

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

3
4 GENERAL ORDER RESCINDING GENERAL ORDER 2020-04 ISSUED
5 APRIL 7, 2020, AND PARTIAL RESCISSION OF GENERAL ORDER 2022-01
6 ISSUED JANUARY 1, 2022, TO THE EXTENT THAT GENERAL ORDER
7 2020-04 WAS INCORPORATED BY REFERENCE
8 2022-05
9

10
11 On April 7, 2020, Merced Superior Court issued General Order 2020-04, Juvenile
12 Delinquency Order, attached as Exhibit 1. General Order 2020-04 was incorporated by reference
13 in General Order 2022-01 issued January 1, 2022, regarding the Implementation of Emergency
14 Relief Authorized Pursuant to Government Code Section 68115, attached as Exhibit 2.

15 Effective March 18, 2022, Merced Superior Court rescinds General Order 2020-04,
16 Juvenile Delinquency Order, and partially rescinds General Order 2022-01 issued January 1,
17 2022, to the extent that General Order 2020-04 was incorporated by reference. All other terms of
18 General Order 2022-01 remain in effect.

19 IT IS SO ORDERED.

20 Dated: 03/17/2022

Mark V. Bacciarini

21
22 HON. MARK V. BACCIARINI
23 Presiding Judge
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Exhibit 1

**FILED
MERCED COUNTY**

2020 APR -7 PM 1: 21

CLERK OF THE SUPERIOR COURT

BY  DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MERCED, JUVENILE DELINQUENCY DIVISION

JUVENILE DELINQUENCY ORDER

#2020-04

Due to the health and safety concerns caused by the COVID-19 epidemic, Governor Gavin Newsom’s Declaration of a State of Emergency, and the March 20, 2020 Order of the Honorable Donald Proietti, Presiding Judge of the Merced County Superior Court, regarding the COVID-19 Pandemic, it has been determined that the conditions described in section 68115 of the Government Code are met with regard to the Superior Court of California, County of Merced. All levels of government are taking action to protect our population and the public at large.

Additionally, on March 20, 2020 there was a Second Advisory by the Chief Justice on Emergency Relief Measures, which instructed courts, in part to: “With the assistance of justice partners, identify those persons currently in county jail or juvenile hall custody who have less than 60 days remaining on their jail sentence for the purpose of modifying their sentences to permit early release of such persons with or without supervision or to community-based organizations for treatment.”

There is now broad recognition that those in custodial settings are at great risk and must be protected, including the many youth people held in juvenile halls.

To protect young people in the juvenile delinquency system and those that work in the juvenile delinquency system, the Superior Court of Merced County Delinquency Division has prepared a plan to respond to the ever unfolding and changing conditions. The plan, as reflected in this order, was discussed and unanimously agreed upon by the justice partners.

This order is effective upon the date signed and will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID -19 pandemic is lifted, or until

1 amended or repealed by the issuing judicial officer or the Presiding Judge of Merced Superior
2 Court. During the duration of this order, the following shall apply:

- 3 1. Except for minors arrested for an offense listed in Welfare and Institutions Code
4 section 707(b), a felony sex offense, a felony domestic violence offense, an offense
5 involving the personal use or possession of a firearm, a felony assault with a gang
6 enhancement, or a minor with a placement order that has been issued by the
7 Juvenile Delinquency Division, arrested minors shall be cited and released by
8 Probation. Probation has the discretion to select a citation date that is not sooner
9 than April 17, 2020.
- 10 2. Except for minors who are serving commitments for Welfare and Institutions Code
11 section 707(b) offenses, felony sex offenses, felony domestic violence, personal
12 use or possession of a firearm, and felony assault with a gang enhancement, all
13 minors with a tentative release date within sixty days of April 6, 2020, shall be
14 released forthwith to a parent or guardian on previously ordered Probation terms;
15 the balance of the custodial commitment is commuted. As to these released youth,
16 any commitment to the juvenile global positioning system is vacated. The judges
17 jointly make this order, with the following additional provision: If any such youth
18 are subject to Placement Orders, Probation is to release such youth as soon as
19 suitable placement can be arranged, or to a parent or guardian, if appropriate. As
20 to any placement youth not released, Probation is directed to ex parte on a pre-
21 placement review with such hearing to take place within ten judicial days of the
22 reopening of the court.

23 **IT IS SO ORDERED.**

24 

25 Dated: 3/07/2020

26 _____
27 Hon. Mark Bacciarini, Juvenile Delinquency
28 Division

Exhibit 2

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 #2022-01
8

9 This Court has previously issued Standing Order #2020-04 and thirty-three
10 General Orders pursuant to Government Code section 68115 limiting the services
11 provided by this court during the State of Emergency declared by the Governor in
12 response to the COVID-19 pandemic.

13 Effective January 3, 2022, this court will authorize additional resumption of
14 services for in-person appearances. Accordingly, this order authorizes the nature
15 of the services being resumed, the rules in effect for court facilities during this
16 period of additional resumption of services and clarifies the status of the previously
17 issued orders.

18 Remote appearances are strongly encouraged and may be required in some
19 proceedings. The court has established video and/or telephone conferencing in all
20 courtrooms and will continue to limit physical access to all courthouse buildings.
21

22 **Entrance to Courthouse Building:**

- 23 1. Only parties, their attorneys, and witnesses will be admitted to any
24 courthouse. Spectators and friends of parties will not be admitted to any
25 courthouse with exceptions for criminal jury trials and criminal
26 preliminary examinations. Seating is limited and subject to judicial
27 officer discretion. Public access to court proceedings is provided online
28 and can be accessed via www.mercedcourt.org.

- 1 2. Every courthouse will designate Screeners to determine which
2 individuals will be admitted to the court.
- 3 3. Individuals who advise the Screeners that they are ill or have been ill
4 with flu-like symptoms or have suffered a fever, cough, or shortness of
5 breath, will not be admitted into the courthouse. Individuals who are not
6 permitted to enter must contact their attorney or the clerk's office to
7 arrange for their matters to be continued.
- 8 4. Prior to admission into the courthouse, each person shall submit to a non-
9 invasive temperature screening process and/or declaration. Any
10 individual showing a temperature of 100.4 degrees or greater will not be
11 admitted to the courthouse. Individuals who are not permitted to enter
12 must contact their attorney or the clerk's office to arrange for their
13 matters to be continued.
- 14 5. All persons entering the court facilities shall wear a face covering or face
15 mask while in any of the public areas of any Merced Court facility and in
16 the courtrooms, unless advised by the judicial officer that a mask may be
17 removed while in the courtroom. Individuals entering the courthouse are
18 strongly encouraged to bring their own masks.
- 19 6. Individuals scheduled to appear in a given courtroom will be admitted to
20 the courthouse. Individuals permitted to enter will proceed through
21 security and will be directed to take a seat marked with an "X" or as
22 instructed by the deputy in the courtroom. Individuals admitted to the
23 courthouse shall not congregate in hallways.
- 24 7. Individuals admitted to the courthouse shall observe social distancing,
25 avoid contact with other individuals, and avoid standing, walking, or
26 sitting within six feet of another individual whenever possible.
- 27 8. When an individual's hearing is completed, the individual will exit the
28 courthouse promptly.

1 9. Screeners shall have the discretion to refuse to admit any person to the
2 courthouse if, in their judgment, the person is ill or otherwise poses a
3 potential danger. Individuals who are denied entrance must contact their
4 attorney or the clerk's office to arrange for their matters to be continued.
5

6 **Entrance to Specific Courtrooms:**

7 **2260 "N" Street, Merced, CA Courthouse:**

8 **Courtrooms 1 - 7:**

- 9 1. Courtroom seating is limited to allow for social distancing. Courtroom
10 Deputies shall designate seating by "X"s or other means.
11

12 **627 West 21st Street, Merced, CA Courthouse:**

13 **Courtroom 8:**

- 14 1. Courtroom 8 will be combined with Courtroom 10, with hearings held in
15 Courtroom 10.
16

16 **Courtroom 9:**

- 17 1. Courtroom seating is limited to allow for social distancing. Courtroom
18 Deputies shall designate seating by "X"s or other means.
19

19 **Courtroom 10:**

- 20 1. Remote appearances are strongly encouraged and may be requested or
21 required in some proceedings. Courtroom seating is limited for in-person
22 appearances, to allow for social distancing. Courtroom Deputies shall
23 designate seating by "X"s or other means.
24 2. Courtroom 8 matters will continue to be heard in Courtroom 10.
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1 **2840 West Sandy Mush Road, Merced, CA Courthouse:**

2 **Courtroom 11:**

- 3 1. Courtroom 11 will continue to provide remote hearings for all matters and
4 may permit a limited number of individuals involved with the case to
5 personally appear in the courtroom at the discretion of the hearing officer.
6 Privacy requirements dictate that only individuals involved in a given case
7 may be present when that case is proceeding.

8
9 **1159 "G" Street, Los Banos, CA Courthouse:**

10 **Courtroom 12:**

- 11 1. Remote appearances are strongly encouraged and may be required in some
12 proceedings. Courtroom Deputies shall designate seating by "X"s or other
13 means. Courtroom seating is limited for in-person appearances, to allow for
14 social distancing. In-person public access seating to observe criminal
15 preliminary examinations is subject to judicial officer discretion. A limited
16 number of individuals who appear at the courthouse may be permitted to use
17 the courthouse terminals to appear at the hearings remotely.

18 **Courtroom 13:**

- 19 1. Courtroom 13 seating is limited for in-person appearances, to allow for
20 social distancing. Courtroom Deputies shall designate seating by "X"s or
21 other means.

22
23 **STANDING ORDER #2020-04**

24 Policies outlined in Standing Order #2020-04 have concluded and are no longer
25 applicable except for the following policies, which the court intends to continue:

- 26 • Family Court Services will continue with remote mediation services and will
27 schedule telephonic and remote mediation opportunities for litigants.

1 **GENERAL ORDER #2020-04**

2 **JUVENILE DELINQUENCY ORDER**

3 1. Except for minors arrested for offenses listed in Welfare and Institutions
4 Code section 707(b), felony sex offenses, felony domestic violence offenses,
5 offenses involving personal use or possession of a firearm, felony assault
6 with a gang enhancement, or a minor with a placement order that has been
7 issued by the Juvenile Delinquency Division, arrested minors shall be cited
8 and released by Probation. Probation has the discretion to select a citation
9 date that is not sooner than April 17, 2020.

10 2. Except for minors who are serving commitments for Welfare and
11 Institutions Code section 707(b) offenses, felony sex offenses, felony
12 domestic violence offenses, offenses involving personal use or possession of
13 a firearm, or felony assault with a gang enhancement, all minors with a
14 tentative release date within sixty days of April 6, 2020, shall be released
15 forthwith to a parent or guardian on previously ordered Probation terms; the
16 balance of the custodial commitment is commuted. As to these released
17 youth, any commitment to the juvenile global positions system is vacated.
18 The judges jointly make this order, with the following additional provision:
19 If any such youth are subject to Placement Orders, Probation is to release
20 such youth as soon as suitable placement can be arranged, or to a parent or
21 guardian, if appropriate. Probation is directed to file ex parte on a placement
22 review, with such hearings to take place within ten judicial days of the
23 reopening of the court.

24
25 **GENERAL ORDER #2020-07**

26 This General Order summarizes this court's findings concerning the quality
27 and effectiveness of the remote hearings conducted since March 23, 2020. The
28 Merced Superior Court conducted Juvenile, Criminal, and Family Law remote

1 hearings. The Presiding Judge conducted a number of remote hearings himself and
2 consulted with each of the other Merced Superior Court judicial officers
3 conducting remote hearings and this Court HEREBY FINDS AND ORDERS AS
4 FOLLOWS:

- 5 1. The remote hearings provided by the Merced Superior Court since March
6 23, 2020 are the fully functional equivalent of live in-court hearings.
7 While they do not proceed as quickly as live in-court hearings, the sound
8 quality and video picture quality is as good as or better than available to a
9 person participating in a live in-court hearing. In all hearings conducted,
10 the judicial officer has been able to understand the testimony and fully
11 evaluate the demeanor of each speaker, unless the speaker appears by
12 telephone.
- 13 2. Just as in a live hearing, there are times where a participant fails to speak
14 into their microphone and must be prompted to repeat what they said;
15 there are occasions where participants forget to unmute their connection
16 or do not speak clearly and must be prompted to repeat their statements.
17 While a connection has occasionally failed during a hearing, such failure
18 usually comes to the immediate attention of the courtroom clerk
19 controlling the video conference, and the hearing is paused until a new
20 and satisfactory connection can be made.
- 21 3. When an interpreter is required, the hearing proceeds more slowly
22 because the interpreter must proceed with sequential rather than
23 simultaneous interpretation, but the quality of interpretation is as good or
24 better than the use of simultaneous interpretation during a live in-court
25 hearing.
- 26 4. When a participant and their attorney need to conduct a private
27 conversation, the court has developed several processes for
28 accommodating that need.

- 1 5. Remote hearings also preserve the right of the public to observe court
2 proceedings as certain non-confidential remote hearings are being
3 streamed by the Merced Superior Court to the public via a livestream.
- 4 6. The remote hearings have been so successful that there have been
5 inquiries from justice partners, including criminal defense counsel and
6 civil counsel, requesting that the option to provide remote hearings in lieu
7 of in-court hearings continue after the state of emergency is over.
- 8 7. This court concludes that the remote hearings conducted by the Merced
9 Superior Court since March 23, 2020 have fully accommodated the rights
10 of all the participating parties and constitute the fully functional
11 equivalent of live in-court hearings.
- 12 8. This court finds that the threat of contagion is such that live in-court
13 criminal hearings would jeopardize the health of the Deputy District
14 Attorney participating in the hearing, the District Attorney's Office, and
15 its ability to function in other matters; would jeopardize the health of the
16 Deputy Sheriffs or other law enforcement participating in the hearing, the
17 Sheriff's office or other law enforcement agencies participating in the
18 hearing, their staff, and their ability to function in other matters; would
19 jeopardize the health of defense counsel and the ability of defense
20 counsel's firm or the Public Defender's Office to function in other
21 matters; would jeopardize the health of the defendant himself, and would
22 jeopardize the health of the court staff and its ability to function in other
23 matters. Similarly, live in-court civil hearings would jeopardize the
24 health of all participants, including counsel, parties, and witnesses, in
25 such civil hearings. This court incorporates by this reference, the April 8,
26 2020 letter from Sheriff Vern Warnke discouraging the transportation of
27 prisoners in lieu of remote hearings, and the April 22, 2020 letter from
28

1 the Merced County Department of Public Health, discouraging the use of
2 live hearings, copies of which are attached hereto as Exhibits A and B.

3 9. This court finds that remote hearings do not impinge on the rights of any
4 party in any material way, while adequately protecting the health and
5 safety of all participants. This court finds that increases in safety
6 presented by remote hearings far outweighs any potential advantages in-
7 person hearings might have over remote hearings while the State of
8 Emergency remains in effect.

9 10. This order remains in effect and is consistent with the court's experience
10 with remote hearings conducted after General Order #2020-07 Amended
11 was issued. Accordingly, General Order #2020-07 Amended remains in
12 effect, though the decision to conduct live versus remote hearings after
13 May 31, 2020, rests with the discretion of the hearing officer.
14

15
16 THIS ORDER IS EFFECTIVE IMMEDIATELY.

17 Dated: January 1, 2022
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19 *Mark V. Bacciarini*
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21 _____
22 Hon. Mark Bacciarini, Presiding Judge
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