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By email

April 8, 2020

The Honorable Mitch McConnell
Senate Majority Leader
317 Russell Senate Office Building
Washington, D.C. 20515

The Honorable Chuck Schumer
Senate Minority Leader
322 Hart Senate Office Building
Washington, D.C. 20515

Re: *Court access recommendations for legislation during the
COVID-19 pandemic*

The Reporters Committee for Freedom of the Press writes concerning Congress's efforts to ensure press and public access to judicial proceedings during the ongoing COVID-19 pandemic. The outbreak has changed the daily operations of federal courts across the country as they strive to protect the health and safety of court employees, litigants, attorneys, members of the judiciary, and the public.

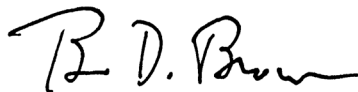
We respectfully urge Congress to include measures to preserve and promote press and public access to court records and proceedings in its next pandemic response bill. Such legislation should include provisions to promote:

- **Remote access to oral arguments and similar proceedings.** Congress should earmark funding specifically to encourage remote access so that federal courts can provide live video or, at a minimum, live audio, of court proceedings, including, but not limited to, appellate oral arguments. If livestreaming is not technically feasible, any courts closed to the public should, at a minimum, provide same-day video or same-day audio recordings of their proceedings;
- **Media access to court teleconferences.** On [March 31](#) and [April 2](#), the Judicial Conference approved temporary exceptions to court rules to permit judges to authorize the use of teleconferencing for public and news media access to court proceedings. Congress should earmark funding to assist federal courts in providing such access and when those proceedings would have been held in open court, members of the media should be permitted to listen to or view these conferences in real time. Recordings of such conferences should also be made electronically available to the public as soon as those proceedings end;

- **Suspension of PACER fees.** Congress should facilitate the suspension of PACER fees while restrictions on physical access to courthouses remain in place and should allocate funding to pay for this suspension. Court records should be available to members of the public free of charge, especially since the access terminals at courthouses which members of the public typically use to review such records for free are no longer accessible. Courts that permit hearings and other judicial proceedings to take place via teleconference should make transcripts of those proceedings available electronically to the public at no cost; and
- **Prompt notice of postponement of proceedings.** Because a number of courts, including the U.S. Supreme Court, have postponed or continued some or all in-court proceedings, Congress should ensure courts have the resources to provide prompt notification of postponement or continuance of court proceedings.

The Reporters Committee has long championed and backed with our considerable litigation efforts the public's common law and constitutional rights of access to judicial records and proceedings. We will continue to monitor how the response of state and federal courts around the country to this public health crisis may affect the exercise of those rights. At the appropriate time, we hope that you might consider the implementation of any additional recommendations we may develop to ensure that these access rights are not curtailed during any future nationwide disruption to our judicial institutions. Please do not hesitate to contact me with any questions.

Sincerely,



Bruce D. Brown
Executive Director
bbrown@rcfp.org

cc: The Honorable Lindsey Graham
Chair, Senate Committee on the Judiciary

The Honorable Dianne Feinstein
Ranking Member, Senate Committee on the Judiciary