

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF MERCED

3
4 GENERAL ORDER RE: IMPLEMENTATION OF EMERGENCY RELIEF
5 AUTHORIZED PURSUANT TO GOVERNMENT CODE SECTION 68115 BY
6 CHAIR OF JUDICIAL COUNCIL
7 #2020-12 Second Amended
8

9 This Court has previously issued Standing Order #2020-04 and General
10 Orders #2020-01, #2020-02, #2020-03, #2020-04, #2020-05, #2020-06, #2020-07
11 amended, #2020-09, #2020-10, #2020-11, #2020-12, and #2020-12 Amended
12 pursuant to Government Code section 68115 limiting the services provided by this
13 court during the State of Emergency declared by the Governor in response to the
14 COVID-19 pandemic. On June 1, 2020, this Court issued General Order #2020-12
15 Amended authorizing a limited resumption of services and clarifying the status of
16 the previously issued orders in light of the limited resumption of services.

17 Effective June 2, 2021, this court will authorize an additional resumption of
18 services. Accordingly, this order authorizes the nature of the services being
19 resumed, the rules in effect for court facilities during this period of additional
20 resumption of services, and clarifying the status of the previously issued orders in
21 light of this additional resumption of services.

22 Remote appearances are strongly encouraged, and may be required by some
23 judicial officers. The court has established video and/or telephone conferencing in
24 all courtrooms and will continue to limit physical access to all courthouse
25 buildings.
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1 **Entrance to Courthouse Building:**

- 2 1. Only parties, their attorneys and witnesses, will be admitted to any
3 courthouse. Spectators and friends of parties will not be admitted to any
4 courthouse with exceptions for criminal jury trials and criminal
5 preliminary hearings. Seating is limited and subject to judicial officer
6 discretion. Public access to court proceedings is provided online and can
7 be accessed via www.mercedcourt.org. In Los Banos, parties, witnesses
8 and attorneys may only be admitted to the public area of the courthouse
9 where they will have access to terminals enabling them to participate in
10 remote hearings. Exceptions are made for criminal preliminary hearings.
11 Seating is limited and subject to the discretion of the judicial officer.
- 12 2. Every courthouse will designate Screeners to determine which
13 individuals will be admitted to the court.
- 14 3. Individuals who advise the Screeners that they are ill or have been ill
15 with flu like symptoms or have suffered a fever or cough or shortness of
16 breath, will not be admitted to the courthouse. Individuals who are not
17 permitted to enter must contact their attorney or the clerk’s office to
18 arrange for their matters to be continued.
- 19 4. Prior to admission to the courthouse, each person shall submit to a non-
20 invasive temperature screening process and/or declaration. Any
21 individual showing a temperature of 100.4 degrees or greater will not be
22 admitted to the courthouse. Individuals who are not permitted to enter
23 must contact their attorney or the clerk’s office to arrange for their
24 matters to be continued.
- 25 5. All persons entering the court facilities shall wear a face covering or face
26 mask while in any of the public areas of any Merced Court Facility and in
27 the courtrooms unless advised by the judicial officer that a mask may be
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1 removed while in the courtroom. Individuals entering the courthouse are
2 strongly encouraged to bring their own masks.

3 6. Individuals scheduled to appear in a given courtroom will be admitted to
4 the courthouse. Individuals permitted to enter will proceed through
5 security and will be directed to take a seat marked with an “X” or as
6 instructed by the deputy in the courtroom. Individuals admitted to the
7 courthouse shall not congregate in hallways.

8 7. Individuals admitted to the courthouse shall observe social distancing and
9 avoid contact with other individuals and avoid standing, walking or
10 sitting within six feet of another individual whenever possible.

11 8. When an individual’s hearing is completed, the individual will exit the
12 courthouse promptly.

13 9. Screeners shall have the discretion to refuse to admit any person to the
14 courthouse if in their judgment, the person is ill or otherwise poses a
15 potential danger. Individuals who are denied entrance must contact their
16 attorney or the clerk’s office to arrange for their matters to be continued.

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18 **Entrance to Specific Courtrooms:**

19 **2260 “N” Street, Merced, CA Courthouse:**

20
21 **Courtroom 1:**

- 22 1. Courtroom seating is limited to allow for social distancing. Courtroom
23 Deputies shall designate seating by “X”s or other means.

24 **Courtroom 2:**

- 25 1. Courtroom seating is limited to allow for social distancing. Courtroom
26 Deputies shall designate seating by “X”s or other means.

1 **Courtroom 3:**

- 2 1. Courtroom seating is limited to allow for social distancing. Courtroom
3 Deputies shall designate seating by “X”s or other means.

4 **Courtroom 4:**

- 5 1. Courtroom seating is limited to allow for social distancing. Courtroom
6 Deputies shall designate seating by “X”s or other means.

7 **Courtroom 5:**

- 8 1. Courtroom seating is limited to allow for social distancing. Courtroom
9 Deputies shall designate seating by “X”s or other means.

10 **Courtroom 6:**

- 11 1. Courtroom seating is limited to allow for social distancing. Courtroom
12 Deputies shall designate seating by “X”s or other means.

13 **Courtroom 7:**

- 14 1. Courtroom seating is limited to allow for social distancing. Courtroom
15 Deputies shall designate seating by “X”s or other means.

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18 **627 West 21st Street, Merced, CA Courthouse:**

19 **Courtroom 8:**

- 20 1. Courtroom 8 will be combined with Courtroom 10, with hearings held in
21 Department 10.

22 **Courtroom 9:**

- 23 1. Courtroom seating is limited to allow for social distancing. Courtroom
24 Deputies shall designate seating by “X”s or other means.
25 2. Courtroom 9 will continue its normal traffic, small claims and limited civil
26 matters and offers remote appearances for all matters but will permit
27 individuals to appear in the courtroom.

1 **Courtroom 10:**

- 2 1. Courtroom 10 will continue with remote hearings only, although a limited
3 number of individuals who appear at the courthouse may be permitted to use
4 the courthouse terminals to participate in the remote hearings. Nobody will
5 be allowed in the courtroom itself.
- 6 2. Courtroom 8 matters will continue to be heard in Courtroom 10 and will
7 provide remote hearings only, although a limited number of individuals who
8 appear at the courthouse may use the courthouse terminals to participate in
9 the remote hearings. Nobody will be allowed in the courtroom itself.

10
11 **2840 West Sandy Mush Road, Merced, CA Courthouse:**

12 **Courtroom 11:**

- 13 1. Courtroom 11 will continue to provide remote hearings for all matters
14 although a limited number of individuals involved with the case may be
15 permitted to appear in the courtroom at the discretion of the hearing officer.
16 Privacy requirements dictate that only individuals involved in a given case
17 may be present when that case is proceeding.

18
19 **1159 "G" Street, Los Banos, CA Courthouse:**

20 **Courtroom 12:**

- 21 1. Courtroom 12 will continue to provide remote hearings, although a limited
22 number of individuals who appear at the courthouse may be permitted to use
23 the courthouse terminals to participate in the remote hearings. In person
24 access is limited to viewing criminal preliminary hearings. Seating is
25 subject to judicial officer discretion.

1 **Courtroom 13:**

- 2 1. Courtroom 13 will resume its Family Law matters and will continue to
3 provide remote hearings only, although a limited number of individuals who
4 appear at the courthouse may be permitted to use the courthouse terminals to
5 participate in the remote hearings. Nobody will be allowed in the
6 courtroom.

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9 **STANDING ORDER #2020-04**

10 Policies outlined in Standing Order #2020-04 have concluded and no longer
11 applicable except:

- 12 • Family Court Services will continue with remote mediation services and will
13 schedule telephonic and remote mediation opportunities for litigants. This
14 policy will continue.
- 15 • Self-Help Centers will continue with telephonic appointments and remote
16 services. Members of the public can reach the Self-Help office by emailing
17 selfhelp@mercedcourt.org. This policy will continue.

18
19 The court had previously ordered that No-time-waiver criminal matters, restraining
20 order hearings, emergency family law Requests for Order, and other case or
21 calendar types and hearings not specifically listed as essential. All categories have
22 resumed.

23
24 **GENERAL ORDERS**

25
26 The following General Orders are superseded by a current order, rescinded or are
27 no longer applicable: #2020-01, #2020-02, #2020-05, #2020-06, #2020-08, #2020-
28 09 and #2020-10.

1 The following General Orders remain in effect.

2 **GENERAL ORDER #2020-03**

3 General Order #2020-03 provided for the extension of time periods in
4 criminal matters and has been superseded by General Order #2020-11 except with
5 respect to extension of time periods for arraignments and the time period for
6 preliminary hearings. Those provisions that remain in effect are provided as
7 follows:

8 The Chief Justice, incorporating the same herein, does HEREBY FIND AND
9 ORDER:

10 A. Extensions of Time Periods

- 11 1. That the time period provided in section 859b of the Penal Code for
12 the holding of a preliminary examination and the defendant's right to
13 release is extended from 10 court days to not more than 30 court days.
14 2. That the time period provided in section 825 of the Penal Code within
15 which a defendant charged with a felony offense must be taken before
16 a magistrate is extended from 48 hours to not more than 7 days.

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18 **GENERAL ORDER #2020-04**

19 **JUVENILE DELINQUENCY ORDER**

- 20 1. Except for minors arrested for an offense listed in Welfare and Institutions
21 Code section 707(b) offenses, felony sex offenses, a felony domestic
22 violence offense, an offense involving personal use or possession of a
23 firearm, a felony assault with a gang enhancement, or a minor with a
24 placement order that has been issued by the Juvenile Delinquency Division,
25 arrested minors shall be cited and released by Probation. Probation has the
26 discretion to select a citation date that is not sooner than April 17, 2020.
27 2. Except for minors who are serving commitments for Welfare and
28 Institutions Code section 707(b) offenses, felony sex offenses, a felony

1 domestic violence offense, an offense involving personal use or possession
2 of a firearm, a felony assault with a gang enhancement, all minors with a
3 tentative release date within sixty days of April 6, 2020, shall be released
4 forthwith to a parent or guardian on previously ordered Probation terms; the
5 balance of the custodial commitment is commuted. As to these released
6 youth, any commitment to the juvenile global positions system is vacated.
7 The judges jointly makes this order, with the following additional provision:
8 If any such youth are subject to Placement Orders, Probation is to release
9 such youth as soon as suitable placement can be arranged, or to a parent or
10 guardian, if appropriate. Probation is directed to ex parte on a placement
11 review, with such hearings to take place within ten judicial days of the
12 reopening of the court.

13
14 **GENERAL ORDER #2020-07**

15 This General Order summarizes this Court's findings concerning the quality
16 and effectiveness of the remote hearings conducted since March 23, 2020. The
17 Merced Superior Court conducted Juvenile, Criminal and Family Law remote
18 hearings. The Presiding Judge conducted a number of remote hearings himself and
19 consulted with each of the other Merced Superior Court Judges conducting remote
20 hearings and this Court **HEREBY FINDS AND ORDERS AS FOLLOWS:**

- 21 1. The remote hearings provided by the Merced Superior Court since March
22 23, 2020 are the fully functional equivalent of live in-court hearings.
23 While they do not proceed as quickly as live in-court hearings, the sound
24 quality and video picture quality is as good as or better than available to a
25 person participating in a live in-court hearing. In all hearings conducted,
26 the Judicial Officer has been able to understand the testimony and fully
27 evaluate the demeanor of each speaker, unless the speaker appears by
28 telephone.

- 1 2. Just as in a live hearing, there are times where a participant fails to speak
2 into their microphone and must be prompted to repeat what they said,
3 there are occasions where participants forget to unmute their connection
4 or do not speak clearly and must be prompted to repeat their statements.
5 While a connection has occasionally failed during a hearing, such failure
6 usually comes to the immediate attention of the courtroom clerk
7 controlling the video conference and the hearing is paused until a new
8 and satisfactory connection can be made.
- 9 3. When an interpreter is required, the hearing proceeds more slowly
10 because the interpreter must proceed with sequential rather than
11 simultaneous interpretation, but the quality of interpretation is as good or
12 better than the use of simultaneous interpretation during a live in-court
13 hearing.
- 14 4. When a participant and their attorney need to conduct a private
15 conversation, the court has developed several processes for
16 accommodating that need.
- 17 5. Remote hearings also preserve the right of the public of observe court
18 proceedings as certain non-confidential remote hearings are being
19 streamed by the Merced Superior Court to the public via a livestream.
- 20 6. The remote hearings have been so successful, that there have been
21 inquiries from justice partners, including criminal defense counsel and
22 civil counsel, requesting that the option to provide remote hearings in lieu
23 of in-court hearings continue after the state of emergency is over.
- 24 7. This court concludes that the remote hearings conducted by the Merced
25 Superior Court since March 23, 2020 have fully accommodated the rights
26 of all the participating parties and constitute the fully functional
27 equivalent of live in-court hearings.
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- 1 8. This court finds that the threat of contagion is such that live in-court
2 criminal hearings would jeopardize the health of the Deputy District
3 Attorney participating in the hearing, the District Attorney's Office, and
4 its ability to function in other matters; would jeopardize the health of the
5 Deputy Sheriffs or other law enforcement participating in the hearing, the
6 Sheriff's office or other law enforcement agencies participating in the
7 hearing, their staff, and their ability to function in other matters; would
8 jeopardize the health of defense counsel and the ability of defense
9 counsel's firm or the public defender to function in other matters; would
10 jeopardize the health of the defendant himself, and would jeopardize the
11 health of the court staff and its ability to function in other matters.
12 Similarly, live in-court civil hearings would jeopardize the health of all
13 participants, including counsel, parties, and witnesses, in such civil
14 hearings. This court incorporates by this reference, the April 8, 2020
15 letter from Sheriff Vern Warnke discouraging the transportation of
16 prisoners in lieu of remote hearings, and the April 22, 2020 Letter from
17 the Merced County Department of Public Health, discouraging the use of
18 live hearings, copies of which are attached hereto as Exhibits A and B.
- 19 9. This court finds that remote hearings do not impinge on the rights of any
20 party in any material way, while adequately protecting the health and
21 safety of all participants. This court finds that increases in safety
22 presented by remote hearings far outweighs any potential advantages in-
23 person hearings might have over remote hearings while the State of
24 Emergency remains in effect.
- 25 10. This order remains in effect and is consistent with the court's experience
26 with remote hearings conducted after General Order #2020-07 Amended
27 was issued. Accordingly, General Order #2020-07 Amended remains in
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1 effect, through the decision to conduct live versus remote hearings after
2 May 31, 2020 rests with the discretion of the hearing officer.

3
4 **GENERAL ORDER #2020-11**

- 5 1. The authority to hold sessions anywhere in the county, including in
6 correctional and juvenile detention facilities, is granted from May 13, 2020
7 through June 10, 2020. This order remains in effect.
- 8 2. The declaration that March 23, 2020 through May 12, 2020, inclusive be
9 deemed holidays for purposes of computing time under Welfare and
10 Institutions Code section 313, 315, 334, 631, 632, 637, and 657, is extended
11 the period May 13, 2020 through June 10, 2020. This order remains in
12 effect.
- 13 3. The time period provided in section 1382 of the Penal Code within which a
14 trial must be held an additional 30 days to not more than 120 days in cases
15 were the initial statutory deadline would otherwise expire from March 16,
16 2020 to June 15, 2020, inclusive. This order remains in effect.
- 17 4. The period provided in section 313 of the Welfare and Institutions Code
18 within which a minor taken into custody pending dependency proceedings
19 must be released from custody to not more than seven (7) days in cases
20 where the statutory deadline would otherwise expire from March 23, 2020 to
21 June 10, 2020. This order sunsets by its own terms.
- 22 5. The period provided in section 315 of the Welfare and Institutions Code
23 within which a minor taken into custody pending dependency proceedings
24 must be given a detention hearing to not more than seven (7) days in cases
25 where the statutory deadline would otherwise expire from March 23, 2020 to
26 June 10, 2020. This order sunsets by its own terms.
- 27 6. The period provided in section 632 and 637 of the Welfare and Institutions
28 Code within which a minor taken into custody pending wardship

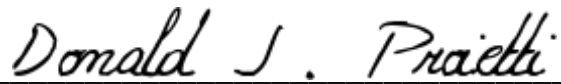
1 proceedings and charged with a felony must be given a detention hearing to
2 not more than seven (7) days in cases where the statutory deadline would
3 otherwise expire from March 23, 2020 to June 10, 2020. This order sunsets
4 by its own terms.

5 7. The period provided in section 334 of the Welfare and Institutions Code
6 within which a hearing on a juvenile dependency petition must be held by
7 not more than fifteen (15) days in cases where the statutory deadline would
8 otherwise expire from March 23, 2020 to June 10, 2020. This order sunsets
9 by its own terms.

10 8. The period provided in section 667 of the Welfare and Institutions Code
11 within which a hearing on a wardship petition for a minor charged with a
12 felony offense must be held by not more than fifteen (15) days in cases where
13 the statutory deadline would otherwise expire from March 23, 2020 to June
14 10, 2020. This order sunsets by its own terms.

15
16 THIS ORDER IS EFFECTIVE IMMEDIATELY.

17 Dated: 06/04/2021

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20 Hon. Donald J. Proietti, Presiding Judge



Rebecca Nanyonjo-Kemp, DrPH
Director

Kenneth Bird, MD, MPH
Health Officer

April 22, 2020

Attn: Honorable Donald J. Proietti
Presiding Superior Court Judge
Merced County



RE: In-Person Court Cases

Dear Judge Proietti,

The reason for this correspondence is to request re-evaluating the need of any in-person court proceedings until State and local Health Officer Orders have been amended or lifted. As you are aware, the State of California has enacted a shelter-in-place order significantly limiting mass gatherings and suspending services deemed non-essential. Merced County duly adopted a local health officer order on March 20, 2020 in alignment with the state-issued directive. Nationally and throughout the state of California, the number of reported cases of COVID-19, a virus that is highly infectious and preventable should appropriate preventative measures be in place, has resulted in 94 confirmed cases with three (3) deaths in this county alone.

The Merced County Department of Public Health is responsible for the health and well-being of all community residents. In-person court proceedings increases social mixing, which could cause an unnecessary health emergency and strain on emergency responders and hospital services. Such proceedings would also endanger the well-being of prosecuting attorneys, defense attorneys, and the defendants. As such, I strongly advise against continuing with in-person court cases of any type as this practice may lead to the development of further cases we are trying to prevent and control through preventative measures. Furthermore, I recommend this suspension stay in effect until further notice, or when the state advises that relaxed measures may resume.

The Department of Public Health continues to monitor and revise public approaches as the COVID-19 situation unfolds. Again, only essential services are permitted at this time. When it is considered safe to resume business - normal or modified - you will be notified.

Please know the welfare of our community members, no matter their current status, is of utmost importance. Should you have any questions, or need further assistance, please utilize us as a point of reference.

Sincerely,

Rebecca Nanyonjo-Kemp, DrPH
Director

Vicki Jones, MPA, REHS
Environmental Health Division Director

Jessica Montoya-Juarez, MS
Assistant Public Health Director

Yadira Vazquez, MBA
Assistant Public Health Director

James Clark, MICP, MHOAC
EMS Administrator

C.F. Bludworth Substation
9481 Shanks Road
Delhi, CA 95315
Phone: (209)385-7660
Fax: (209)669-7771

Animal Services Bureau
2150 Shuttle Drive
Atwater, CA 95301
Phone: (209)385-7436
Fax: (209)722-3627

Main Detention Facility
700 W. 22nd Street
Merced, CA 95340
Phone: (209)385-7410
Fax: (209)385-7489

Merced County Sheriff's Office

Vernon H. Warnke

Sheriff/Coroner

Jason D. Goins

Undersheriff

Sheriff's Administration

700 W. 22nd Street • Merced, CA 95340
Phone: (209) 385-7451 • Fax: (209) 385-7696

Jess Bowling Substation
445 "I" Street
Los Banos, CA 93635
Phone: (209)827-2110
Fax: (209)827-1433

Coroner's Bureau
455 E. 13th Street
Merced, CA 95340
Phone: (209)385-7369
Fax: (209)725-3390

John Latoracca
Correctional Center
2584 W. Sandy Mush Road
Merced, CA 95341
Phone: (209)385-7575
Fax: (209)725-3944

Date: April 8th, 2020
To: Presiding Judge Donald Proietti
From: Sheriff Vern Warnke
Re: Prisoner Transport for Court Hearings

I am authoring this letter to express my concerns over movement of inmates from our jail facilities to the court for judicial hearings at this time based on the COVID-19 pandemic. We are in unprecedented times and we are all trying to adopt the best practices while still accomplishing the mission. As the Sheriff of this County, it is my purpose to do everything in my purview to make public safety paramount. This rings true for not only the public and staff, but also for the inmates we house in our jail facilities. At present, the Merced County Sheriff's Office has no known cases of COVID-19 in our jail population. It is my hope to maintain this current record.

In the past week, my staff has worked in collaboration with the Merced County Superior Court to help facilitate the ability for court hearings to be heard remotely via video conferencing. I am aware there are two video conference systems at each jail facility (Main Jail and JLCC) for a total of four. I am told thus far this endeavor has been successful.

Our jail staff, vendors and anyone entering our jail facilities for legal visits are currently being screened with COVID-19 related questions. They are also required to have their temperature taken. We have also taken several other preventative steps to minimize exposure to our staff and inmates during the current pandemic.

Given the State of Emergency declared and the existing restricted movement of inmates to and from State of California facilities, I would request the Merced County Superior Court adopt the same guidelines. To date, we currently have 21 inmates in our custody that were either committed to the State Hospital or sentenced to State Prison. Based on current restrictions, those inmates will not be received by CDCR or the State Hospital until the State advises it is safe to do so and such restrictions are lifted.

By the Court adopting this restriction, it will halt potential COVID-19 exposure to our staff, our inmates, the public and employees outside the Sheriff's Office control who are not as stringently screened. Additionally, our PPE stockpile is limited and it is necessary to maintain what we have in the event exposure does occur.

We have also developed a protocol with our jail medical provider to set timetables for observation of new inmates. If for some reason this timetable were not met and we were required to transport an inmate to court expeditiously, there is a possibility of us unknowingly bringing a COVID-19 positive inmate into the Court.

I would offer my opinion that we continue to conduct court hearings remotely via video conference. I would hope the Merced County Justice Partners would join in these precautionary measures out of an extreme need for public safety. As we know, the COVID-19 virus is deadly. I cannot imagine potentially trading a life to have an in person court hearing when we clearly have an alternative option. We appreciate the partnership and consideration.