

December 14, 2020

**Via Electronic Mail**

Hon. Kim Berkeley Clark  
Mr. Christopher Connors  
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, Administrative Judge Rangos, and Mr. Connors:

We write to follow up on our earlier letters and emails regarding the public's lack of access to criminal proceedings in the Fifth Judicial District.<sup>1</sup> Although we appreciate the Court's effort to provide the public with telephonic access to certain types of criminal hearings, we remain troubled by the Court's refusal to provide any remote access to the vast majority of criminal proceedings taking place in Allegheny County—nearly all of which are now being conducted virtually. Requiring members of the public and the press to physically visit courthouses in order to observe a virtual hearing is neither safe nor reasonable at this stage of the COVID-19 pandemic, especially now that the Court has explicitly directed parties and their lawyers to refrain from attending those hearings in person. We therefore ask, once again, that the Court provide the public with remote access to *all* of its criminal proceedings to ensure that the public has a meaningful chance to observe those proceedings, as required by the Pennsylvania and United States Constitutions. If the Court refuses to do so, we will be forced to file suit against court administrators in order to protect our clients' constitutionally guaranteed right to observe judicial proceedings.

As President Judge Clark recognized in her recent administrative order, the Fifth Judicial District has been forced to undertake “further efforts . . . to reduce the

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<sup>1</sup> See [Letter to Judges Clark and Rangos](#) (July 14, 2020); [Letter to Judges Clark and Rangos](#) (May 28, 2020).

number of people present in court facilities” due to worsening pandemic conditions. [In re: Temporary Amendment to Fifth Judicial District Emergency Operations Plan](#), at 1 (Dec. 3, 2020). The order specifically mandates that all criminal matters in the Court of Common Pleas “shall be conducted remotely via Advanced Communication Technology” until at least January 8, 2021. *Id.* And the order further requires that the majority of criminal matters in Municipal Court and Magisterial District Courts will also be conducted virtually during the same period. *See id.* at 5–6. Yet, despite requiring that these proceedings be conducted virtually, the Fifth Judicial District continues to deny the public remote access to the proceedings. Instead, members of the public who wish to observe—or even just listen to—any of these *virtual* proceedings must visit the courthouse *in person* to view an audio-video feed of the proceedings.

This policy is unlawful. As our past letters explained, the Pennsylvania and U.S. Constitutions protect the public’s right to observe judicial proceedings, including preliminary hearings, suppression hearings, sentencing hearings, trials, and other substantive criminal matters. People who seek to exercise those rights cannot be forced to jeopardize their health and safety in order to do so. But the Fifth Judicial District’s current public-access policy does exactly that: it requires these individuals to visit public court facilities in the middle of a deadly pandemic—facilities that court administrators themselves have deemed too dangerous to host in-person hearings. COVID-19 cases [are once again rising](#) across the state and public-health experts [anticipate further increases](#) over the coming months. The risks of infection are especially acute inside heavily trafficked, poorly ventilated buildings like the Allegheny County Courthouse (where the audio-video feed of most proceedings would be played). Indeed, even with the Court’s recently implemented safety measures, more than twenty court employees and attorneys have [tested positive](#) for the virus over the past month after visiting Allegheny County court facilities. By requiring members of the press and the public to visit these facilities in order to observe criminal proceedings via an audio-visual feed, the Fifth Judicial District is needlessly exposing these individuals to a serious risk of infection.

The Fifth Judicial District could easily avoid these dangers—and comply with its constitutional obligations—by providing the public with remote access to all of its court proceedings, as numerous other jurisdictions currently do. Indeed, over the past several months, trial courts across the country have provided the public with virtual access to their proceedings—either through livestreams or other means of remote viewing—in order to ensure meaningful public access during the pandemic.<sup>2</sup>

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<sup>2</sup> Among other major cities, [Chicago](#), [Dallas](#), [Austin](#), [San Francisco](#), [Detroit](#), [San Diego](#), [Indianapolis](#), [Las Vegas](#), and [Atlanta](#) all currently livestream their trial-

The experience of these jurisdictions confirms that it is both feasible and appropriate to provide the public with remote access to court proceedings. We urge the Fifth Judicial District to follow the lead of these other jurisdictions by providing the public with remote access to all of its proceedings.

Please notify us by December 23, 2020, whether or not the Court intends to amend its current access policy to provide the public with remote access to all virtual hearings. If we do not hear from the Court by that time, or if the Court refuses to amend its access policy, we will be forced to file a federal lawsuit to safeguard our clients' right of access to the courts.

Thank you for your attention to this matter. As always, please do not hesitate to contact us if you would like to discuss anything.

Sincerely,

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court proceedings online, while various others (including [Phoenix](#), [Boston](#), [Charlotte](#), [Denver](#), and the [District of Columbia](#)) permit the public to view or listen to proceedings using virtual or teleconference systems. In addition, a growing number of states—including [Indiana](#), [Michigan](#), [Texas](#), [Rhode Island](#), and [Wisconsin](#)—also now provide remote access to most of their trial-court proceedings.