

To: Santa Clara County Juvenile Justice Stakeholders

From: The Judges of the Juvenile Justice Division

Date: October 1, 2021

The following memo documents the JJ Court's response to the Shelter in Place Orders issued by the Santa Clara County Public Health Officer on March 16, 2020. It further outlines the Court's reopening and move from only essential hearings to incorporating most hearings, except REVIEWS. There are no more emergency orders being requested from the Supreme Court Chief Justice. All decisions continue to be made in conjunction with guidance from the Public Health Department and the Presiding Judge Ted Zayner.

This memo has been updated today to include the current status of the youth, the current court process and how CITA Court will continue to be conducted. This protocol was extended to February 1, 2022 by stipulation of our stakeholders via email on September 29, 2021.

**Recap March 17, 2020 through May 3, 2020:**

Access to Court- essential hearings plus other matters as defined by the JJ Stakeholders.

1. All matters (juris/dispo/detentions) for in custody minors. Attorneys can now appear remotely, however, typically we have at least one PD, and IDO in court. Minors continue to come into court and parents/guardians are admitted from the general public with social distancing and mask precautions.
2. Matters on for dismissal or I/S compliance are heard so that probation can be dismissed where appropriate. Most minors appearing remotely or appearance is waived. In some cases, app and order are submitted in lieu of court hearing.
3. Time sensitive matters such as competency restoration, PPH hearings remain on calendar and often can be heard with minor's appearance being waived or minor appearing remotely and a new date set with appropriate timing.
4. 241 reports for Dually Involved Youth continue to be submitted and decided for planning purposes.

5. Emergency procedures have already been set up for calendaring a hearing for emergency relief (due to non-COVID 19 reasons).
6. SDT's allowed to be set on the already existing court date (as of April 24<sup>th</sup>, 2020).
7. W&I Section 827 petitions.
8. All reviews were vacated.
9. Two Judicial Officers trading off for one open department per day to minimize staff needs and court traffic.

### **Recap May 11, 2020 through May 29, 2020**

1. Continue all hearings and court access as outlined above (and in memo of April 20, 2020).
2. JURIS RESOLUTIONS<sup>1</sup> to be put on the record for out of custody youth. These can be heard remotely. No contested jurisdiction hearings for out of custody youth may be set in May. If there is already a date that date will be used. If the matter will not resolve that date will be continued until after Emergency Orders expire.
3. IDC/JURIS: Currently set IDC can be heard if Minors can appear remotely so that counsel can be appointed and begin working on the matter. If there is an agreed upon juris resolution with a completed waiver at the IDC appearance date, it will be handled same as #2 above.
4. UNCONTESTED DISPO MATTERS to be heard, if parties have the Dispo report in advance of court (this may take some coordination with probation), gone over report with minor, and are in agreement with recs (with the exclusion of maybe some arguments related to a term of probation). Minor can appear remotely and this will allow probation to then have the minor under their supervision
5. Rationale: Resolving JURIS and DISPO allow for minors to move their cases forward, and allow for the court to manage appropriate supervisions

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<sup>1</sup> If counsel has gone over the waiver form with their attorney, and the court is simply taking an admission, then the case can move forward. Court can run through the calendar at 8:30 calendar call and continue all matters not ready to proceed and then call the matters ready for an admission.

(such as EMP/CRP “commitments”) as well as put probation terms into effect so that probation can appropriately supervise the youth.

6. Cases set for Juris and Dispo that are set for more than two weeks into the future can be advanced for resolution with permission of the Supervising Judge and if there is room on the calendar.
7. It is the expectation of the Court that all out of custody youth appear remotely.
8. EMP/CRP downgrade requests may be submitted on paper only.<sup>2</sup>
9. Three Judges will be in the rotation for the division. Each judge will make every effort to schedule cases on their assigned court days. Each judge is available for case conferencing on the non-court day to manage and resolve cases.

### **Recap May 29, 2020 through June 29, 2020**

1. Continue all hearing types as described above.
2. CONTESTED Jurisdiction Hearings for in-custody youth a priority
3. CONTESTED Disposition Hearings for in-custody youth a priority
4. One Department open unless social distancing measures and remote access is mastered for all participants.<sup>3</sup> Remote access could be available for high risk victims and witnesses and to reduce foot traffic in court.

### **June 30, 2020 through February 1, 2022**

1. Continue all hearing types as described above.
2. Contested Jurisdiction, Disposition and RESTITUTION SETTINGS for Out of Custody Youth.
3. Contested Competency Hearings
4. Transfer Hearings
5. Two Departments open at one time, with remote appearances.

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<sup>2</sup> Following the EMP/CRP Covid-19 protocol as published on May 4, 2020.

<sup>3</sup> Our Courthouse is unique to other courthouses in Santa Clara County in that the building is shared with JPD. JPD and the Court will have to work together to make sure that lobbies and courtrooms can be set up with social distancing queues, like chairs blocked off with tape and tape on the floor to designate distancing. We should also decide the capacity of each lobby and courtroom and place that number in public view.

Current Status of Minors in Custody

Education: The youth are now being educated with a combination of in person teachers and online learning with the assistance of the in person educators in both Juvenile Hall and the Ranch.

Visitation: Families have begun in person visitation again. The probation department acknowledges the benefits of virtual visitation for families that cannot access in person visitation and continues to allow virtual visits as an option.

Custody levels in James Ranch & Juvenile Hall

Custody level continue to be low. There are currently no girls at the James Ranch. During the course of COVID there have been many days when there was no girls in Juvenile Hall as well.

FACILITY	TOTAL POP	CAPACITY	%
JUVENILE HALL	46	390	12%
JAMES RANCH	22	108	20%
<b>TOTAL</b>	<b>68</b>	<b>498</b>	<b>14%</b>

Current Court Process:

1. **DETENTIONS:** continue to be heard daily. There are no current emergency order to extend times lines for detention hearings.
  
2. **IN CUSTODY UNCONTESTED JURISDICTION AND DISPOSITION MATTERS:** The Court will hear all in custody uncontested jurisdiction (admissions) and disposition matters. Minors whose disposition orders include a Juvenile Rehabilitation Facility (Ranch) Commitment may not be transported to the ranch. However, their time will start as of the date of commitment to not penalize them if a COVID related illness or quarantine is necessary.

3. PPH (Permanency Planning Hearing), COMPETENCY RESTORATION REVIEW: The Court will continue to hear these matters and continue them within the statutory deadlines. The court will handle matters with minors remotely (by phone) with the minors who chose to appear remotely. The youth has a right to appear in person.
4. RECEIPT OF REPORT: Receipt of reports for competency, 602 evaluations, SDTs or other matters set prior to shelter in place orders will be heard, but counsel is requested to either waive their client's appearance or have the client appear remotely.
5. DISMISSALS: Cases set for DEJ dismissal or DEJ reviews that are at the 1-year mark (and would be eligible for dismissal) or cases previously set (prior to shelter in place orders) for dismissal will be heard and when appropriate dismissed. Counsel may waive their client's appearance or have the client appear by phone.
6. DEPARTMENT OF JUVENILE JUSTICE (DJJ) RETURNS: Individuals returned from DJJ after release to our county (upon completion of their DJJ commitment) will be heard as they are returned in custody.
7. REVIEWS: Reviews are not being routinely set at this time due to court staffing shortages. Any party may ask to set a review if any party is concerned about the youth's well-being and/or progress.
8. CONTESTED JURISDICTION HEARINGS: Time Not Waived matters will be the priority for the Court and placed on calendar consistent with the law. Time Waived matters will be set at the Court's convenience. Counsel is strongly encouraged to meet and confer to see if there is a reasonable resolution without a contested hearing during this time. In addition, the Court will hear custodial requests for those minors whose CJH are being continued. Due to court staffing shortages Time Waived contested jurisdiction hearings may take longer than in the past.

9. IDC/JURIS: All out of custody IDC will be scheduled as previously scheduled prior to COVID. The youth is expected to appear and an IDC either in person or remotely.
- 10.RESTITUTION SETTING: Will be set after Disposition at the Court's convenience.
- 11.CONTESTED TRANSFER HEARINGS: Will be set as soon as possible at the Court's convenience.
- 12.TRANSFER TO DJJ: Those committed to DJJ will remain in the hall pending transfer to DJJ. This is for youth who have already been committed to DJJ or those currently pending a Transfer Hearing and who are not actually transferred to Adult Criminal Court.
- 13.MOVES TO COUNTY JAIL AT AGE 25: The law now requires that youth pending a juvenile matter only-- will be housed in the Juvenile Hall up to the age of 25.
- 14.REMOTE HEARINGS: The Court will continue to utilize remote hearing equipment. JPD will continue to email reports to the stakeholders in order to prevent attorneys from having to appear in court if that attorney wishes to appear remotely.
- 15.DJJ REALIGNMENT: The stakeholders will continue to work together to develop the Secure Youth Treatment Facility (SYTF). All youth who would otherwise have been sent to DJJ due to the commission of a 707(b) offense may be committed to the new SYTF.
- 16.APPLICATION & ORDERS: Application and Orders for all stipulated agreements by the parties are to be presented to the judge for a signature and processing.

**CITA Court Process:**

The Court for the Individualized Treatment of Adolescents will continue to be held informally on the 1<sup>st</sup> and 3d Thursdays of the month in the morning and the afternoon. The morning will consist of case staffing with the Court and all team members. In the afternoon youth may appear either in person or remotely. The afternoon hearings will not be reported due to continued court staff shortages. If any matter needs to be placed on the record the parties agree to set the case on a Wednesday morning so that any agreements can be memorialized.

**Court Staffing Issues:**

The Court is facing an unprecedented staffing shortage. Although much of the County is opening and going back to pre-COVID staffing levels—the Juvenile Court will not be able to return to three courtrooms running every day all day. Therefore the Juvenile Court will continue to run only two courtrooms each day and supports only setting matters that require a court hearing like detention, jurisdiction, disposition, restitution settings, and trial matters.

**Courthouse Access:**

The Courthouse is now open to the public. The restrictions to courthouse access have been lifted by Judge Zayner. Mask requirements in all public spaces continue to be mandated.