

**OFFICE OF THE FULTON COUNTY DISTRICT ATTORNEY**

Atlanta Judicial Circuit  
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**PAUL L. HOWARD, JR.**  
District Attorney



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Fulton County Superior Court  
Chief Judge Robert McBurney  
Fulton County Magistrate Court  
Chief Judge Cassandra Kirk  
Fulton County State Court  
Chief Judge Fred Eady  
Fulton County Solicitor General  
Mr. Keith Gammage

3/1/2019

**RE: Release of Repeat Offenders by Magistrate Judges**

Dear Chief McBurney, Chief Kirk, Chief Eady, and Solicitor General Gammage,

Over the last several years, there has been much discussion regarding the release of certain defendants, on bond, by order of Magistrate Judges employed in the Fulton County Judicial System. Specifically, the complaints have focused upon defendants who are repeat offenders, defendants who are charged with acts of violence, and defendants who commit sex related crimes.

The Fulton County District Attorney's Office has complained for many years that the issue of release by Fulton County Magistrate Judges is particularly harmful when it involves defendants who are arrested and charged with serious violent felonies. On March, 5, 2018, the Superior Court Judges of Fulton County, in response to this request, made the adjustment to remove the ability of Magistrates to release a defendant who is charged with these serious violent felony crimes: **Murder, Rape, Aggravated Child Molestation, Aggravated Sodomy, Aggravated Sexual Battery.**

I am writing this letter today because it is my opinion that the time has come for our system to make two additional changes. First, Magistrates should be prohibited from issuing bond for seven additional violent offenses including: **Armed Robbery, Kidnapping, Home Invasion 1<sup>st</sup> Degree, Aggravated Stalking, Motor Vehicle High Jacking, Aircraft High Jacking, Defendants who are Repeat Offenders and are charged with the following offenses, Arson,**

PLH/ch

**Aggravated Assault, and Burglary<sup>1</sup>.** Secondly, I am requesting a more extensive change in our release procedures as they relate to repeat offenders, the details of which I will describe below.

I have listened very carefully to citizens from across the county, with respect to this issue, and what they seem to question is not only whether or not the defendants should be released, but also the judicial official who is actually granting the release. It is my opinion, the citizens of our county would feel more secure if the release of a repeat offender, a violent offender, or one involving a sex related crime was ordered by an elected Fulton County Judge, someone who has been vetted and selected by the community, and who is directly accountable to the community. This simply is not the case with an appointed Magistrate Judge.

Accordingly, I am asking the Court to adopt the policy below beginning on March 11, 2019.

**If the request for bond is made before a Magistrate Court and the case involves one of the elements below,**

- (a) A defendant who is recognized as a repeat offender under Georgia Law, *O.C.G.A. § 17-10-7*, which means the defendant has already been convicted of a felony.**
- (b) The defendant is charged with a crime of violence under Georgia Law, *O.C.G.A. § 17-10-6.1(a)*.**
- (c) If the defendant is currently serving a probated sentence which would be violated by the conviction of a new or subsequent crime.**
- (d) If the defendant is charged with a sex offense under Georgia Law, *O.C.G.A. § 17-10-6.2(a)*.**

**And, if the Fulton County District Attorney opposes such bond or release by the Magistrate, in such case, the action by the Magistrate shall constitute a recommendation for bond to be reviewed for final disposition by a sitting Superior Court Judge.**

To ensure the success of such policy, the District Attorney pledges not to oppose all bond matters, but rather to limit his objection to cases that present discernible harm to the public.

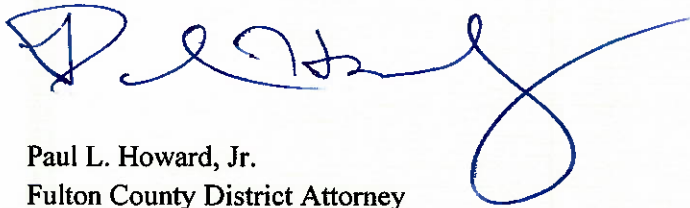
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<sup>1</sup> O.C.G.A. § 17-6-1. (a) These offenses should only be bailable by a Judge of the Superior Court of Fulton County.

Moreover, to assist both the Fulton County Magistrates and the Fulton County Superior Court Judges in completing a meaningful evaluation of such cases, I am asking that all Fulton County Police Departments, upon arrest of the defendants, immediately submit the arrest report and all supporting documentation to the Fulton County District Attorney's Office Complaint Room, thus allowing prosecutors to present the full details of defendant's case and prior record to the Court. This need for submission of the arrest information to the Complaint Room is not satisfied by the issuance and filing of an arrest warrant.

I have attached a list of the cases which serve as examples of the questions raised by the release of defendants under questionable circumstances. The time is now for substantial change.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. Howard, Jr.", with a large, stylized flourish at the end.

Paul L. Howard, Jr.  
Fulton County District Attorney

CC:

Chief Erika Shields, Atlanta Police Department  
Chief Darryl Halbert, Fulton County Police  
Chief Kenneth DeSimone, Sandy Springs Police  
Director John Robison, Alpharetta Dept. of Public Safety  
Chief Ed Densmore, Johns Creek Police  
Chief George "Rich" Austin, Milton Police  
Chief Helen Dunkin, Roswell Police  
Chief Jim Little, Chattahoochee Hills Police  
Chief Ferman Williford, College Park Police  
Chief Tommy Gardner, Jr., East Point Police  
Chief Richard Glavosek, Hapeville Police  
Chief Cassandra Jones, Union City Police  
Chief Keith Meadows, South Fulton Police  
Chief Brian Hergesell, Palmetto Police  
Chief Anthony Bazydlo, Fairburn Police