023

Dear Attorney General Carr, District Attorney Boston, District Attorney Willis, and Prosecuting Attorneys' Council Chair Mosley,

As concerned civil liberties and human rights organizations, we write to you today to urge you to drop the domestic terrorism and other spurious charges brought against Defend the Atlanta Forest protesters. These charges represent a political decision divorced from any salient public safety concern. We write to you with concerns that charging any protest-related offenses that may have been committed as domestic terrorism will, or are indeed intended, to chill lawful protests, constrain civic space, and erode First Amendment freedoms.

As this letter went to press, 19 people are facing domestic terrorism charges for protest-related offenses, either associated with the Defend the Atlanta Forest occupation at the planned site of the Atlanta Public Safety Training Center or related to protests in Atlanta following the police killing of Tortuguita.¹ These charges represent a political decision to pursue draconian charges disproportionate to the alleged offenses committed. In order to avoid downstream adverse effects on First Amendment freedoms, these charges must be dropped.

The 19 activists are charged under a Georgia passed domestic terrorism statute passed in 2017 in response to a white supremacist attack against a Black church. At the time of the bill's

¹ Arrest warrants available at:
https://www.documentcloud.org/documents/23587689-dtwarrantscombined_redacted.

passage, supporters emphasized that the definition of domestic terrorism was not intended to encompass peaceful protesters.² Clearly, the scope of the bill has not remained so limited.

Georgia's capacious view of what constitutes domestic terrorism permits subjective interpretation. Georgia employs an unusually broad³ view of domestic terrorism, which includes any unlawful felony intended to "disable or destroy critical infrastructure, a state or government facility" with the intent to "alter, change, or coerce the policy of the government."⁴ The vague definition of critical infrastructure, which reads "publicly or privately owned facilities, systems, functions, or assets, whether physical or virtual, providing or distributing services for the benefit of the public," further facilitates selective prosecution. If successfully prosecuted, these domestic terrorism charges carry a mandatory minimum sentence of five years ranging up to 35 years in prison. Broad language and severe penalties invite politically-motivated prosecutions aimed to monitor, punish, and chill free speech activities.

Under this overbroad statute, the decision to charge activists was a highly political one. At a meeting of the Community Stakeholder Advisory Committee, Atlanta Assistant Police Chief Carven Tyrus indicated that the decision to pursue domestic terrorism charges was driven by political considerations, stating:

"None of those people live here. They do not have a vested interest in this property, and we show that time and time again. Why is an individual from Los Angeles, California, concerned about a training facility being built in the state of Georgia? And that is why we consider that domestic terrorism."⁵

Some of the arrest warrants note that the DHS has designated Defend the Atlanta Forest "domestic violent extremists,"⁶ a claim DHS has publicly refuted.⁷ There is no evidence that this category, as applied to groups, is anything more than a fiction invented by the DeKalb County Police Department.

² John E. Crowley and Tatiana E. Posada, "HB 452 - Domestic Terrorism," *Georgia State University Law Review* 34, no. 1(2017): 17-36.

<https://readingroom.law.gsu.edu/cgi/viewcontent.cgi?article=2902&context=gsulr>

³ Margot Williams and Trevor Aaronson, "How Individual States Have Criminalized Terrorism," *The Intercept*. March 23, 2019. <https://theintercept.com/2019/03/23/state-domestic-terrorism-laws/>. Accessed February 15, 2023.

⁴ 2021 Georgia Code § 16-11-220. Available at:

<https://law.justia.com/codes/georgia/2021/title-16/chapter-11/article-6/section-16-11-220/>.

⁵ John Ruch, "APD official reveals 12 arrested in protest raids, describes use of terrorism charges," *Saporta Report*. December 15, 2022.

<https://saportareport.com/apd-official-reveals-12-arrested-in-protest-raids-describes-use-of-terrorism-charges/sections/reports/johnruch/>. Accessed February 15, 2023.

⁶ Arrest warrants available at:

https://www.documentcloud.org/documents/23587689-dtwarrantscombined_redacted.

⁷ Alleen Brown, "Documents show how 19 'Cop City' activists got charged with terrorism," *Grist*. January 27, 2023. <https://grist.org/protest/atlanta-cop-city-terrorism/>. Accessed February 15, 2023.

The charges are riddled with other irregularities. Preliminary reporting suggests that nine of the defendants charged with domestic terrorism would otherwise be charged with nothing more than misdemeanor trespass.⁸ The charges further rely on speculative guilt by association. Instead of alleging a specific incident, the arrest warrants list crimes allegedly committed by members of the Defend the Atlanta Forest, and rely on circumstantial evidence as wearing a gas mask and sleeping in a hammock with another defendant. The decision to charge domestic terrorism on the basis of speculative guilt by association raises concerns surrounding First Amendment associative rights. Painting the movement with a broad brush violates basic principles of individualized criminal justice and runs afoul constitutionally-protected civil liberties.

Some activists face domestic terrorism charges in addition to other accusations such as arson and vandalism; clearly, domestic terrorism is an unnecessary escalation of such charges.

Domestic terrorism charges are stigmatizing anti-protest measures. Labeling protest activities acts of domestic terrorism discredits the broader Defend the Atlanta Forest movement, and has the potential to dissuade future activists from engaging in confrontational protest tactics. This has the effect of constraining civic space and chilling the exercise of First Amendment rights. Activists concerned that civil disobedience might be prosecuted as domestic terrorism may well make the decision to remain at home.

These charges dovetail with a broader attempt to smear protesters as national security threats. According to the International Center for Not-for-Profit Law, 45 states have considered anti-protest bills and over 20 have enacted them.⁹ These bills range from broadly redefining riots, to granting civil immunity to drivers who hit protesters with cars, to applying counterterrorism statutes against protest-related activities, as happened in Georgia. Across the country, grassroots groups have raised concerns surrounding the impact of these laws on First Amendment-protected activity. The recent spate of domestic terrorism charges in Georgia underlines the risks such legislation poses to the exercise of First Amendment rights.

Civil disobedience and disruptive activism is part of the American protest tradition. From the Boston Tea Party to the civil rights movement, Americans have long drawn on civil disobedience tactics akin to the occupation of the Atlanta forest by the Stop Cop City protesters. Based on the information contained in the arrest warrants, many of the people charged with domestic terrorism are accused only of trespassing or other minor crimes. In all cases, application of the domestic terrorism statute is an escalatory intimidation tactic and a draconian step that seems intended to chill First Amendment protected activity.

⁸ Ibid.

⁹ "US Protest Law Tracker," International Center for Not-for-Profit Law, updated February 22, 2023, <https://www.icnl.org/usprotestlawtracker/>.

We urge you to drop the domestic terrorism charges against the Stop Cop City/Defend the Atlanta Forest defendants. These politicized charges are a clear attempt to silence dissent by smearing an activist movement as terrorism-prone. Inappropriately pursuing domestic terrorism charges is an affront to the civil liberties the First Amendment protects, and could harm civil liberties and civic space.

Signed,

Defending Rights & Dissent
18 Million Rising
2L, Member of NLG in Jackson Mississippi
Amazon Watch
American Friends Service Committee
Amnesty International USA
Arab Resource & Organizing Center (AROC)
BOYFRIEND co-op
Center for Biological Diversity
Chicago Asian Americans for Environmental Justice
Civil Liberties Defense Center
Climate Defense Project
CODEPINK
Communities United Against Police Brutality
Community Justice Project
DEM Productions
Direct Action Everywhere
DRUM - Desis Rising Up & Moving
EarthRights International
Emily Allen
European Dissent
FIG NYC
Fight for the Future
Freedom of the Press Foundation
Freedom to Thrive
Friends of the Earth
Grassroots Global Justice Alliance
Greenpeace USA
HEART
Houston Abolitionist Collective
Houston DSA
Human Rights Watch

ICNA Council for Social Justice
International Coalition for Human Rights in the Philippines
James and Grace Lee Boggs Center
Lavender Phoenix
Madison NLG
Mass Defense Committee (MDC)-National Lawyers Guild (NLG)
Movement for Black Lives
Muslims for Just Futures
National Lawyers Guild
National Lawyers Guild - DC Chapter
National Lawyers Guild, Detroit & Michigan Chapter
Northwest Ohio Peace Coalition
Oil and Gas Action Network
Palestine Legal
Palestinian Youth Movement
Palestinian Youth Movement - Atlanta
Polygon Education Fund
Progressive Technology Project
Project South
Purpose
Resonance
Restore The Fourth
Rising Majority
South Asian Americans Leading Together (SAALT)
The Center for Constitutional Rights
The Conscious Tech Pivot
The Solidarity Index
Thurston County Democrats
Uprooted & Rising-Mpls
US Campaign for Palestinian Rights
US Solidarity Economy Network
West Street Recovery
Women Watch Afrika
Woori Juntos