

*Georgia Association
of
Criminal Defense Lawyers*

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January 21, 2021

Governor Brian Kemp
Office of the Governor
206 Washington Street
Suite 203, State Capitol
Atlanta, GA 30334

Re: Vaccine Prioritization of Criminal Defense Lawyers

Dear Governor Kemp,

In mid-December, the United States Department of Homeland Security Cybersecurity & Infrastructure Security Agency (CISA) released additional guidance to support prioritization decisions related to COVID-19 vaccines among non-health care essential workers, especially in the early stages of distribution when the vaccines are in short supply.¹ Workers supporting judicial system operations, including lawyers, are among the essential critical infrastructure workers CISA identified, and, as such, criminal defense lawyers ought to be explicitly included in Phase 1B of Georgia's Vaccine Administration.

A fully functioning criminal legal system is critical to safeguard constitutional rights as well as to provide redress for victims of criminal conduct. Unfortunately, the pandemic has created an expansive backlog in every courtroom in our state leaving thousands awaiting necessary resolution of matters pending before the courts. Ensuring prompt vaccination of criminal defense lawyers – as well as every individual held or employed in a carceral facility - will help reduce the clear and present danger of continued COVID-19 spread among those engaged in the criminal legal system while also allowing work to begin in earnest to reduce the massive backlog and restore precious constitutional rights to those most in need of their protection.

Criminal defense lawyers are essential because public safety, liberty, and justice cannot be achieved without opportunities to resolve cases and vaccination access for criminal defense lawyers is required for court operations to resume in a meaningful way. Criminal defense lawyers are in a unique position to be at greater risk of exposure than community-based law enforcement officers due to their required presence in jails

¹https://www.cisa.gov/sites/default/files/publications/ECIW_4.0_Guidance_on_Essential_Critical_Infrastructure_Workers_Final3_508_0.pdf (last visited January 20, 2021)

and detention facilities, where they are more likely to be in close quarters with people, to properly prepare for hearings and trial. Compared to judges and prosecutors, criminal defense lawyers are significantly less able to stand apart from others in the courthouse, especially their client, and much of what is required to adequately prepare for defending a client cannot be done remotely if effective assistance of counsel is to be provided. The proper and constitutional functioning of Georgia's criminal legal system depends upon these essential actors coming together in enclosed spaces for prolonged periods of time, a high-risk proposition in the absence of a vaccine or other mechanism to bring the pandemic under control.

Despite many jurisdictions' efforts at employing safety precautions for trials, COVID-19 has continued to spread during in-person proceedings to court participants and then on to members of our communities when they return to their families.² Vaccine distribution must prioritize criminal defense lawyers and ensure their vaccination with sufficient lead time to ensure immunity prior to resuming business at the courthouse. Prioritizing vaccination for all criminal defense lawyers is the most effective way for our criminal legal system, including its detention system, to return to normal and safe operation, safeguard fundamental rights, and prevent community spread from the personal interactions necessary for that system to function as the Constitution requires.

We appreciate your efforts to build a safe, productive, and prosperous post-COVID reality in Georgia and, in furtherance of that aim, respectfully request that criminal defense lawyers be explicitly prioritized to receive the COVID-19 vaccination in Phase 1B of Georgia's Vaccine Administration.

Sincerely,



Lawrence J. Zimmerman
President

cc: Dr. Kathleen Toomey, Commissioner, Kathleen.Toomey@dph.ga.gov
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² <https://www.law.com/texaslawyer/2020/11/19/15-infections-mistrial-how-litigants-are-filing-for-continuances-after-texas-jury-trial-spread-covid-19/> (last visited January 20, 2021).