

Superior Court of California County of Santa Clara

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San José, California 95113
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Chambers of
HON. DEBORAH A. RYAN, Presiding Judge



April 13, 2020

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Via Email

Re: Letters Regarding Public Access to Court Proceedings Amid COVID-19 Emergency

Dear Mr. Snyder, Ms. Guneratne, Ms. Gilbert, Ms. Glaberson, Ms. Gomez, and Mr. Jayadev:

Thank you for your recent letters regarding public access to court proceedings amid the COVID-19 emergency. Because your letters express similar concerns, I am taking the liberty of addressing my response to all of you. I regret that I have not had the opportunity to respond before now, but as you note, we are in an emergency situation. As you know, court proceedings are essential functions. The Court has been working nonstop since the inception of the COVID-19 emergency to maintain those limited functions that are necessary to address those who are incarcerated, in locked mental health facilities, in danger of harm and in need of temporary restraining orders including cases involving child custody, family violence, elder abuse, workplace violence and those in need of emergency civil writs, TROs and preliminary injunctions. We are doing this with limited staff and resources to assist in complying with the shelter in place order issued by the Santa Clara County Public Health Officer on March 16, 2020, later extended and amended on March 31, 2020, as well as the March 19, 2020 order of Governor Newsom directing all Californians to shelter in place in their residences with some exceptions.

One of the first priorities when this emergency began was to reduce the jail population consistent with public safety and public health. At the beginning of the state of emergency, the jail housed approximately 3300 people which was far too many to properly socially distance individuals. Working with our county justice partners we have identified and been able to safely release enough

people thereby reducing the jail population to approximately 2400. We are continuing to identify individuals who can be released, and expect the jail population to continue to decline.

Unlike other courts that made different decisions, our Court has, from day one, continued to conduct in-custody felony and misdemeanor arraignments and for family violence cases, both in and out of custody felony and misdemeanor arraignments where temporary restraining orders must be considered. Although we sought emergency orders from the Chief Justice that would allow us to hear these matters within 7 days rather than 48 hours in an abundance of caution, we have continued to hold these arraignments within 48 hours to ensure that incarcerated individuals are being timely seen and their case(s) evaluated for appropriate bail or release with participation from their lawyers and representatives from the District Attorney's Office.

While it is acknowledged that the current circumstances present an unprecedented crisis and prohibits a "business as usual" approach, the court does not agree with Mr. Snyder's premise that it has completely abandoned constitutional access rights. As described below, public access is restricted, but not completely prohibited, and we are working to develop other means of public access that comply with public health directives limiting the number of people gathering together while still allowing the public to hear, and participate in, if necessary, court proceedings.

I, and all Santa Clara County judicial officers, understand and support the state and federal constitutional issues and precepts regarding public access to the court. While access to courthouses is not an issue in ordinary times, the suddenness of the COVID-19 pandemic crisis and the short turnaround time that the Court had to respond to the shelter in place orders did create a situation that required quick and decisive action. Between the beginning of the shelter in place on March 17th and the issuance of the General Order on March 23, 2020, the public was allowed to come into the courthouse. It became readily apparent that the Court would not be able to adequately comply with the social distancing requirements necessary to ensure public health and safety, and that individuals, including children, were coming to court when they were not essential parties and should have been sheltering in place. Only after determining the seriousness of the situation and the lack of any other adequate remedy, did I issue a General Order on March 23, 2020 restricting access to the courthouses. This order was necessary to protect the public health and safety of everyone in the courthouse including the public, litigants, court staff, Sheriff's deputies and other law enforcement personnel, as well as judicial officers. The order, while restricting public access to persons required to appear in court for a court hearing which would generally include parties, their attorneys and witnesses subpoenaed to testify, also permits other persons to be allowed entry upon a finding of good cause. Anyone, including members of the media, crime victims and advocates and others who have a need to be physically in court upon a showing of good cause will be allowed physical access to the courthouse. Requests have been made and granted, including one to a member of the press on April 6, 2020.

At the time I issued the General Order the Court did not have the technological capability or the resources to do everything that needed to be done to provide remote access to those who were performing essential duties in the courthouse and to ensure full public access. Our Information Technology staff members, whose work and commitment to their duties has been tremendous, have been working around the clock to provide us with the means to hold hearings remotely and to reduce the number people in custody being transported to court. Many of the resources needed to

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accomplish this are not available because of the large number of people throughout the state who are now working from home. However, we are persevering and will be working on developing ways to provide more public access to court proceedings. Currently, we are hoping to provide access by way of listen only public conference dial-in lines. Anyone who feels they have good cause to actually be in court on the day of a hearing will still be able to make a request and have it decided by a judicial officer.

Regarding your concerns about public access to court records, these records are available online for many civil cases, but remote access to other case files is prohibited by the California rules of Court. (California Rules of Court, rule 2.503.) The daily Criminal calendar, however, can be viewed online. We cannot, at this time, allow access to the courthouse simply to review records. As I previously noted, we have limited staff in the courthouse. Those that are there are fully occupied with preparing calendars and processing e-filing queues, emergency orders and orders on submitted matters. Until we are able to bring more staff back to work, we will not be able to make records available at the courthouse. We are prepared to do this as soon as we can, mindful of the need to protect the public health and safety of all court users and staff.

Thank you for reaching out to the Court and allowing me the opportunity to respond to your concerns. The Court appreciates your vigilance and the role you play in safeguarding important constitutional rights.

Sincerely,



Deborah A. Ryan
Presiding Judge
Santa Clara County Superior Court

cc: Chief Justice Tani Cantil-Sakauye
Judicial Council of California
Jeff Rosen, Santa Clara County District Attorney
Molly O'Neal, Santa Clara County Public Defender
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