

July 14, 2020

Hon. Kim Berkeley Clark  
330 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219

Hon. Jill E. Rangos  
326 Courthouse  
436 Grant Street  
Pittsburgh, PA 15219

Re: Public access to criminal proceedings in the Fifth Judicial District

Dear President Judge Clark and Administrative Judge Rangos:

We write to follow up on our earlier exchange regarding the public's inability to access criminal proceedings in the Fifth Judicial District. *See* Letter to Judges Clark and Rangos (May 28, 2020), <https://perma.cc/5LXU-P9ZL>. Although we appreciated the Court's recent effort to reopen its courtrooms to the public, pandemic conditions have made it impossible for the public or the press to safely attend court proceedings in person. For that reason, we once again ask the Court to provide the public with remote access to all criminal proceedings. As we explained in our prior letter, providing the public with remote access to all criminal proceedings (by telephonic and, where available, audiovisual means) is not only feasible but required by state and federal law. We urge the Fifth Judicial District to follow the lead of numerous other courts in Pennsylvania and around the country in providing such access to the public.

The Court denied our prior request for remote public access based on the fact that it planned to reopen courthouses to the public at the beginning of June. Since that time, COVID-19 cases in Allegheny County have increased significantly—so much so that the Court itself recently directed prosecutors and defense attorneys to begin conducting as many hearings as possible via remote means after several attorneys and court staff tested positive for COVID-19. *See* Message from President Judge Clark – To the District Attorney's Office and Defense Bar (July 7, 2020), <https://perma.cc/H5BF-QTWX>. As the Court's directive explained, the “goal during this period of time is not only to reduce traffic in the Courthouse and to give the Court time to further assess the situation in the COVID-19 Criminal Division but also to force us all to get comfortable with remote hearings.” Given these goals, it is neither safe nor reasonable to require that people who seek to observe Allegheny

County criminal proceedings visit courthouses in person. People cannot be forced to risk their health and safety in order to exercise their constitutional right to observe court proceedings—especially when the proceedings themselves are being conducted remotely.

Furthermore, even if it were reasonable to expect members of the public to visit courthouses under the current circumstances (and it is not), our recent experience suggests that other barriers to public access would still remain. Last month, for instance, volunteers from the Abolitionist Law Center were blocked from attending Pittsburgh City Court proceedings by courthouse security even though the courts were ostensibly open. And, on another occasion, volunteers were forced to give up their seats during a hearing in the Criminal Division (due to limited courtroom capacity). These experiences demonstrate that, even if courthouses remain nominally open to the public, additional steps would still need to be taken to ensure meaningful public access to criminal proceedings.

We are mindful that this is a difficult time for court administrators. But the Fifth Judicial District has a constitutional obligation to ensure that the public can observe its criminal proceedings, including all preliminary arraignments, preliminary hearings, and other criminal hearings held in the Criminal Division, City Court, and magisterial district courts. Numerous other courts have managed to comply with these legal obligations during the pandemic; there is no reason that the Fifth Judicial District cannot do the same. If the Court is unwilling to provide the public with remote access to its criminal proceedings, please notify us within one week so that we can determine whether further legal action is necessary.

Thank you for your attention to this matter.

Sincerely,

Bret Grote  
Autumn Redcross  
*Abolitionist Law Center*  
*P.O. Box 8654*  
*Pittsburgh, PA 15221*  
*412-654-9070*  
*info@abolitionistlawcenter.org*

Witold J. Walczak  
*ACLU of Pennsylvania*

Melissa Melewsky  
*Pennsylvania NewsMedia Association*  
*3899 N. Front Street*  
*Harrisburg, PA 17110*  
*melissam@pa-news.org*

Nicolas Y. Riley  
Robert D. Friedman  
*Institute for Constitutional Advocacy &*  
*Protection*

*PO Box 23058  
Pittsburgh, PA  
412-681-7736 x321  
mvalczak@aclupa.org*

*Georgetown University Law Center  
600 New Jersey Avenue NW  
Washington, DC 20001  
202-662-4048  
nr537@georgetown.edu*

CC: Christopher Connors  
District Court Administrator, Fifth Judicial District  
  
Greg Dunlap  
Chief Counsel, Administrative Office of Pennsylvania Courts