

*Superior Court of California
County of Santa Clara*

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Chambers of
HON. KATHERINE LUCERO, Judge



To: The Juvenile Justice Stakeholders
From: The Juvenile Justice Court Division Judges
Date: June 1, 2020

Re: JJ COVID-19 Temporary Protocols March 14- July 30th, 2020

Recap of March 14, 2020 through May 3, 2020:

Access to Court- essential hearings plus other matters in consultation with JJ Stakeholders.

1. All matters (uncontested jurisdiction/disposition without witnesses/detentions) for in-custody youth have been heard within regular time frames. The Court has emergency orders to extend time frames but will work to set matters within regular time frames whenever possible. All partners have been provided the Emergency Orders from the Chief Justice of the Supreme Court as well as Santa Clara County's implementation orders and they are also located on the Superior Court website.
2. Out of custody Identification of Counsel (IDC), Jurisdiction, and Disposition hearings were continued to a future date (generally 8 weeks out).
3. Attorneys may appear remotely (as of April 21, 2020). Remote appearances are via Skype. Invitations are sent by the court to the District Attorney, Public Defender, Alternate Defender's Office, and the Independent Defender's Office, and then forwarded to the attorneys that will appear in court. District Attorneys typically appear remotely, and the Public Defender, the Independent Defender's Office, and the Alternate Defender's Office typically send a representative to appear in person or have the option to appear remote. The court encourages remote appearances when possible.
4. Probation reports are being provided remotely (as of April 20, 2020). Jay Suekawa is the Juvenile Probation court unit supervisor and contact for the electronic transmission of probation documents to the District Attorney's Office for dissemination to the Public Defender's Office. Documents are forwarded by secure email or fax and then scanned and forwarded to the Public Defender's Office.
5. In-Custody Youth continue to come into court and one parent/guardian is admitted from the public.
6. Appropriate physical distancing required, and mask precautions recommended for everyone appearing in person in court.
7. Matters on for dismissal or Informal Supervision (I.S.) compliance are being heard so that probation can be dismissed where appropriate. Youth should appear remotely, or their appearance may be waived. Youth appearing remotely will appear by phone. In some cases, Application and Orders are being submitted and processed in lieu of court hearings.
8. Time sensitive matters such as Competency Restoration, Permanency Planning Hearings (PPH), etc. remain on calendar and will be heard with the youth's appearance being waived or the youth appearing remotely with a new date set within the legal timelines, The Court may utilize emergency orders if necessary, but will do its best to work within regular timelines.

9. Welfare and Institutions Code 241.1 reports for Dually Involved Youth (DIY) continue to be requested, submitted, and decided on for planning purposes. If the youth is in-custody, the youth will appear in person, if the youth is out of custody, the youth will appear remotely.
10. Emergency procedures have been implemented for either filing a motion or calendaring a hearing for emergency relief (due to non-COVID 19 reasons). Please see separate memo as to emergency procedures.
11. SDT's (subpoenas for records) may be set on the already existing court date (as of April 24th, 2020).
12. W&I Section 827 petitions continue to be processed by the Juvenile Justice Court
13. All reviews are vacated.
14. Two Judicial Officers trade-off for one open department per day to minimize staff needs and foot traffic.
15. No contested hearings will be heard. The court will utilize its emergency powers to continue contested hearings.

Recap of May 3, 2020 through May 29, 2020

1. Continue all hearings and court access as outlined above.
2. JURISDICTION RESOLUTIONS¹ may be put on the record for out of custody youth. Youth and parents should appear remotely. No contested jurisdiction hearings (trials) for out of custody youth may be set in May. However, if a date has already been set, that date will remain as set. If the matter will not resolve, the contested hearing will be continued until after the Emergency Orders expire.
3. Identification of Counsel (IDC)/JURISDICTION: Currently set IDC matters may be heard. Youth are expected to appear remotely so that counsel can be appointed and begin working on the matter. If there is an agreed upon Jurisdiction resolution with a completed waiver at the IDC appearance date, it will be handled same as #2 above.
4. UNCONTESTED DISPOSITION MATTERS to be heard, if parties have probation's Disposition report in advance of court, the defense attorney has reviewed the report and recommendations with the youth, and the parties are in agreement with the recommendations (with the exclusion of arguments related to a term of probation or probation conditions). Out of custody youth and parent/guardian should appear remotely. Resolving Disposition will allow probation to begin supervising the youth.
5. Rationale: Resolving JURISDICTION and DISPOSITION as early as possible will allow for youth to move their cases forward, and allow for the Court to manage and adopt appropriate interventions and supervision (such as EMP/CRP "commitments") as well as order probation terms and conditions to allow probation to appropriately supervise the youth.

¹ If the defense attorney has gone over the waiver form with their client, and the court is simply taking an admission, then the case may proceed. 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.

6. Cases set for Jurisdiction and Disposition that are set for more than two (2) weeks into the future can be advanced for resolution with permission by the Court through a calendar request and if there is room on the calendar.
7. It is the expectation of the Court that all out of custody youth and their parent/guardian will appear remotely.
8. Appropriate social distancing and masks required to be worn in court (as of May 12, 2020 court order) for all persons appearing in court including counsel, staff, and litigants. Those who do not have a mask will be provided with one. Any request for exemption of this order may be made in court to the judge.
9. All parties are referred to the EMP/CRP² protocol, adopted by agreement of all the stakeholders on May 5, 2020. Any requests that deviate from the protocol will be considered via written requests only.
10. Three judges will be in the rotation for the division. Each judge will make every effort to schedule cases on their assigned court days but due to calendar availability, judges will necessarily have to hear matters from other departments. Judges will seek Arbuckle waivers when appropriate. Each judge is available for case conferencing on the non-court day to manage and resolve cases. Counsel wishing to case conference with a judge should email the judge to set up an appropriate time and remote platform for the conference.
11. As of May 15, 2020, the District Attorney, the Public Defender, and the Alternate Defender's Office agreed that Independent Evaluations for Competency Restoration could be handled remotely. Attorneys appointed through the Independent Defense Counsel Office alternatively, will make that decision on a case by case basis.

May 29, 2020 through June 29, 2020

1. Continue all hearings in the manner described above.
2. Court will continue having calendar call every morning at 8:30.
3. The Court will continue to hear Jurisdiction resolutions and uncontested Disposition matters (as defined above). For Jurisdiction, the attorneys should appear at court with a completed waiver form to the extent possible. Waiver forms may be completed remotely with counsel initialing for clients and representing in court that they have gone through the appropriate portions of the form. The court will continue to take admissions orally. For Dispositions, counsel should discuss the Disposition with their client in advance of court and be ready to proceed.
4. When a case is going to be continued for discovery, further investigation, mitigation, or further discussions between counsel, counsel should email the judge the day before court to notify court of the request for continuance. This will allow the court to efficiently provide new dates at 8:30 calendar call. If counsel is in contact with their client, and there is no objection or concern about a Failure To Appear (FTA) or ordering the minor back, the youth's appearance can be waived and by agreement, reporter can be waived, and the matter can proceed by minute order.

²² EMP is the Electronic Monitory Program and CRP is the Community Release Program

5. It is the Court's continued expectation that Out of custody clients and their parent/guardian do not come to court and will appear remotely by phone.
6. Security Risk (S.R.) youth should be called out and handled immediately following calendar call so that they can get back to school and services.
7. CONTESTED Jurisdiction Hearings will be heard. Hearings for in-custody youth are a priority.
8. CONTESTED Disposition Hearings will be heard. Hearings for in-custody youth are a priority.
9. The Court continues to retain the authority to use emergency powers to set outside the regular timeframes. This is especially important for calendar management with only one additional department open for contested hearings only. However, the Court will continue to attempt to set within appropriate timeframes to the extent possible.
10. Two Departments are now open: One Department for morning calendars settings and afternoon trials and one Department for contested matters only all day
11. When contested matters are set, counsel should meet and confer with the judge to discuss witnesses, remote appearances, schedule, and courtroom set up. This initial discussion can be held off the record, outside of court, and remotely between counsel and the judge. A readiness conference will also be set to be heard in court at least one week prior to the trial so that a comprehensive record can be made of the judge's rulings on remote witnesses and other pre-trial motions. During the COVID-19 crisis, it is the Court's responsibility to maintain a safe and healthy environment for minors, their parents, witnesses, staff, counsel, and the court. To enable the court to expand to contested hearings while simultaneously avoid increasing foot traffic under the current guidelines and orders of our court, the court encourages stipulations and remote appearances where possible to avoid the need for live testimony. Restitution stipulations: When a matter has a current or future court date for restitution setting and the parties agree to an amount and both the minor and parent are stipulating to that amount, it may proceed by way of stipulation and order from the court. Once ordered, the Restitution Setting date may be vacated. This process is encouraged to avoid additional court hearings.

June 30, 2020 through July 30, 2020

1. Continue all hearings as outlined above. It continues to be the Court's expectation that out custody minors and parent/guardian will appear remotely by phone.
2. Court will additionally hear RESTITUTION SETTINGS for Out of Custody Youth.
3. Transfer Hearings will be heard as possible with limited court availability. Transfer hearings will require a meet and confer process as described above with the judge to discuss remote witnesses, courtroom set up, scheduling and other issues. A readiness conference will be set at least one week prior to transfer hearing for the court to make a complete record on rulings related to remote witnesses and other matters. As in contested juris hearings, the court encourages stipulations where possible or submissions on reports to avoid the need for witness testimony.
4. Two Departments open as described above with continued physical distancing, wearing of masks, and remote appearances.

5. Contested hearings continue to be prioritized as follows: In-custody Jurisdiction and Disposition followed by out of custody Jurisdiction and Disposition and Transfer Hearings. The Court will continue to utilize any updated emergency powers granted only when necessary for calendar management and to protect the safety and health of everyone in court. The Court will continue to strive to follow regular timing guidelines to the extent possible.

Current Updated physical distancing protocols

The Santa Clara Superior Court has updated its Social Distancing Protocols for the facilities that are currently open to staff and the public – HOJ, Juvenile Justice, FJCC and DTS and to staff only – Traffic and RIC. These protocols are posted on the Superior Court website and will also be posted at the facilities.

Tom Daron is the point of contact for information related to the protocols. Any deficiencies in compliance with the protocol requirements may be reported to the County Office of Labor Standards Enforcement by calling the Office of Labor Standards Enforcement Advice Line at 866-870-7725. In addition, we wanted to remind you about the following information related to COVID-19.

- Please review the [COVID-19 information from the CDC](#). This website includes information on how to prevent COVID-19 from spreading, who is especially vulnerable to the disease, and when to seek medical attention.
- Make sure to [screen yourself for COVID-19 symptoms](#), including temperature and/or symptom checks using CDC guidelines.
- Please stay home and [get tested](#) if you have a frequent cough, fever, difficulty breathing, chills, muscle pain, headache, sore throat, recent loss of taste or smell, or if you or someone you live with have been diagnosed with COVID-19.
- Please review the [County guidelines](#) for when it is safe to return to work if you are symptomatic or have tested positive for COVID-19.
- Please review the following for guidance on [handwashing with soap and water](#), the [proper use of face coverings](#), and the [importance of social distancing](#). As a reminder, [face coverings are required](#) in all public areas of the Court and shared works spaces.

Respectfully Submitted,

Katherine Lucero
Presiding Judge of the Juvenile Division
Santa Clara County

