



When the Covid-19 crisis hit earlier this spring, public defenders in Atlanta immediately understood the pending danger to incarcerated people. The Fulton County jail was overcrowded. With more than 2,000 housed in a local jail, it was filled well over capacity. Dozens of people were forced to live in inflatable rubber devices meant to accommodate the overwhelming number of people residing there.

While so many others responsible for administering justice did not seem to appreciate the urgency, public defenders sounded the alarm. It was obvious that it was only a matter of time before jails became a hotspot for infection from rapidly spreading and highly contagious virus.

Unfortunately, the defenders concerns were not widely shared by the DAs and judges. Though relentless advocacy, public defenders were able to convince the DA's office to agree to the release of some people who clearly should not have been jailed. However, the defenders quickly hit a wall. At least one judge made it known that they did not see the pandemic as a "change in circumstances" warranting review. This overwhelming response had been heard by public defenders fighting similar battles cross the country. Despite the fact that nothing has more significantly changed circumstances for the nation in recent history, many people in the jail would remain in a life-threatening situation.

When advocacy in individual cases was no longer effective, leadership decided that more must be done. The public defender's office filed a habeas motion seeking the release of over 200 of the most obvious candidates for release. All were people who were pending trial, presumed innocent, and solely held because of an inability to pay their bond. Almost all of these people would be unobjectionably released if they could simply come up with less than \$1000 in bail money. It was a global pandemic. Even the strongest criminal justice skeptics had to feel optimistic that this first batch of detainees would be released.

Sadly, this was not the case. The judge did not respond to this motion for three weeks, sending a strong message that she saw no urgency. When she did respond, the request was denied. The brick wall these defenders hit seemed even more fortified. Yet, they were undeterred.

The public defenders continued to work on the individual cases of these people, ultimately securing the release of dozens more. These defenders are still fighting every



day for more reasonable bonds and working with community partners to raise funds to help get more released.

Meanwhile, in state court where misdemeanors are handled, defenders have had more success, but not enough. The number of people held in the jail by state court judges has been cut roughly in half since the pandemic started, down from about 180 to just under 90. This result has been due to a combination of public defenders working with prosecutors and judges to identify individuals who they could agree should be released and agreeing to modified bond orders that would decrease the number of arrestees who would be held at the jail. By like their superior court counterparts, this work has come with frustration. Too many people continue to languish at the jail. The prosecutors have sent some cases to superior court, making their release even more unlikely, after they refused to agree to misdemeanor plea deals.

But the value of their work is not only reflected in the number of people being released from jails. By shining a light on this issue, the defenders advocacy has also led to the jail being more attentive to the dangers of coronavirus, working to more closely following CDC guidelines, and trying harder to protect people who remain incarcerated.

The Atlanta story during this pandemic shows how critical public defenders are by highlighting the systemic instinct to disregard the humanity of those thrust into the system and by illustrating how public defenders who steadfastly resist the status quo keep us inching forward in our quest for a more humane system.

Like their counterparts everywhere, these defenders have led the charge to get people out of increasingly dangerous jails. And, when others in the system believe they have done enough, these defenders continue to remind them of the human beings still inside and push judges and prosecutors to do a little more.

The toll this indifference takes on the Atlanta defenders is felt by defenders nationwide. The spirit exhibited in response is also indicative of how defenders across the nation have stood up to our worst criminal justice instincts.

This is the front line of one of our most pressing pandemic battles.

**Information for this story gleaned from accounts and conversation with public defenders at the Fulton County Public Defender's Office.**