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May 26, 2020

To Madam Chief Justice Burke and the Justices of the Illinois Supreme Court:

This letter is to express the Illinois Association of Criminal Defense Lawyers' ("IACDL") grave concerns regarding the implications of the Supreme Court Guidelines for Resuming Illinois Judicial Branch Operations during the COVID-19 Pandemic. IACDL is a statewide organization composed of attorneys in the private and public sectors, law professors, and defense investigators, all of whom have a vested interest in the pursuit of justice for all accused individuals in the State of Illinois.

IACDL acknowledges that the Judicial Branches throughout Illinois have a responsibility to ensure the safety of all members of the judiciary, staff, attorneys, and litigants as they resume non-emergency proceedings. However, this responsibility must not come at the expense of accused individuals by denying or delaying their rights, or access to justice.

This Court's Guidelines imply that most proceedings except for jury trials should be heard remotely *via* teleconference, videoconference, or some comparable technological method. It is IACDL's position that contested motions and trials, whether by way of jury or bench, that involve witness testimony should not be conducted remotely. Evaluating the credibility of witnesses and ensuring compliance with the judicial process are critical parts of the Circuit Courts' responsibilities. Accused individuals have a right to be present with their attorney and confront the witnesses.

This cannot be accomplished remotely and to do so would violate an accused individual's right to due process under both the United States and Illinois Constitutions. These contested proceedings involving witness testimony can be conducted safely with social distancing, limiting the number of people in the courtroom or other reasonable accommodations.

Contested motions and trials are not the only critical stages of the criminal process. It is further IACDL's position that no criminal proceedings should be conducted remotely without an accused individual's knowledge and voluntary waiver to be physically present. No accused individual should be pressured, either directly or indirectly, to sacrifice any of his or her rights.

The Judicial Branch has Herculean responsibilities. They must not only keep individuals safe but safeguard the precious constitutional rights of those individuals whose liberty is at stake, even in a pandemic. IACDL strongly urges this Honorable Court to balance those responsibilities in its leadership of guiding the Illinois Judicial Branch Operations during the COVID-19 pandemic.

Respectfully,

A handwritten signature in black ink, appearing to read 'Lakshmi E. Jha', with a long horizontal flourish extending to the right.

Lakshmi E. Jha

President of IACDL