

Transmitted via email

February 29, 2024

Atlanta City Council
55 Trinity Ave SW, Suite 2900
Atlanta, GA 30303

Mayor Andre P. Dickens
Office of the Mayor
55 Trinity Ave SW, Suite 2500
Atlanta, GA 30303

Dear Honorable Councilmembers and Mayor Andre P. Dickens:

Re: Atlanta Ordinance 24-O-1007

We, the undersigned, are leaders of civil rights organizations that are based or have offices in Atlanta and have a long history of social justice advocacy in this city and across Georgia. We write to express our deep concern about current barriers to Atlanta residents exercising their right to engage in a local political process—namely, the right to petition city government for a referendum on the Atlanta Public Safety Facility (commonly referred to as “Cop City”). Relatedly, we are alarmed by recent legislation introduced in the Georgia State Legislature that appears to be targeted at the activism and First Amendment expressions regarding Cop City. As Atlanta public officials, entrusted with the crucial responsibility of safeguarding the rights of Atlanta residents, we urge you to lead by example and protect and strengthen opportunities for the public to participate in democratic processes.

1. *The Petition Verification Process Should Commence Without a Signature Matching Process and Include Greater Safeguards to Protect the Personal Information of Electors.*

Following years of opposition by Atlanta residents to the construction of Cop City, local organizations, leaders, and residents commenced a ballot initiative pursuant to City of Atlanta Charter § 2-501 and City of Atlanta Code of Ordinances § 66-37 to provide all

constituents with the opportunity to express their opinion on this hotly-contested issue.¹ More than 116,000 signatures have been collected in support of placing this question on a ballot. Atlanta residents deserve to have their petitions counted so their position on the referendum can be heard.

On February 5, 2024, over the objections of many local residents, Atlanta City Council enacted Ordinance 24-O-1007, which codifies a local referendum verification process that includes the practice of signature matching. The Ordinance requires petition verifiers to attempt to compare electors' signatures to the signature on record with no prior training and no public observation provisions of this process. If a signature is deemed inconsistent, the petition verifier will invalidate that signature with a limited cure process that does not provide petition sponsors with notice of invalidated signatures or an opportunity to assist invalidated electors.

There have been widespread concerns about signature matching disenfranchising voters in Georgia elections. In *Georgia Muslim Voter Project (GMVP) v. Kemp*, LDF, the ACLU of Georgia, and others represented plaintiffs in a successful challenge to the Georgia Secretary of State's use of signature matching to reject absentee ballots². In its decision, the 11th Circuit required the state to expand its prerejection curing procedures for absentee ballots and ensure that rejected absentee ballots were given provisional ballot status while the elector attempted to cure the alleged error.³ Ordinance 24-O-1007 does not provide similar protections for individuals whose petition signatures are invalidated. Given the clear mandate from the 11th Circuit on this issue, we are deeply concerned that the Atlanta City Council's codification of a signature-matching process in citizen-led petition efforts does not have robust safeguards in place to ensure that Atlanta residents are not unduly prevented from being a part of the referendum petition.

The deficiencies of the Atlanta City Council's signature-matching process are particularly troubling because signature matching disproportionately disenfranchises

¹ *Shall the City of Atlanta Ordinance 21-O-0367 authorizing the ground lease of 381 acres of forested land to the Atlanta Police Foundation for the construction of a \$90 million police training facility be repealed?* Referendum Petition to Repeal City of Atlanta Ordinance 21-O-0367 (approved June 21, 2023).

² 918 F.3d 1262 (11th Cir. 2019).

³ *Id.* at 1266, 1270-1272.

marginalized communities.⁴ Signature match may be a valid alternative to suppressive voter verification methods, such as mandatory voter ID laws, but only when combined with other robust measures like an expansive cure process and public monitoring of the verification process. Atlanta Ordinance 24-O-1007 does not include those crucial measures.⁵ This is especially concerning because oftentimes, elderly residents, people with disabilities, transgender people, people with limited English language literacy, and communities of color are more likely to have their votes invalidated by signature match processes.⁶ The use of static signatures as a validity measurement fails to consider the real-life changes or challenges that impact an individual's ability to provide a conforming signature.⁷ And the Ordinance does not take into consideration the practical differences in a signature gathered during a petition drive—oftentimes while outside and in unpredictable conditions—compared with a signature completed in a controlled, structured environment. While Atlanta has a duty to ensure petitions are properly validated, including this specific practice without appropriate safeguards may lead to erroneous invalidations of electors' petition signatures and embed within Atlanta's laws a practice that has been known to harm Georgia voters.⁸

⁴ Lila Carpenter, *Signature Match Laws Disproportionately Impact Voters Already on the Margins*, ACLU (Nov. 2, 2018), <https://www.aclu.org/news/voting-rights/signature-match-laws-disproportionately-impact-voters-already-margins>.

⁵ With robust protections, signature match can be a helpful alternative when compared to the use of Voter ID laws that have an overwhelmingly disparate negative impact on poor and working-class voters. See Larry Buchanan & Alicia Parlapiano, *Two of These Mail Ballot Signatures Are by the Same Person. Which Ones?*, The N.Y. Times (Oct. 7, 2020), <https://www.nytimes.com/interactive/2020/10/07/upshot/mail-voting-ballots-signature-matching.html>; Mark Niese, *Georgia Moves Toward ID Numbers to Verify Absentee Voters*, AJC Politics (Mar. 15, 2021), <https://www.ajc.com/politics/georgia-moves-toward-id-numbers-to-verify-absentee-voters/K3XW5WYNCJHKDJ7BWG3CLMIHIY/>.

⁶ “However, many people with a variety of disabilities cannot produce a consistent signature that can be used for verifying their identity. This includes voters who face challenges in making a wet signature or handling paper.” See Lynn Baumeister, Whitney Quesenbery, & Sharon Laskowski, *Voting by Mail: The Impact of Signature Identity Verification for Voters with Disabilities*, Ctr. for Civic Design & Nat'l Inst. Of Standards & Tech. (Nov. 2023), <https://civicdesign.org/wp-content/uploads/2023/11/Voting-by-mail-and-impact-of-signatures-2023-11-27-CCD-post.pdf>; Jeremy Herb, Kelly Mena, & Ellie Kaufman, *Mismatched Signatures Prompt Tossed Absentee Ballots and Legal Fights Ahead of November Election*, CNN Politics (Sept. 14, 2020), <https://www.cnn.com/2020/09/14/politics/election-2020-ballot-signature-mismatches/index.html>.

⁷ Baumeister et al., *supra* note 5, at 7.

⁸ Mark J. Stern, *Federal Judge Bars Georgia from Disenfranchising Voters for Signature Mismatch*, slate.com (Oct. 24, 2018), <https://slate.com/news-and-politics/2018/10/georgia-brian-kemp-signature-mismatch.html>; Brian Kemp, *Georgia Is Using Handwriting Analysis to Disenfranchise Minority Voters*, slate.com (Oct. 18, 2018), <https://slate.com/news-and-politics/2018/10/brian-kemp-voter-mismatch-georgia-stolen-election.html>.

Moreover, we are concerned with Ordinance 24-O-1007 Section (c)(2), which explicitly codifies the practice of publishing the personal information of petition signers, including their home address, phone number, and personal signature, in a public searchable database. Ordinance 24-O-1007 purportedly relies on the Georgia Open Records Act (GORA) to guide the redacting process, but GORA does not require redactions for many types of sensitive personal information, like an elector’s home address. In addition, even GORA prohibits the disclosure of mobile phone numbers, which are presumably included in the online database.⁹ Although we appreciate the importance of transparency in political processes, we are concerned about protecting individuals who may be at risk of harm for expressing an opinion about controversial issues like Cop City. For example, if made public in an online searchable database, information like home addresses could be easily misused by bad faith actors against individuals like public figures, survivors of gender-based violence, or others who may be vulnerable to potential threats. Such individuals, therefore, should be given an opportunity to have their personal information removed from the online database and protected from other methods of public disclosure.

Notwithstanding these concerns, we support the call of local advocates for the City to begin the verification process for the pending referendum petition. We also urge City Council to amend Ordinance 24-O-1007 Section (c)(2) to ensure that individuals who sign referendum petitions may request the redaction of personal information, the home address, phone number, and signature of electors, and that the signature match process be removed from the verification process unless safeguards consistent with the 11th Circuit’s decision in *GMVP v. Kemp* are in place. We firmly believe that by allowing the verification of the pending petitions to move forward as outlined above, the City of Atlanta can provide residents with a meaningful voice in critical decisions by City officials that will impact their community’s safety and democratic processes.

2. Atlanta Officials Should Mitigate the Harms of Proposed Georgia State Legislation That Would Undermine Local Bail Reform.

In addition to actions regarding the verification process of the referendum petition, we urge Atlanta officials to modify local ordinances to mitigate the harms of SB 63, should that

⁹ See Ga. Code Ann. § 50-18-72 (20)(A)

legislation be enacted into law by the Georgia Legislature.¹⁰ On February 6, 2024, the five-year anniversary of the passage of Ordinance 18-O-1045, Atlanta’s Bail Reform legislation, the Georgia Legislature passed SB 63, which requires charitable bail funds, including faith-based, community led bail funds, to register as for-profit bail surety companies to operate in Georgia and to limit the provision of bail to three individuals per year, amongst other onerous requirements. The law is unclear on whether registration would permit charitable organizations to bail out more than three people annually; as written, this would significantly curtail the scope of aid currently available to individuals without the financial resources to avoid pretrial incarceration. The sweeping language in SB 63 prevents local governments from creating laws that would mandate their departments of corrections to release individuals charged with a jailable offense. This prohibition includes many offenses that would ordinarily require release under Ordinance 18-O-1045. Additionally, SB 63 expands mandatory cash bail to include non-violent offenses such as unlawful assembly and other mundane conduct often associated with political demonstrations.

SB 63 effectively neutralizes and preempts many of the provisions in Ordinance 18-O-1045 that had been enacted by Atlanta’s City Council. However, City Council can take steps to limit the impact of SB 63 on Atlanta residents and preserve some of the goals of Ordinance 18-O-1045. Specifically, SB 63 permits unsecured judicial release for any person not charged under an offense with a sentence of confinement in local jails or state and county penal institutions. Thus, the Atlanta City Council can reaffirm its commitment to preventing punitive cash bail for indigent community members, as expressed in Ordinance 18-O-1045, by passing a resolution that would allow the Atlanta Department of Corrections to release people who are not charged with penal code violations punishable by carceral sentences.

* * *

Atlanta residents currently face significant threats to political participation and freedom of expression that would harm the democratic principles that have been foundational to this City ever since its central role in the Civil Rights Movement. At this

¹⁰ If signed into law, it will exasperate the growing issue of jail overpopulation, expand mass incarceration in Black, Latine and low-income communities across the state, and siphon needed local resources away from key public safety programs like affordable housing and education and funnel them into ineffective carceral tools.

critical juncture, we encourage the Atlanta City Council and the Mayor’s Office to stand firm in maintaining Atlanta’s civil rights traditions and protect its democratic institutions by taking the following actions: (1) initiate the referendum petition verification process; (2) amend Ordinance 24-O-1007 by removing signature matching or, in the alternative, include a cure process in line with the decision in *GMVP v. Kemp*, and allows for public observation of the verification process, proper training of petition verifiers, and notification to petition sponsors of the identity of pre-invalidated signatures during the cure process; (3) amend Ordinance 24-O-1007 to include an additional provision to provide a meaningful opportunity and process for vulnerable individuals to have their personal identifiable information, including home address, phone number, and signature, redacted from public disclosure; and (4) pass a City Council resolution that would allow the Atlanta Department of Corrections to release people who are not charged with penal code violations punishable by sentences of confinement in a correctional facility.¹¹

Thank you for this opportunity to voice our concerns. We hope to continue to partner with you to protect and continue Atlanta’s storied civil rights legacy.

Sincerely,

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¹¹ While SB 63 has not yet been signed by the Governor, its intent to overturn Atlanta’s Ordinance 18-O-1045 is clear. To protect the goals of Ordinance 18-O-1045, City Council should pass a resolution permitting the Atlanta Department of Corrections to release people who are not charged with penal code violations.



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