

FILED / ENDORSED
FEB 23 2021
By P. Banks, Deputy Clerk

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8 SUPERIOR COURT OF CALIFORNIA,
9 COUNTY OF SACRAMENTO

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11 ORDER OF THE SACRAMENTO
12 SUPERIOR COURT

**ORDER REGARDING MENTAL
HEALTH HEARINGS**

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16 GOOD CAUSE APPEARING, AND BY AGREEMENT OF THE
17 SACRAMENTO DISTRICT ATTORNEY'S OFFICE, THE SACRAMENTO COUNTY
18 PUBLIC DEFENDER'S OFFICE, DEPARTMENT OF BEHAVIORAL HEALTH,
19 AND COUNTY COUNSEL, IT IS HEREBY ORDERED:

- 20 1) It is in the best interest of public health to not conduct in person mental health
21 hearings regarding (1) writ of habeas corpus hearings and (2) Riese petitions at
22 acute psychiatric facilities or the main jail. These hearings shall be held
23 consistent with the Judicial Council Emergency Rule 3(a)(1) and (3).
24 2) Mental Health Riese Petitions and Writ of Habeas Corpus hearings shall be
25 conducted through either video, telephonic and/or declaration.
26 3) The mental health hearing calendar will take place on Mondays and Thursdays
27 beginning at 1:30 p.m. for all psychiatric facilities. Mental health hearings for
28 the jail will take place on Tuesdays and Fridays at 1:30 p.m. In the event of

1 hearings set at multiple facilities, the Court will assign specific start times to
2 each facility by email prior to 1:00 p.m. the day of the hearing.

3 4) Upon a patient requesting a writ of habeas corpus or a facility requesting a
4 Riese petition, facilities shall provide the following "packet" of discovery to its
5 Counsel and Public Defender:

- 6 a) All certification holds
- 7 b) Last two notes from the social worker
- 8 c) Last two days of progress reports
- 9 d) Last week of medication management charts
- 10 e) Most recent diagnosis

11 5) Timelines for mental health hearings include:

12 a. Riese Petitions: Riese petition shall include a declaration from an expert
13 and a copy of the packet of discovery. Riese petitions shall be filed by
14 12:00 p.m. the day prior to the hearing. Upon receipt of this petition,
15 Public Defender will interview the patient. If the patient requests a
16 telephonic hearing, Public Defender will notify the court by 9:00 a.m. the
17 day of the hearing. Public Defender will also submit their declaration in
18 response to County Counsel's declaration by 9:00 a.m. the day of the
19 hearing. If Public Defender chooses not to submit a response, Public
20 Defender must notify the mental health hearing calendar as soon as possible
21 but no later than 12:00 p.m. on the day of the hearing.

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23 b. Writ Motions: Public Defender will notify the mental health hearing
24 calendar by 12:00 p.m. the day before hearing with the names of any
25 patients requesting a writ of habeas corpus. Public Defender will also
26 notify the mental health hearing calendar by 9:00 a.m. the day of the
27 hearings if the patient is requesting a telephonic hearing. The Public
28 Defender may provide to the court, County Counsel and/or District

1 Attorney a declaration. The Public Defender will provide a copy of the
2 "packet" of discovery by 9:00 a.m. the day of the hearing. Public Defender
3 will also provide a "Third Party Assist" Declaration if appropriate. Parties
4 agree that the Public Defender can sign the "Third Party Assist"
5 Declaration based on a conversation with the third party. If the District
6 Attorney and/or County Counsel choose to submit a declaration in response
7 it shall be provided as soon as possible but no later than 12:00 p.m. on the
8 day of the hearing. If the District Attorney or County Counsel chooses not
9 to file a declaration, District Attorney/County Counsel may submit on the
10 discovery but must notify mental health hearing calendar by 12:00 p.m. on
11 the day of the hearing.
12

13 6) Any newly discovered information that counsel chooses to have the court
14 consider, must be provided to all parties by 10:30 a.m. the day of the hearing.
15 Any rebuttal declarations maybe submitted by 12:00 p.m. the day of the
16 hearing.
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18 7) If a patient requests a video and/or telephonic hearing, the Public Defender will
19 notify the Court by 9:00 a.m. the day of the hearing.
20

21 8) Facilities shall provide a list of all experts to the Public Defender. Public
22 Defender shall notify the facilities of any objection to an expert. If Public
23 Defender objects to an expert, counsel for the facilities shall provide to Public
24 Defender the CV of the expert and an opportunity to talk to the expert. Once
25 Public Defender reviews CV and is given an opportunity to speak to the expert,
26 Public Defender will be able to submit on the resident/doctor qualifications as
27 an expert.
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1 9) Counsel may provide a standing *Sanchez* Motion for the Court to consider when
2 reviewing its “packet” of discovery. The court will use its own discretion when
3 considering whether to exclude evidence based on *Sanchez*.

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5 10) Sierra Vista, Heritage Oaks, Sacramento County Mental Health Treatment
6 Center, Crestwood Sacramento, Crestwood American River, Veteran’s
7 Administration at Mather, Sutter Psychiatry, and the jail shall provide the Public
8 Defender:

- 9 a) Two time slots a week where the Public Defender can contact patients over
10 the phone or other electronic means.
- 11 b) Confidential phone meetings where the patient can speak to their Public
12 Defender in a confidential setting.
- 13 c) Staff from the facility who can coordinate the phone meetings with each
14 patient and verify to the Public Defender the name of the patient that will
15 be placed on the phone. If patient is catatonic or unable to verbally
16 communicate, facility will need to coordinate an electronic video interview
17 with the Public Defender.
- 18 d) Discovery of the patient. Specifically, facilities must also provide by email
19 to the Public Defender prior to the phone interview with the patient, (i) a
20 copy of all certification holds, (ii) the last two days of progress notes, (iii)
21 last two entries of social worker notes, and (iv) one week of medication
22 compliance history.

23 11) This order is temporary and will be removed 90 days after the lifting of the
24 emergency public health crisis.

25 DATED: 2/23/2021



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27 HONORABLE RUSSELL L. HOM
28 PRESIDING JUDGE OF THE SUPERIOR COURT
STATE OF CALIFORNIA, COUNTY OF SACRAMENTO