Fourth JJ COVID-19 Temporary Protocols

Recap March 14, 2020 through May 3, 2020:

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

1. All matters (jurisdiction/disposition/detentions) for in custody minors. Attorneys can now appear remotely, however, typically we have at least one Public Defender, and an Independent Defender's Office attorney 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 Informal Supervision 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 24th, 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.

May 3, 2020 through May 29, 2020

1. Continue all hearings and court access as outlined above.
2. JURIS RESOLUTIONS[1] 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.

[1] 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.

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 (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[2].
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.
10. On May 15, 2020 the DA, the PD 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 would like to make that decision on a case by case basis.

May 29, 2020 through June 29, 2020

1. Continue all protocols 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. Remote access could be available for high risk victims and witnesses and to reduce foot traffic in court.

June 30, 2020 through July 30, 2020

1. Continue all protocols above.
2. Contested Jurisdiction, Disposition and RESTITUTION SETTINGS for Out of Custody Youth.
3. Transfer Hearings
4. Two to three Departments open with continued social distancing and remote appearances.

[2] The Stakeholders have developed and EMP/CRP COVID-19 Protocol. If the parties cannot agree on reducing the supervised releases then the judge will make a decision upon request.

July 30, 2020 through February 28, 2021 *(subject to change if conditions unexpectedly improve)*

1. Continue all hearings and protocols as outlined above.
2. The Court continues to work with Emergency Orders and Implementation Orders in place. The Court will make every effort to hear cases under regular statutory timelines but may use emergency orders as needed due to limited courtroom access or should emergency or health conditions change.
3. **In Custody** Detentions/JURIS/DISPO continue to have priority.
4. Out of Custody Juris Resolutions/Dispo: To best utilize the limited court time, the Court encourages parties to meet and confer outside of court for matters involving exchange of discovery, offers, mitigation, and counter offers. The DA has agreed to provide offers in advance of court to defense counsel on all special studies/707b offenses. Aside from special study/707b offenses, the DA assigned to the calendar is the person to contact in advance for offers, discovery questions, and distribution of mitigation materials. To the extent possible, counsel is encouraged to meet with clients in advance of court to discuss the case and go through the waiver form for juris matters. The court will accept waivers that have been scanned, sent to the client, initialed and signed, and scanned back to counsel. Alternatively, the court will accept waiver forms initialed by counsel and signed by counsel on behalf of the minor upon the representation by counsel as an officer of the court that counsel has gone through the waiver form with the minor and initialed/signed on their behalf with their approval. The court will confirm the minor understood the waiver form and go over the minor's constitutional rights with minor remotely on the phone or via TEAMS during the court hearing. It continues to be the court's preference that whenever possible, out of custody minors appear via telephone/Teams to limit foot traffic and protect the health and safety of the court, counsel, staff, probation and other minors and their families.

5. For new Out of Custody IDC/Arraignment cases, the youth/family may appear remotely by phone/TEAMS to allow for appointment of counsel and arraignment. It is important that the minor appear remotely to address restraining orders, time waivers, and new court dates. If minor will admit on first appearance, such admission can proceed as described above for out of custody appearances.

6. Restraining Orders:
    a. When a TRO is issued at Detention, IDC, or any other court date, the Court will set a subsequent TRO hearing date one year out. This avoids multiple TRO forms having to be filed by the DA and avoids services issues for minors appearing remotely while the case is in and out of court prior to Disposition. That hearing date will be calendared as a TRO Hearing.
    b. Unless parties agree to a Permanent RO at detention, IDC, jurisdiction or any time prior to Disposition, the RO will be addressed at Disposition. At Disposition, the

Court will either impose a Permanent RO or dismiss the TRO, depending on the facts and circumstances of the particular case. The DA should track this and have the Permanent RO in their file at the time of Disposition if such order is being requested.

c. At Disposition, after the Permanent RO is issued or the TRO is dismissed, the TRO hearing date will be vacated.

7. The Court Calendar:
    a. The parties agree to continue to operate with one DA appearing remotely per department for the calendar. Additional DAs may appear remotely on special studies. Defense counsel may appear in person or remotely via skype/phone/or TEAMS.
    b. The parties agree that the courts will advise the court clerks to set no more than 15 matters per morning calendar, however, each judge may calendar additional matters if there is a request for an emergency hearing. It is the expectation that morning calendars do not exceed 20 matters. Detentions are not included in this calculation.
    c. If the morning calendars are not kept at the agreed upon number, the Court will begin setting calendar matters in the afternoon at 1:30pm. In order to continue to limit foot traffic to protect the health and safety of everyone appearing in court and due to limited staffing, the Court is not able to run more than two physical courtrooms at a time. Therefore, if morning calendars cannot be limited to the numbers stated above, the Court will modify the settings to have one department set all day for calendar matters and one department set all day for contested matters. While this will decrease the availability of Court for contested matters, it will also decrease the burden of people waiting all morning and having to return for the hearing in the afternoon. It also allows the Court time to make thoughtful and informed decisions and where possible connect with the youth in their cases.
    d. CONTINUANCES: Counsel should advise the court in advance of the court date when they are seeking a continuance for JURIS and the grounds for such continuance (discovery, investigation, mitigation, negotiation, or need to meet with client to go over waiver). Counsel should indicate whether they seek to have their minor's appearance waived for the continuance. Appearances may be waived with court approval. If counsel has not received approval from court, they should place the minor on telephone stand by for a remote appearance. Knowing which cases will be continued in advance will allow court to pick new dates in advance and quickly dispose of continuances at the 8:30 calendar call.
    e. The youth is allowed to have both parents at the court hearing if they are present in person. Since the youth are not allowed in person visitation, the court understands that when both parents come to court it is difficult to decide which parent can see their child. In that regard this opportunity is expanded to both parents. No siblings or extended family members are allowed to be present in

court without approval by the Court. Due to health concerns, minors in custody and parents/guardians in court may not have any physical contact.

8. Contested Matters
    a. Contested matters will be set according to courtroom availability. Contested matters may be set half day or full day depending on availability of court and counsel.
    b. The parameters of any contested matter should be discussed in advance with the Court by way of email, Case Conference, or at a Readiness Hearing. Such Case Conferencing will occur after the DA and defense discuss the issue(s) without the court or probation being present in order to avoid contested legal or factual matters being presented that would create a situation where the judge is now prevented from hearing the case at trial.
    c. For contested matters, counsel shall submit to court in advance (at readiness or a Case Conference) a list of witnesses. In determining whether witnesses will be present remotely or in person, the court will consider the unique facts and circumstances of the case combined with current health and safety concerns of the Court, County and State. As soon as Defense Counsel knows that a witness will be called on behalf of their client they will alert the Court.

9. Remote Hearings:
    a. The Court will instruct all parties and witnesses at the outset of each hearing that no pictures, audio, or video recording of the hearings are permissible.

    b. Outside Providers/ Support – CBO's may be forwarded Skype/Teams invitation by the Court, the defense or probation. This includes WRAP teams, FLY Mentors, the YWFC Life Coaches, New Hope for Youth mentors, etc.

    c. Other than the Public Defender, Defense Counsel appearing via Skype/Teams, should, to the extent possible, appear at 10:15 am to ensure defense attorneys who are present with clients at 8:30 am are able to call some of their matters and ensure youth and families are not lingering around the Juvenile Center unnecessarily. The court's primary focus continues to be limiting the number of people coming to and from Court during this time.

    d. Whenever the Courts are in session, the Skype/Teams video should be turned on so that supervisors or other permitted parties may observe the hearings just as if they were physically attending Court.

10. Restitution Settings

a. At Disposition, a Restitution Setting date will be set on the calendar to allow time to contact victim, obtain paperwork, and determine whether the minor will be agreeing to the amount or setting it for a contested restitution hearing. If the victim has not responded to requests by JPD by the restitution setting date, the matter will be taken off calendar and no further date set. In the Disposition report, JPD will continue to document the attempts that were made to contact the victim and any response obtained.
b. The DA may also assign the case to a victim advocate to follow up on restitution claims if at the Disposition date it looks like the victim has not been responsive, which can generally be flagged by that date.
c. Should JPD or the DA receive a request for restitution from the victim at a later date, either JPD or the DA may submit a calendar request to set a further restitution setting hearing.
d. If there is an amount provided for restitution, counsel should be prepared to state at the Restitution Setting date whether the minor will be submitting to the amount, in which case the Court will order restitution or not agreeing and setting it for Contested Restitution Hearing. The Court, at its discretion, may set a further Restitution Setting date prior to setting Contested Restitution Hearing if an amount is requested, but either side needs further time to obtain documentation or conduct investigation.
e. Minor may appear remotely at a Restitution Setting date but should appear in person at a Contested Restitution Hearing. If Restitution is ordered, the minor and parent must both be present, remotely or in person so they can properly be advised of the order.
f. Where there is a stipulated agreement to Restitution an App and Order may be submitted along with the JV-790 and JV-791 forms. The App and Order will also contain information on how to contact DTAC for the parent and youth with a court order to do so. If such agreement is provided in advance of Restitution Setting or a Contested Restitution Hearing date, the App and Order may be signed and the matter may be taken off calendar.

11. Parties may request a calendar setting for SDT for the ex-parte receipt of documents. In the calendar request, parties should notify the court of the next upcoming court date in the matter. The parties are encouraged to set the SDT on the next court date where possible.

12. CRP/EMP Updates:

a. The Court and all parties agree to follow the EMP-CRP Probation Protocol dated 8/3/20 unless and until further modified.
b. If any unique issues arise that may result in the youth coming back into custody on a technical violation, any party may schedule a remote Case Conference (see below).

13. Case Conferences
    a. Case conferences for complex or unique cases are permissible and should be utilized to discuss more complicated matters that may not have time for full discussion during a calendar.
    b. To request a case conference, parties should meet and confer on the issue in advance and thereafter seek the conference if necessary for court discussion/intervention.
    c. Case conferences are not recorded and will not have staff present.
    d. After any case conference, the parties must follow up with an email memorializing the discussion and agreements. After the Court responds to such email, it will then be included in the Court file by the Clerk at the earliest opportunity. This is to ensure a proper record is maintained.

14. Competency/Remediation:
    a. The Court may decide competency or remediation issues by way of written briefs, should the parties elect to forego a formal, contested hearing. Both sides should stipulate in their written briefs that they agree to this process and waive a formal hearing.

15. Dismissals and Sealing:
    a. Dismissal and sealing shall proceed by way of App and Order whereby information is provided to the judge and it is indicated that both sides have received the information on the case and agree to the dismissal/sealing. Appropriate forms shall be submitted with the App and Order.

    b. If an attorney wishes to calendar a case for dismissal and sealing whereby an App and Order is not possible given there is no agreement, defense counsel may submit a calendar request to the Court. The court will calendar the matter within the parameters of Court availability (limit 20 cases per session). The youth is expected to appear remotely.

    c. For cases whereby the Court or DA dismissed the case and referred it back to Probation for informal handling (either P.O. I.S. or some other intervention), those youth are entitled to a sealing pursuant to 786 (see *In re G.F.* (2017) 12 Cal App 5th 1). These cases should be processed via App and Order whereby Probation presents the Application outlining the youth has successfully completed the intervention and a JV-596 form.

    d. SJIS cases: Youth are eligible for SJIS up to the age of 21, however, Probation will continue to recommend dismissal and sealing in appropriate cases. Youth who have

turned 18 years old and will be terminated are still eligible for record sealing, although per our SJIS protocol, specific language must be used in the dismissal recommendations. Probation will prepare the sealing forms just like any other recommendation for dismissal and sealing.

16. CITA reviews:

    a. CITA Reviews will continue to be conducted remotely with the judge and the CITA Team on the first and third Thursday afternoon from 1:30 to 3pm. The CITA Court Coordinator sends out the agenda and the Skype/Teams Invitation. These are informal discussions and are done as a multi-disciplinary team.
    b. Any formal court proceedings that are done for CITA youth are scheduled for a court date.
    c. If any agreement of significance is achieved at the MDT, the DA and the Defense counsel will send a follow up email to the judge to be placed in the court file.

17. Court Reports:

    a. The current distribution of court reports will continue while JPD obtains permission to distribute the court reports directly to PD, ADO, IDO and the Court.

    b. Once permission is obtained, Probation shall provide Court reports to the Court, DA and Defense Counsel at least 48 hours in advance remotely and in writing. Probation will email the reports to the Court, the DA and the PD simultaneously.

    c. The Court Officer Unit will continue to review all incoming reports, and send them out as they are received to the DA and the PD, even if they are not for the next day.

18. Parent Copies of Court Reports :

    a. If a parent physically comes to Court, the Court officer will ensure the parent receives their copy of the probation memo/court report/EMP report. The interpreter should translate the report to the parents outside of the courtroom, if the parents are monolingual.
    b. **For parents who appear remotely** JPD will develop a manner to distribute the report to the parent either via email or U.S. Mail.

19. Court trainings and meetings will be held remotely.

20. It continues to be the goal of the Juvenile Justice Stakeholders to locate family and friends as alternative placements whenever possible. Probation, Defense Counsel and the Court should inquire early and often about alternative family placements if the youth's family is not available to maintain custody of their child

21. DJJ returns will be handled remotely whenever possible.
    a. Probation shall coordinate scheduling the remote hearing with DJJ.