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September 15, 2023

VIA EMAIL

Fulton County Board of Commissioners  
Attn. Hon. Robert Pitts, Chair  
141 Pryor Street  
Atlanta, Georgia 30303

**Re: Proposal to Transfer Incarcerated People from the Fulton County Jail**

Chairman Pitts:

We write to urge you to reconsider your proposal to transfer people incarcerated in Fulton County outside of metropolitan Atlanta. This idea, which was tried and failed in the past, will not save lives and instead will take us further away from the real and immediate solutions that the County must undertake.

It has been over a year since the intergovernmental agreement (IGA) authorizing the lease of Atlanta City Detention Center (ACDC) beds to Fulton County. At the time, the Commissioners, including you, posited that this would solve the jail crisis. Indeed, you threatened to sue the City of Atlanta, and urged the city to “Give us [The County] the damn keys.”<sup>i</sup> Despite the County obtaining the keys, ACDC remains severely underutilized. The same will be true should this new transfer proposal be approved. Incarcerated people are now dying at a faster rate than they were before the effective date of the IGA. Additional transfers without consideration for the multiple factors within the County’s control causing overcrowding will only cause more harm.

The 2023 death toll in Fulton County jails stands at 10. These tragedies demand policy responses that are corrective and not merely performative. While the County continues to approve transfers and technology as solutions, neither has mitigated the harm inflicted on an incarcerated population that is mostly Black, poor and otherwise marginalized. According to the *Atlanta Journal-Constitution*<sup>ii</sup>, Sheriff Labat requested and received \$2.1 million in emergency funding in part for 1000 wristbands to monitor the vitals of incarcerated people. Despite this significant expenditure, 7 people have died in his care *since* May with some of them found unresponsive in their cells. It would be prudent for the Board to demand more information about why the devices have been ineffective.

As further evidence that transfers and gadgets are ineffective without meaningful interruption of abusive culture, on July 11, 2023, just six days after her 19<sup>th</sup> birthday, Noni Battiste-Kosoko, died while in Fulton County custody at the Atlanta City Detention Center. Ms. Battiste-Kosoko was a covered person in the Southern Center for Human Rights’ (SCHR) class action lawsuit related to the neglect of women with mental health disabilities at the South Fulton Annex. Despite her being transferred to the Atlanta City Detention Center—a supposedly superior facility—she lost her life.

In recent correspondence to Fulton County residents, you state that restrictive transfer criteria in the ACDC IGA are responsible for hundreds of beds leased to Fulton County being empty and call upon Atlanta City Council to ease restrictions. In addition to permitting the transfer of all women to ACDC, the transfer criteria contained in the IGA are:

- incarcerated people must present a low or medium custody level;
- incarcerated people must not suffer from serious illness; and
- incarcerated people must not be under the age of majority.

*Please be aware that our office has moved, and our address is now:*  
**60 Walton St. NW / Atlanta, GA 30303.**

Rather than the criteria above being responsible for empty beds at ACDC, the fact of the matter is that ACDC beds are empty because the sheriff's department remains woefully understaffed; thus, the County cannot meet the lease's requirement that Fulton County supervise transferred people in its custody. The Board must demand more information from Sheriff Labat on what is being done to address staffing shortages and what progress has been made, especially in light of recent pay increases. This is especially important since harm arising from the staffing issue is one of the matters currently under investigation by the United States Department of Justice.

We caution you that transferring incarcerated people to Mississippi would significantly infringe on the Sixth Amendment right to counsel for people awaiting trial. Not only do indigent defense offices lack funds to visit clients many more hours away, the cost of transporting clients to Fulton County for attorney visits is also onerous. In fact, the proposal to transfer incarcerated people away from the reach of their families and attorneys was litigated in 2005-2006 in the aftermath of *Harper, et al v. Fulton County*. When then Sheriff Freeman sent people awaiting trial outside of the metro area, the Georgia Public Defender Standards Council argued that transfers would result in irreparable harm:

*"The individual Plaintiff pretrial detainees will no longer have physical or telephonic access to their attorneys and will not be reasonably available for consultations, conferences, or contacts with their attorneys in Fulton County. Such loss of contact and communication will effectively sever the attorney-client relationship, and will forever prejudice the rights of the detainees to prepare and present a defense, to locate, interview and subpoena witnesses, and to be and appear before the court for speedy resolution of the charges against them."*

In his order, U.S. District Court Judge Marvin Shoob required the sheriff to return all people awaiting trial to Fulton County. He further ordered that people could be transferred only to Fulton's adjoining counties while awaiting trial.<sup>iii</sup> Because the right to counsel has not changed since 2006, we are confident that accused persons in Fulton County could raise a similar challenge should the Board authorize transfers to distant jails. In fact, the Fulton County Public Defender recently filed an emergency motion to prevent the Fulton County Sheriff from transferring the public defender's clients to out of state facilities, stating, "I don't think we have to cross state lines to keep our clients safe."

Beyond potential legal consequences, transferring detained people to Mississippi will make visits between incarcerated people and their families more difficult. According to the Prison Policy Initiative<sup>iv</sup>, more frequent visits during incarceration can reduce the risk that detained people will become entangled with the criminal legal system after they are released. Inside carceral spaces, more connection to loved ones translates to fewer violent incidents and less stress and anxiety.

We have no doubt that your intention is to save the lives of people who are incarcerated, a goal we share. We therefore believe that any proposal should take into consideration the feedback of detained people and their lawyers, rather than having this imposed on them. If the proposal is truly aimed at helping those who are suffering, then the Board must hear their voices too.

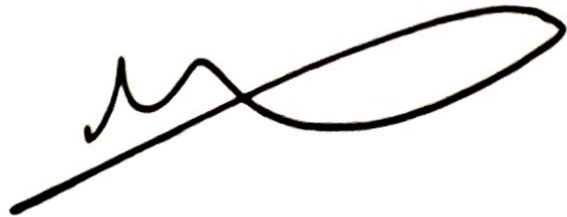
We also call upon you to take seriously the need for Fulton County leadership to advocate for solutions that reduce the jail population and promote public safety. For years, the Board has ignored the advice of legal, policy, medical, and formerly incarcerated experts, while your incarcerated constituents pay the price. The Board of Commissioners must take immediate action to reduce the jail population by investing in diversion programs— which not only improve long-term community safety and reduce crime but are also cost-efficient. In particular, the Board of Commissioners must fully fund the diversion pilot program within the Policing Alternatives & Diversion Initiative (PAD), which will keep people out of jail by releasing people who have needs related to mental health, substance use, or extreme poverty to PAD at their first court appearance.

We also urge the Board to work with stakeholders across the criminal legal system, including Chief Public Defender Maurice Kenner, District Attorney Fani Willis and Solicitor General Keith Gammage, to ensure that people are not being held pretrial simply because they cannot afford cash bail.

Very truly yours,



Tiffany Roberts, Esq.  
Director of Public Policy  
Southern Center for Human Rights



Michael Collins  
Senior Director for State and Local Government  
Affairs  
Color Of Change

cc: Fulton County Board of Commissioners  
Atlanta City Council

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<sup>i</sup> <https://www.ajc.com/news/atlanta-news/fulton-chair-demands-the-damn-keys-to-atlanta-detention-center/KMPZVJJ6KRCUDGCJBM4GFIYTU/>

<sup>ii</sup> Jeremy Redmon, 2023, Atlanta-jails to track inmates with high-tech wristbands, Atlanta Journal-Constitution, May 3, 2023, <https://www.ajc.com/news/atlanta-area-jails-to-track-inmates-with-high-tech-wristbands/UUAKCRXT5ZAIXJY7GQFJMHMC2M/>

<sup>iii</sup> The order also required the Sheriff to submit requests for temporary extraordinary relief for any request to transfer people awaiting trial to non-adjointing counties within a 50 mile radius while court ordered renovations were performed.

<sup>iv</sup> <https://www.prisonpolicy.org/scans/vera/the-family-and-recidivism.pdf>