



March 15, 2020

Dear Mayor Kenney, Judge Fox, Judge Murphy, Judge Allen, and Criminal Justice Stakeholders:

We are asking you to take immediate action in response to this unprecedented public health crisis and limit the spread of this virus among our office and the communities we serve. We are writing this out of express concern for the health and well-being of all those involved in the court system, not just ourselves and our clients. It has been well established that COVID-19 is spreading person-to-person; we are past the point of containing this through trace contacts, and our only option is to slow down the rate of transmission by limiting all in-person interactions. Every day that we fail to do this is going to cost us thousands of lives in a few weeks in Philadelphia alone based on the stark data coming in from Italy (with a current mortality rate at approximately 7%), a country whose response the US is tracking perfectly right now. It is undisputed that even remote contact can put individuals at extreme risk. The federal government, our state government, and even the local city government have recommended people not gather in crowded places based on solid science about how this virus transmits, and yet there have been no real protocols developed to limit the number of individuals—both staff and civilians—that enter the CJC, Family Court, prisons, and placement facilities every day.

We are requesting a response that reflects the urgency of this pandemic, and which takes into account the differing situations of those with criminal cases who are in custody versus those who would be attending court from the street. In the last 24 hours alone there has been a huge national push to keep people from leaving their homes. However, this system is telling our clients that they must appear in court or a warrant will be issued for their arrest. Further, in-person visitations at the jails and placement facilities pose a huge risk to both visitors and those who are incarcerated; the virus can easily be introduced into these facilities by someone who otherwise appears healthy, and once contracted by an incarcerated person, the virus would spread quickly inside the prisons and placement facilities due to the close conditions of confinement.

Where it concerns our dependency clients, while we hold dear the safety of our clients and their families and caregivers, continuing to hold hearings in court may pose a greater risk to them. We ask that a distinction be made between adjudicatory, permanency, and goal change termination hearings—all of which can be continued—and hearings that pertain to the immediate removal of our clients from their homes for their safety.

At this point we believe the only responsible approach that is consistent with protection of defendants, all court participants, and the community at large is a full shutdown of court operations, with only exceptions specifically tailored to address defendants in custody who can or should be released. In practice, this means that all preliminary hearings, trials, violation hearings, and status listings at both the Municipal Court and Common Pleas levels should be administratively relisted and all defendants, witnesses, attorneys, and court staff should be excused from courtroom attendance. As the Eastern District of Pennsylvania has done, we must discontinue all jury trials due to the inability to impanel a fair cross-section of the community.

The First Judicial District, in collaboration with the District Attorney and Defender Association, should continue to focus on addressing bail, detainers, and parole petitions for defendants who would likely have been released or who should be released for their own safety. These efforts should occur either remotely or in a single courtroom set aside for that purpose. Finally, the Police Department and the District Attorney's Office should work to prioritize arrests and prosecutions, to minimize the number of cases awaiting preliminary arraignment, and to reduce the number of shifts and personnel required.

To these ends, we are requesting:

- A full shutdown of court operations, including preliminary hearings, trials, violations hearings, and status listings
- Efforts to dramatically reduce the amount of adults and children in prison and placement including:
 - Emergency bail and detention hearings
 - Prioritization of early parole petitions
 - A framework to address Gagnon hearings and motions to lift detainers in a timely fashion
 - For those awaiting house arrest release at any stage to be released with a surrender date set in sixty days
- A confidential and secure means to contact clients in custody
- Immediate suspension of several of the probation/parole conditions of those under adult and juvenile probation supervision:
 - No absconder warrants should be issued or executed
 - Clients with in-person reporting should be permitted to report telephonically for at least 60 days
 - Suspension of the requirements to attend any classes and/or group treatment
- Continuances for all dependency court matters unless an OPC must be obtained specifically for the removal of the child in question from their home, with all other matters receiving dates via administrative order as arranged via email between the courts' clerks and the parties

It is important to do our part as a system to contain the virus and control its spread. The actions we request will mitigate the spread of the virus. It is imperative that we act quickly. We stand ready to work with the District Attorney, Law Department, the Courts, and other stakeholders in order to protect the most vulnerable populations and our entire community.

Signed,

Defenders Union

We have included a list of signatories based on who was available to review this document on a Sunday afternoon in the midst of a global crisis. We expect many more attorneys to sign on by tomorrow.

As of this writing, the following Defenders have signed their names in agreement:

Erica Bartlett, Sandra Barrett, Lisa Barrimond, Susana Bass, Faryl Bernstein, Charlotte Berschback, Meghan Binford, Emily Blumenstein, Adrienne Box, Brad Bridge, Jane Broder, Cheri Brooks, Austin Brunson, Gwen Callan, Siri Carlson, Courtney Chlebina, Anthony Chiaramonte, Gresham Cooney, Julie Cozzetto, Julia Dekovich, Dave Deridder, Brandon Deshields, Emily Diaz, Katie Dickey, Chris DiNardo, Owen Doherty, Elisa Downey-Zayas, Rachel Echemendia, Arielle Egan, John Eyre, Natasha Felder, Randi Fensterer, Elizabeth Flanagan, Elizabeth Freed, Margaret Funk, Rachael Goldstein, Cassie Grainge, Ryan Grosso, Keith Hadsell, Jaclyn Hart, Megan Helfrich, Matt Helman, Mary Henin, Sara Hentschke, Beth Herdmann, Tyler Hereth, Shirley Hickman, Nia Holston, Kevin Horan, Rebecca Hufstadter, Ben Jaye, Ed Jilozian, Brian Johnson, Ted Johnson, Andrea Konow, Kathleen Knese, Joel Krantz, Jess Larkin, Denita Latta, Shenu Lawrence-Gupta, Harshila Leva, Helen Levin, Alison Lipsky, Rich Lopez, Christine Lora, Theophe Love, Nick Lyons, Blake Mammuth, Meredith Manchester, Mariah Martinez, Maia Masciangelo, James Mathew, Ellen McBennett, Claire McDonald, Siri Carlson McDowell, Damon McLaurin, Sarah Meinhart, Michael Mellon, Jacob Mintun, Lincoln Mitchell, Katherine Muns, Matt Nelson, Jackie Newsome, Jen Mihal, Danielle Oppenheim, Chris Park, Sue-Yen Pupo, Wendy Ramos, Deb Rainey, Juan Ramirez, Victor Rauch, Waqar Rehman, Matt Reilly, Susan Ricci, Hamilton Ringgold, Rebecca Robinson, Tara Schiraldi, Roger Schrading, Liz Schultz, Kasturi Sen, Paula Sen, Tess Senderowicz, Julian Settles, Anna Shapiro, Stephanie Sherr, Laily Sheybani, Dan Signs, Thomas Siller, Jena Simonds, Melissa Singleton, RJ Skypala, Alison Smealie, Melissa Staublein, Alexandra Stefanatos, Kelly Stevenson, Jon Strange, Viraj Talwar, James Temple, Catherine Trama, Luke Trama, Janaki Umarvadia, Rafaela Uribe, Keitshawna Williams, Marsha Williams, Mike Wood, Kevin Yao, Adam Yee, Melanie Young, Yvonne Younis, Ricky Zacharias