



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-158

For business meeting on December 2, 2022

Title

Criminal Procedure: Criminal Protective
Orders and Firearm Relinquishment Order

Rules, Forms, Standards, or Statutes Affected

Revise forms CR-160, CR-161, and CR-162

Recommended by

Criminal Law Advisory Committee
Hon. Brian. M. Hoffstadt, Chair

Agenda Item Type

Action Required

Effective Date

March 1, 2023

Date of Report

November 8, 2022

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Executive Summary

The Criminal Law Advisory Committee recommends revisions to two mandatory Judicial Council criminal protective orders to reflect statutory changes to Family Code section 6320 regarding enjoined actions and Penal Code section 15420(b) expanding the definition of a firearm. The committee also recommends revisions to a mandatory Judicial Council order to surrender firearms in a domestic violence criminal case to reflect the statutory changes expanding the definition of a firearm. The revisions to the forms also add a nonbinary gender option, improve consistency with the data fields in the California Restraining and Protective Order System, clarify protective order expiration dates, add additional provisions for protected persons from Penal Code section 136.2, and make changes to the forms' content, format, instructions, and advisements to make them easier to understand and complete.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective March 1, 2023:

1. Revise *Criminal Protective Order—Domestic Violence* (form CR-160) and *Criminal Protective Order—Other Than Domestic Violence* (form CR-161) to reflect statutory changes

regarding enjoined actions and expanding the definition of a firearm, add a nonbinary gender option, improve consistency with the data fields in the California Restraining and Protective Order System (CARPOS), clarify protective order expiration dates, and add additional provisions for protected persons from Penal Code section 136.2; and

2. Revise *Order to Surrender Firearms in Domestic Violence Case* (form CR-162) to reflect statutory changes regarding prohibiting possession of firearm precursor parts, include a nonbinary gender option, improve consistency with the data fields in CARPOS, and clarify protective order expiration dates.

The proposed revised forms are attached at pages 11–18.

Relevant Previous Council Action

Forms CR-160, CR-161, and CR-162 were last substantively revised, effective July 1, 2014, in response to a rule of court that addresses firearm relinquishment hearings and legislation that expanded court authority to issue criminal protective orders, authorized courts to order electronic monitoring in specified circumstances, prescribed a new firearm relinquishment option, and clarified enforcement priorities for no-contact orders in criminal and civil protective orders. The forms were revised more recently to incorporate nonsubstantive technical amendments to reflect renumbered statutes and avoid gendered pronouns.

Analysis/Rationale

This proposal is needed to implement changes to relevant statutes, more accurately reflect statutory requirements, be consistent with other Judicial Council protective and restraining orders, and make the forms more user-friendly.

Legislative changes

Enjoined actions under Family Code section 6320. Forms CR-160 and CR-161 each include a section on actions that the defendant is enjoined from based on Family Code section 6320. The committee recommends revising both forms to incorporate changes to Family Code section 6320 by Assembly Bill 157 (Stats. 2013, ch. 260) to enjoin the defendant from impersonating the protected person. The committee also recommends revising form CR-160 to incorporate changes to section 6320 by Senate Bill 1141 (Stats. 2020, ch. 248), which added a new subdivision defining “disturbing the peace of the other party” and “coercive control” in domestic violence situations, and Senate Bill 374 (Stats. 2021, ch. 135), which added “reproductive coercion” as an example of “coercive control.” The committee also recommends adding hitting and annoying by phone or through other electronic means as enjoined activities, consistent with the civil domestic violence protective order forms and Family Code section 6320.

Expanded definition of a firearm. Effective June 30, 2022, Assembly Bill 1621 (Stats. 2022, ch. 76) expanded the definition of a firearm as used in Penal Code sections 136.2 and Code of Civil Procedure section 527.9, as well as other code sections, to include completed frames, receivers, or “firearm precursor parts.” (Pen. Code, § 16520(b)(1), (24).) The change is intended

to include “ghost guns” (unserialized and untraceable firearms that can be bought in pieces online and assembled at home) in the list of items that restrained people cannot possess and must surrender. AB 1621 also amended the definition of firearm precursor parts to mean “any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.” (Pen. Code, § 16531(a).) Prior to AB 1621, a firearm precursor part was defined as an unfinished frame or receiver.¹

AB 1621 superseded a prior bill (Assem. Bill 1057; Stats. 2021, ch. 682), which would have added firearm precursor parts to the definition of firearm under specified Family Code and Penal Code sections. To implement AB 1057 in civil domestic violence restraining orders and gun violence forms, the Family and Juvenile Law Advisory Committee and Civil and Small Claims Advisory Committee recommended referring to receivers, frames, and firearm precursor parts as “firearm parts” and further defining firearm parts to include any “receiver, frame, or unfinished receiver or frame, as defined under Penal Code section 16531.” The two committees believed the same changes to the forms needed to implement AB 1057 were appropriate to implement AB 1621 and the Judicial Council approved that language, effective January 1, 2023. The Criminal Law Advisory Committee recommended using the same terminology for consistency and comprehensibility.

In response to comments received, the committee recommends referring to prohibited items generally as any firearms (guns), firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531), or ammunition. The committee developed this recommended language in conjunction with the Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee, working together in the Joint Protective Order Working Group, in an effort to further consistency in the council’s protective order forms. The Civil and Small Claims Advisory Committee is recommending similar language for restraining and protective orders under that committee’s purview in a separate report to the council.

¹ Former Penal Code section 16531(a):

As used in this part, “firearm precursor part” means a component of a firearm that is necessary to build or assemble a firearm and is described in either of the following categories:

(1) An unfinished receiver, including both a single part receiver and a multiple part receiver, such as a receiver in an AR-10- or AR-15-style firearm. An unfinished receiver includes a receiver tube, a molded or shaped polymer frame or receiver, a metallic casting, a metallic forging, and a receiver flat, such as a Kalashnikov-style weapons system, Kalashnikov-style receiver channel, or a Browning-style receiver side plate.

(2) An unfinished handgun frame.

Form changes to reflect existing statutory requirements

Expiration dates. The orders currently state: “This order expires on (*date*): _____. If no date is listed, this order expires three years from date of issuance.” The committee recommends (1) deleting the three-year expiration default on all forms because it appears overbroad as it relates to pretrial orders, which should terminate upon sentence or dismissal (see *People v. Stone* (2004) 123 Cal.App.4th 153, 160 [order must be “limited to the pendency of the criminal proceeding”]); (2) for forms CR-160 and CR-161, distinguishing between expiration dates for pretrial orders and postconviction orders; and (3) including additional language directing courts to use mandatory form *Notice of Termination of Protective Order in Criminal Proceeding* (CR-165) to terminate a pretrial order and a note that postconviction orders for specified offenses may last for up to 10 years.

Limited scope of specified provisions. The proposal adds instructive titles (highlighted below) to two existing provisions on forms CR-160 and CR-161 to specify that these provisions only apply when the protective order is issued pretrial under Penal Code section 136.2(a)(1) or to any order issued under section 136.2:

9. ☐ **No dissuading victim or witness (for pretrial orders issued under Penal Code section 136.2(a)(1))**
The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying, or making a report to any law enforcement agency or person.
10. **No obtaining addresses (for orders issued under Penal Code section 136.2)**
 - a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
 - b. ☐ The court finds good cause not to make this order.

Additional protected person provision. The proposal adds a provision to forms CR-160 and CR-161 for the court to indicate that it finds the victim’s family members have been targeted or harmed by the defendant (for postconviction orders issued under section 136.2(i)(1)).

Under section 136.2(i)(1), a court may issue an order restraining the defendant from any contact with the victim for up to 10 years upon conviction of specified offenses. The subdivision states that “[i]t is the intent of the Legislature in enacting this subdivision that the duration of a restraining order issued by the court be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of a victim and the victim’s immediate family.” Courts have held that the victim’s family members cannot be included in the postconviction protective order under 136.2(i)(1) without evidence they have been targeted or harmed. (See, e.g., *People v. Beckmeyer* (2015) 238 Cal.App.4th 461; *People v. Delarosarauda* (2014) 227 Cal.App.4th 205, 212.)

Percipient witness protection. The proposal adds a provision for the court to indicate that it finds that a percipient witness has been harassed by the defendant (for postconviction orders issued under section 136.2(i)(2)). Under section 136.2(i)(2), a court may issue a postconviction restraining order for specified offenses protecting a percipient witness if it can be established by clear and convincing evidence that the witness has been harassed by the defendant.

Recording of prohibited communications (form CR-161). Form CR-161 currently states that the protected person may record any prohibited communication made by the defendant. While a court may issue such an order upon the request of a victim of domestic violence who is seeking a domestic violence restraining order (Pen. Code, § 633.6(a)), there appears to be no corresponding statutory authorization for a non-domestic violence criminal protective order. Accordingly, the committee recommends deleting this prohibition from the form.

Federal punishment reference (form CR-161). Forms CR-160 and CR-161 currently state that “[u]nder federal law, the issuance of a protective order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.” The committee recommends deleting this statement from form CR-161, as it only applies to domestic violence protective orders (see 18 U.S.C. § 922(g)(8)).

Elder abuse protective order check box (form CR-161). The committee received a request for form CR-161 to include a check box indicating if the court is issuing a postconviction protective order under Penal Code section 368(l) in elder abuse cases. This would allow courts to issue the orders in a non-domestic violence elder abuse context; form CR-160, the domestic violence protective order, already includes a check box for orders issued under Penal Code section 368(l).

Additional improvements

User-friendliness and clear language. The committee recommends improving the accessibility of the forms by increasing readability, reorganizing and categorizing content, eliminating unnecessary repetition, and simplifying language whenever possible. The revisions would also make the forms more consistent with *Restraining Order After Hearing* (form DV-130), the civil domestic violence protective order, and other Judicial Council protective and restraining orders as appropriate.

Gender-neutral pronouns. The council’s Rules Committee has directed advisory committees, in revising all Judicial Council rules and forms, to use gender-neutral pronouns where legally possible and include a nonbinary option for gender-identity questions. Accordingly, the committee recommends changing references to “sex” on the protective orders to “gender” and including a nonbinary gender option.

Consistency with CARPOS. The committee recommends several changes to the form fields so that they are consistent with the data fields in CARPOS, and to denote when a field is mandatory in CARPOS.

Revise warnings and notices. The Warnings and Notices section of the forms includes some provisions addressed to defendants and others addressed to law enforcement, without differentiating between the two. Some of the warnings and notices are also duplicative of information already contained in the order. The committee recommends incorporating warnings and notices geared toward the defendant into the section of the form containing the order itself. For forms CR-160 and CR-161, the committee recommends creating a new notice section geared

toward law enforcement, discussed below, and for form CR-162, renaming the Warnings and Notices section as “Notices.”

Instructions for Law Enforcement section. This new section in forms CR-160 and CR-161 would incorporate three sections currently in the Warnings and Notices section, with revisions to mirror the plain language and other aspects of the civil domestic violence protective order.

The priority of enforcement item instructs law enforcement on how to enforce conflicting restraining orders in effect at the same time. This committee worked with other advisory committees in the Joint Protective Order Working Group on updating this language to ensure that the instructions are consistent across all Judicial Council restraining and protective order forms. The criminal protective order sub-item includes updated language to reflect changes to Penal Code section 136.2(e)(2) by Assembly Bill 1498 (Stats. 2014, ch. 665) and Assembly Bill 1171 (Stats. 2021, ch. 626) on the priority of enforcement of protective orders issued in specified criminal cases.

The committee also recommends adding a new provision to form CR-160 on page 4 regarding enforcement of a domestic violence protective order if the protected person contacts the restrained person:

2. If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

Policy implications

The criminal protective order forms are mandatory forms used by courts to issue protective orders in criminal cases as authorized by statute. The order to surrender firearms in a domestic violence criminal case is also mandatory. The recommended revisions are designed to implement statutory requirements and update the forms’ content, format, instructions, and advisements to reduce confusion and enhance the information provided.

Comments

The Criminal Law Advisory Committee circulated the proposed forms for public comment two separate times, incorporating revisions based on comments received in the first circulation along with recent legislative changes in the second circulation.² Some of the more significant comments are provided below. The committee’s specific responses to each comment are available in the attached comment charts at pages 19–52.

² The proposed changes to the forms are so extensive that they are not highlighted in forms CR-160 and CR-161, because essentially the entire form would have been highlighted. The Department of Justice has been notified of proposed revisions to all three forms, pursuant to Family Code section 6380(i).

First circulation (SPR22-08)

A proposal to revise forms CR-160 and CR-161 first circulated for public comment from April 1 to May 13, 2022. Eleven commenters responded to the proposal: superior courts (Los Angeles, Orange, and San Diego Counties), the Department of Justice, advocacy organizations (California Partnership to End Domestic Violence, Family Violence Appellate Project, Giffords Law Center), a bar association (Orange County), the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee, and members of the public. Two commenters agreed with the proposal outright and nine agreed if modified. All the comments and the committees' responses are in the attached comment chart labeled SPR22-08; the more significant ones are summarized below.

Information about protected persons (forms CR-160 and CR-161). The proposal recommended adding fields in the forms for the race and date of birth of the protected person and any additional protected persons, which are optional fields in CARPOS. The proposal also recommended adding fields about each additional protected person's relationship to the primary protected person and whether they live in the same household, which are also optional fields in CARPOS. The committee sought specific comments on whether the optional information should be included in the forms, given privacy considerations, and whether the date of birth field should be changed to year of birth or age.

Five comments were received on this issue, all stating that any optional information should not be included in the forms in order to preserve the protected person's privacy. The current versions of the forms only ask for the mandatory information (name, gender) and the protected person's age. In light of the comments, the committee recommends retaining only the mandatory information and asking for the protected person's age rather than date of birth. For consistency with the civil domestic violence restraining order (form DV-130), the committee recommends the forms ask for each additional protected person's relationship to the primary protected person.

Expiration dates. The forms currently state that if no expiration date is listed on the order, the order expires three years from date of issuance. The committee recommended a revision to clarify that if no expiration date is listed on the order, the order remains in effect until there is a sentence or termination of the protective order. The committee received four comments on this issue.

One commenter suggested revising the expiration date language for clarity to state that if no expiration date is listed, the order remains in effect until there is a further court order. The committee agreed with the revision, and also recommends separating expiration dates for pretrial and postconviction orders. Another commenter noted that the order should be modified to note that specified postconviction orders may be valid for up to 10 years so that it is easier for a judge to set the time period for a postconviction order. The committee agreed with the recommendation.

Enforcement language. Based on comments received on the civil domestic violence protective order form proposal (circulated for comments at the same time as the first circulation of these

forms), the committee recommends further modifying the enforcement language for consistency between criminal and civil protective orders and to accurately reflect the statutory requirements of Family Code sections 6383(h)(2) and 6405(b) and Penal Code section 136.2(c) and (e)(2).

Second circulation (SP22-11)

The proposal circulated for public comment for the second time from September 21 to October 11, 2022. Four commenters responded to the proposal: superior courts (Orange and San Diego Counties), the Bureau of Firearms within the Division of Law Enforcement in the California Department of Justice, and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. The Joint Rules Subcommittee agreed with the proposal, and the other commenters agreed if modified.

Specifying no third party contact. Forms CR-160 and CR-161 currently state that the defendant “must have no contact with the protected persons named above through a third party, except an attorney of record.” The revised forms combine two separate no-contact items regarding no direct or indirect contact with protected persons (item 12), aligns with the no-contact language in the civil domestic violence restraining orders, and more clearly mirrors Penal Code section 136.2(a)(1)(D), which orders no communication with a specified witness or a victim, except through an attorney under reasonable restrictions that the court may impose. A commenter recommended keeping the reference to no contact through a third party to provide more clarity to the defendant. Though the revised item refers to no indirect contact, the committee recommends referencing no contact through a third party for further emphasis:

12. ☐ **No-contact order**

Defendant must not contact the protected persons named in items 2 and 3, directly or indirectly, by any means, including by telephone, mail, email or other electronic means, or through a third party. Contact through an attorney under reasonable restrictions set by the court does not violate this order.

Effective date. The proposal recommended an effective date of March 1, 2023, to allow courts time to implement changes to their case management systems. One court commented that it prefers an effective date of January 1, 2023, since the forms are mandatory and the new law is already operative, while another court preferred the March 1, 2023 effective date. The committee discussed the suggestion for an earlier effective date, but recommends a March 1, 2023 effective date in order to give courts sufficient implementation time, based on the feedback of judicial administrators on the committee, as the recommended changes are extensive. Further, many courts use triplicate paper for the protective orders, and may need time to order revised forms.

“Firearm parts.” Rather than “firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531),” the Bureau of Firearms suggested using “receivers/frames, firearm precursor parts (as defined in Penal Code section 16531)” as an appropriate way to describe firearm parts on the forms. The Bureau of Firearms is concerned about using “firearm parts” without the term “precursor” because “firearm parts” is not statutorily defined or used by the bureau or other law enforcement agencies. And while the bureau acknowledges that “firearm precursor part” is a new term, it believes a plain-language description for the term would be “too cumbersome.”

The committee discussed several options and worked on this item with the Joint Protective Order Working Group, and recommends referring to prohibited items generally as “any firearms (guns), firearm parts, or ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531),” with variations depending on the current language of each form. Though “firearm parts” is not statutorily defined, the committee agreed that it was a helpful plain-language term for restrained persons to understand the prohibition against possessing frames, receivers, and firearm precursor parts, which are statutorily defined as “firearms” under Penal Code section 16520. “Any item that may be used as or easily turned into a receiver or frame” is the subcommittee’s plain-language interpretation of the new definition of a firearm precursor part under AB 1621.

“Guns” as a plain-language synonym for “firearms.” The civil protective orders use “(guns)” after the term “firearms” to provide a plain-language explanation of firearms. The committee recommended adding “guns” in the criminal protective orders for consistency with the other forms prohibiting firearms. The Bureau of Firearms suggested that the word “gun” not be used on the forms because not all guns meet the statutory definition of firearms, such as blowguns, stun guns, and BB guns. The committee recommends retaining the word “guns” as a plain-language synonym for “firearms.” The term “gun” appears to be more widely used and accessible to individuals with limited English proficiency. Moreover, the likelihood that an individual understands “guns” to include items that a restrained person is *not* prohibited from having seems low.

Alternatives considered

The committee previously delayed revisions to the forms due to a directive from the chairs of the council’s internal committees to limit proposals during the COVID-19 pandemic. Due to the mandatory nature of the forms and because many of the changes reflected or clarified current law, the committee felt it was important to move forward with the proposal during the current cycle.

No-contact order (forms CR-160 and CR-161). During the first comment period, the committee circulated an option for the court to issue a limited-contact order under Penal Code section 136.2(a)(1)(G)(i), which states, in relevant part, that a court may order the defendant to have no contact with the intent to annoy, harass, threaten, or commit acts of violence against a victim or witness of violent crime. The committee proposed this as new item 12b:

12. ☐ **No-contact order (check one)**

- a. ☐ Defendant must not contact the protected persons named above, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means. Contact through an attorney under reasonable restrictions set by the court does not violate this order.
- b. ☐ **For victims or witnesses of violent crime** — Defendant must have no-contact with the intent to annoy, harass, threaten, or commit acts of violence against a protected person. (Pen. Code, § 136.2(a)(1)(G)(i).)

Upon further discussion, the committee decided not to include item 12b at this time in order to conduct further research on limited-contact orders (otherwise known as peaceful contact or no negative contact orders). The committee discussed whether it would be clearer to have a

no-contact option and a limited-contact option in general, rather than have the latter option only apply to victims or witnesses of violent crime. Because this would be a substantive change and also require further research on the court’s authority to order limited contact in cases not involving “violent crime,” the committee decided not to move forward with recommending the limited-contact option at this time. Additionally, the civil protective orders do not include a limited-contact option, so the committee thought that further coordination with other advisory committees on this issue would be appropriate, which would require additional time. The committee may consider a recommendation in this area in the future, as time and resources allow.

Ammunition prohibition (form CR-161). During the first comment period, the committee recommended deleting the ammunition prohibition in *Criminal Protective Order—Other Than Domestic Violence* (form CR-161) because there did not appear to be a statutory basis for one in a non-domestic violence context (cf., Fam. Code, § 6389). Upon further review, the committee recommends retaining the ammunition prohibition. Penal Code section 30305(a)(1) states, in relevant part, that “[n]o person prohibited from owning or possessing a firearm under Chapter 2 (commencing with Section 29800) ... shall own, possess, or have under custody or control, any ammunition or reloaded ammunition.” Chapter 2 includes Penal Code sections 29800 (felony prohibition), 29805 (misdemeanor prohibition, including for violations of section 646.9), and 29825, which penalizes possession of a firearm by a person prohibited due to a protective order issued under section 136.2. Because criminal protective orders on form CR-161 are issued under sections 136.2 and 646.9, and persons with protective orders under these statutes are prohibited from having ammunition under section 30305, the committee recommends keeping the ammunition prohibition.

Fiscal and Operational Impacts

Commenting courts noted anticipated costs for implementing newly revised forms, including staff and judicial officer training, updates to paper forms packets, docket code updates to case management systems, and additional staff time to make copies of the forms.

Attachments and Links

1. Forms CR-160, CR-161, and CR-162, at pages 11–18
2. Chart of comments, at pages 19–52

11

DEFENDANT:

CASE NUMBER:

8. No firearms (guns), firearm parts, or ammunition

- a. The defendant must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms (guns), firearm parts (meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame; see Penal Code section 16531), or ammunition. Possession of firearms, firearm parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution and may include jail or prison time and/or a fine.
- b. Within 24 hours of receiving this order the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms and firearm parts owned by the defendant or within the defendant's immediate possession or control.
- c. Within 48 hours of receiving this order the defendant must file a receipt with the court showing that all firearms and firearm parts have been turned in, sold, or stored.
- d. ☐ The court finds good cause to believe that the defendant has a firearm and firearm parts within their immediate possession or control and sets a review hearing for (date): _____ (time): _____ (dept.): _____ to ascertain whether the defendant has complied with the firearm and firearm parts relinquishment requirements of Code of Civil Procedure section 527.9 (Cal. Rules of Court, rule 4.700).
- e. ☐ Limited exemption: The court has made the necessary findings to grant an exemption under Code of Civil Procedure section 527.9(f). Under California law, the defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the defendant may be subject to federal prosecution for possessing or controlling a firearm.

9. ☐ No dissuading victim or witness (for pretrial orders issued under Penal Code section 136.2(a)(1))

The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying, or making a report to any law enforcement agency or person.

10. No obtaining addresses (for orders issued under Penal Code section 136.2)

- a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
- b. ☐ The court finds good cause not to make this order.

11. ☐ Order to not abuse

Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace of, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named in items 2 and 3.

- "Disturb the peace of" means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, activities, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status; and reproductive coercion, meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to related health information.

12. ☐ No-contact order

Defendant must not contact the protected persons named in items 2 and 3, directly or indirectly, by any means, including by telephone, mail, email or other electronic means, or through a third party. Contact through an attorney under reasonable restrictions set by the court does not violate this order.

13. ☐ Stay-away order

Defendant must stay at least _____ yards away from the protected person and their

- a. ☐ home b. ☐ job or workplace c. ☐ vehicle d. ☐ other protected person in item 3
- e. ☐ other locations: _____

DEFENDANT:	CASE NUMBER:
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14. ☐ **Exceptions**

Defendant may have peaceful contact with the protected persons named in items 2 and 3, as an exception to the no-contact and stay-away orders in items 12 and 13 of this order, only for the safe exchange of children and court-ordered visitation as stated in

- a. ☐ the family, juvenile, or probate court order in *(case number)*:
issued on *(date)*:
- b. ☐ any family, juvenile, or probate court order issued *after* the date this order is signed.

The restrained and protected persons should always carry a certified copy of the most recent order issued by the family, juvenile, or probate court.

15. ☐ **Protected animals**

- a. The protected persons named in items 2 and 3 are given the exclusive care, possession, and control of the animals listed below:

Name: _____ *Type of animal:* _____ *Breed (optional):* _____ *Color (optional):* _____

- b. ☐ Defendant must not take, transfer, sell, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the animals listed above.
- c. ☐ Defendant must not come within _____ yards of the animals listed above.

16. ☐ **Electronic monitoring**

Defendant must be placed on electronic monitoring for *(specify length of time)*:

(Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), (i)(3).)

17. ☐ **Recordings**

The protected person in item 2 may record communications made by the person in item 1 that violate this order.

18. ☐ **Other orders**

Executed on *(date)*:

JUDICIAL OFFICER

Certificate of Compliance With Violence Against Women Act (VAWA)

This protective order meets all full faith and credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994). This court has jurisdiction over the parties and the subject matter, and the restrained person has been afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, and shall be enforced as if it were an order of that jurisdiction.**

DEFENDANT:

CASE NUMBER:

Instructions for Law Enforcement

1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.

This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (*People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1), 273.5(j), 368(l), and 646.9(k) are valid for up to 10 years and may be issued by the court whether the defendant is sentenced to state prison, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- Orders under Penal Code section 1203.097(a)(2) are probationary orders, and the court has jurisdiction as long as the defendant is on probation.
- To terminate this protective order, courts should use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding (CLETS-CANCEL)*.

2. If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

3. Enforcing This Order in California

- This order must be enforced in California by any law enforcement agency that has received the order, or is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).
- Law enforcement must determine whether the restrained person had notice of the order. If notice cannot be verified, law enforcement must advise the restrained person of the terms of the order and, if the restrained person fails to comply, must enforce it. (Fam. Code, § 6383.)

4. Conflicting Orders— Priority of Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

- **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
- **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 12 is an example of a no-contact order.
- **Criminal Protective Order (CPO):** If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2), 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
- **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Peace Officer Firearm Prohibition Exemption

If a peace officer's employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm on or off duty, but only if the court finds, after a mandatory psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).)

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DEFENDANT:	CASE NUMBER:
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8. b. Within 24 hours of receiving this order the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms or firearm parts owned by the defendant or within the defendant's immediate possession or control.
- c. Within 48 hours of receiving this order the defendant must file a receipt with the court showing that all firearms and firearm parts have been turned in, sold, or stored.
- d. ☐ The court finds good cause to believe that the defendant has a firearm and firearm parts within their immediate possession or control and sets a review hearing for (date): _____ (time): _____ (dept.): _____ to ascertain whether the defendant has complied with the firearm and firearm parts relinquishment requirements of Code of Civil Procedure section 527.9 (Cal. Rules of Court, rule 4.700).
- e. ☐ Limited exemption: The court has made the necessary findings to grant an exemption under Code of Civil Procedure section 527.9(f). Under California law, the defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____ but must only have it during scheduled work hours and while traveling to and from their place of work. Even if exempt under California law, the defendant may be subject to federal prosecution for possessing or controlling a firearm.
9. ☐ **No dissuading victim or witness (for pretrial orders issued under Penal Code section 136.2(a)(1))**
The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying, or making a report to any law enforcement agency or person.
10. **No obtaining addresses (for orders issued under Penal Code section 136.2)**
- a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
- b. ☐ The court finds good cause not to make this order.
11. ☐ **Order to not abuse**
Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace of, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named in items 2 and 3.
12. ☐ **No-contact order**
Defendant must not contact the protected persons named in items 2 and 3, directly or indirectly, by any means, including by telephone, mail, email or other electronic means, or through a third party. Contact through an attorney under reasonable restrictions set by the court does not violate this order.
13. ☐ **Stay-away order**
Defendant must stay at least _____ yards away from the protected person and their
- a. ☐ home b. ☐ job or workplace c. ☐ vehicle d. ☐ other protected person in item 3
- e. ☐ other locations: _____
14. ☐ **Exceptions**
Defendant may have peaceful contact with the protected persons named in items 2 and 3, as an exception to the no-contact and stay-away orders in items 12 and 13 of this order, only for the safe exchange of children and court-ordered visitation as stated in
- a. ☐ the family, juvenile, or probate court order in (case number): _____ issued on (date): _____
- b. ☐ any family, juvenile, or probate court order issued *after* the date this order is signed.
- The restrained and protected persons should always carry a certified copy of the most recent order issued by the family, juvenile, or probate court.
15. ☐ **Electronic monitoring**
Defendant must be placed on electronic monitoring for (specify length of time): _____
(Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), (i)(3).)
16. ☐ **Other orders**

Executed on (date): _____

JUDICIAL OFFICER

DEFENDANT:	CASE NUMBER:
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Instructions for Law Enforcement

1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.

This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (*People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1) and 646.9(k) are valid for up to 10 years and may be issued by the court whether the defendant is sentenced to state prison, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- To terminate this protective order, courts should use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding (CLETS-CANCEL)*.

2. Enforcing This Order in California

- This order must be enforced in California by any law enforcement agency that has received the order, or is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).

3. Conflicting Orders—Priority of Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

- **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
- **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 12 is an example of a no-contact order.
- **Criminal Protective Order (CPO):** If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2), 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
- **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Peace Officer Firearm Prohibition Exemption

If a peace officer's employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm on or off duty, but only if the court finds, after a mandatory psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council								
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:								
ORDER TO SURRENDER FIREARMS IN DOMESTIC VIOLENCE CASE (CLETS-CPO) (Penal Code, § 136.2(a)(1)(G)(ii))									
PERSON TO SURRENDER FIREARMS (<i>complete name</i>): <table style="width: 100%;"> <tr> <td style="width: 25%;">Gender: ☐ M ☐ F ☐ Nonbinary</td> <td style="width: 25%;">Race:</td> <td style="width: 25%;">Date of birth:</td> <td style="width: 25%;"></td> </tr> <tr> <td>Ht.:</td> <td>Wt.:</td> <td>Hair color:</td> <td>Eye color:</td> </tr> </table>		Gender: ☐ M ☐ F ☐ Nonbinary	Race:	Date of birth:		Ht.:	Wt.:	Hair color:	Eye color:
Gender: ☐ M ☐ F ☐ Nonbinary	Race:	Date of birth:							
Ht.:	Wt.:	Hair color:	Eye color:						

1. This proceeding was heard on *(date)*: _____ at *(time)*: _____ in Dept.: _____
 Room: _____ by judicial officer *(name)*: _____
2. This order expires on *(date)*: _____. If no date is listed, this order remains in effect until further court order.
 To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).
3. ☐ Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
4. **GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT**
 - a. Must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms, firearm parts (meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame; see Penal Code section 16531), or ammunition. Possession of firearms, firearm parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution, and may include jail or prison time and/or a fine.
 - b. Within 24 hours of receiving this order the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms or firearm parts owned by the defendant or within the defendant's immediate possession or control.
 - c. Within 48 hours of receiving this order the defendant must file a receipt with the court showing that all firearms or firearm parts have been turned in, sold, or stored.
 - d. ☐ The court finds good cause to believe that the defendant has a firearm or firearm parts within their immediate possession or control and sets a review hearing for *(date)*: _____ *(time)*: _____ *(dept.)*: _____ to ascertain whether the defendant has complied with the firearm and firearm parts relinquishment requirements of Code Civ. Proc., § 527.9. (Cal. Rules of Court, rule 4.700.)
 - e. ☐ **Limited exemption:** The court has made the necessary findings to grant an exemption under Code Civ. Proc., § 527.9(f). Under California law, the defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the defendant may be subject to federal prosecution for possessing or controlling a firearm.

Executed on: _____

(DATE)

(SIGNATURE OF JUDICIAL OFFICER)

NOTICES

- This order is effective as of the date it was issued by the judicial officer and expires as ordered in item 2.
- This order is to be used ONLY when the court orders firearms relinquishment but does not make any other protective or restraining orders. Do NOT use in conjunction with other criminal protective orders (form CR-160 or CR-161).
- Specified defendants may request an exemption from the firearm relinquishment requirements stated in item 4 of this order. *The court must check the box under item 4 to order an exemption from the firearm relinquishment requirements.* If the defendant can show that the firearm is necessary as a condition of continued employment, the court may grant an exemption for a particular firearm to be in the defendant's possession only during work hours and while traveling to and from work. If a peace officer's employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm on or off duty, but only if the court finds, after a mandatory psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).)

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)**

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
1.	California Partnership to End Domestic Violence by Christine Smith, Public Policy Coordinator	AM	Does the proposal appropriately address the stated purpose? Yes, the proposal appropriately addresses the stated purpose. However, we respectfully request the following changes for clarity. See comments on specific provisions below.	
2.	Adrian Contreras San Diego, CA	AM	See comments on specific provisions below.	
3.	California Department of Justice by Elizabeth Troxel, Staff Services Manager II	A	See comments on specific provisions below.	
4.	Family Violence Appellate Project by Cory Hernandez, Staff Attorney		Part of the idea for these changes was to make the CPO forms similar to civil restraining order forms, which have also been recently updated. However, those civil restraining order forms are <i>also</i> being significantly revised right now, so the CPO forms will need to be modified <i>further</i> to reflect these additional changes being currently done. Still, with these current modifications, I do appreciate the additional spacing between items, giving more blank space so the language is much easier to read; with the current form with little to no space between items, I always have to hold those forms up very close to my face or zoom in on electronic copies. I also appreciate the changes to make the form more plain language, since these forms will be	The committee recirculated the proposal to incorporate language on reproductive coercion under SB 374 and revised firearm definitions under AB 1621.

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)**

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			read by more than just represented defendants, including self- represented defendants, defendants no longer represented, and victims and other protected parties, who most likely will not have their own attorneys or access to legal services... Still, the forms can be more plain language, and the civil restraining order forms should be consulted as examples. Finally, the below comments are mostly focused on form CR-160, the DV CPO form, given FVAP's focus. However, many or most comments could also apply to form CR-161, and so should be considered for that form when applicable. See comments on specific provisions below.	
5.	Giffords Law Center by Julia Weber, Implementation Director	AM	See comments on specific provisions below	
6.	Marc McBride Santa Ana, CA	AM	Courts and Prosecutors should not be allowed to prohibit remote communications between a defendant and victims without consent of that victim. Telephonic, email, text and written communication (unless the victim or victims want the term) between a defendant and listed victims serves no real purpose other than to make it easier to prove harassment by these methods of communication. In my experience, giving defendants the opportunity to address the harms they caused is a positive thing for both	This comment relates to policy issues addressed by statute that are outside the scope of this proposal.

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)**

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			parties and doing so through non-harassing remote communications is the best way to accomplish this.	
7.	Orange County Bar Association by Daniel S. Robinson, President	AM	See comments on specific provisions below.	
8.	Superior Court of Los Angeles County by Bryan Borys	A	See comments on specific provisions below.	
9.	Superior Court of Orange County by Iyana Doherty, Courtroom Operations Supervisor	AM	See comments on specific provisions below. If this form is designed to assist law enforcement, we suggest adding lines where information needs to be inserted. We believe the biggest complaint from the protective order unit and law enforcement is that the writing is illegible. I do not say this would be a cure-all for every problem, but it will assist the person filling out the form. Most people cannot clearly write in a straight line. • Would the proposal provide cost savings? If so, please quantify. The Orange County Superior Court currently has NCR forms for both protective orders. This method saves costs because the court does not have to make copies for the parties. Also, since the document is front and back, it saves paper costs. It does not seem possible for the new forms to be produced on carbon copy paper. • What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of	The electronic version of the forms include fillable fields, and the forms are filled out in court by court staff or attorneys. Law enforcement would rely on information contained in CARPOS The committee is aware that many courts use NCR forms for these protective orders, and that a lengthier form will likely prohibit the use of NCR forms moving forward. However, the changes to the forms are recommended to reflect statutory changes and make the order easier for defendants and protected persons to understand. The current forms are very dense and hard to understand.

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)**

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? An omission of an expiration date could also delay the protective order being entered into CLETS or cause the judicial officer to hold a hearing if the parties are not readily available to address the issue. The first step is to determine who will fill out the multi-page form. In Orange County Superior Court, the district attorney completes either form. The documents will be three to four pages, and it will take the courtroom clerk about three minutes to review. If the order contains all the necessary provisions, it can readily be given to the judge for imposition. If it is not, more time is taken for the district attorney to review needed corrections. Training and reviewing the new form with courtroom staff would be about one hour for each courthouse. Docket codes for our case management system would need to be created for “disturb the peace of” and “coercive control” under the Order to not Abuse term. If the new protective orders are not created on carbon copy paper, the courtroom clerk will have to make several copies for the district attorney and one to be served on the defendant. It would take approximately 5 minutes to make the copies and three minutes to fax them over. Suppose most	Because a three-year expiration default date does not apply to all protective orders issued under forms CR-160 and CR-161, the committee believes it is appropriate to remove the three-year expiration default. The committee acknowledges the additional work that may be required due to the form revisions, but believes that the revisions are necessary to comply with the relevant statutes and to increase accessibility for both restrained and protected persons.

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)**

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			protective orders are being issued at arraignment and the pretrial courtrooms, which handle 100 cases per day. Making copies and faxing the protective order could present a problem with the defendants personally being served. Each court may not have the resources or assistance to get the help they need for making and faxing copies of the protective order. The court's IT department would be involved in creating the docket codes for our case management system and assisting the protective order unit with its software program. Our IMPACT team who handles creating all criminal procedures and job aids will need to revise them, which can take up to three weeks or more to complete. • Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Three months would be sufficient time for implantation and the impact appears to be same for courts of all sizes.	
10.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	Does the proposal appropriately address the stated purpose? Yes. See comments on specific provisions below. • Would the proposal provide cost savings? If so, please quantify. No.	No response required.

SPR 22-08

Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			• What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? Any packets containing these forms would need to be updated and reprinted. • Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, if the updated forms are provided by that time. • How well would this proposal work in courts of different sizes It should work well.	
11.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Subcommittee	AM	Recommend separate pre-trial and post-conviction orders. Much of the confusion flowing from these forms is due to this issue. It would increase user friendliness to have separate forms. One form for Order Pending Trial, and one form for Order Upon Conviction. Expiration date for orders prohibiting dissuasion of witnesses, and other pre-trial orders would be clear, and this would trigger the need to make new post-conviction orders when the pre-trial order automatically expires. • Does the proposal appropriately address	This suggestion is outside the scope of this proposal. The committee will consider this suggestion in a future proposal cycle.

SPR 22-08

Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			the stated purpose? ○ Yes, to a degree. • Would the proposal provide cost savings? If so, please quantify. ○ Not aware of cost savings • What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? ○ Training should be easy. Can't speak to updating case management systems but would not foresee an issue. • Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? ○ Three months is sufficient. • How well would this proposal work in courts of different sizes? ○ Would work with all courts. See comments on specific provisions below.	

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)**

Caption and header (form CR-160)		
Commenter	Comment	Committee Response
Department of Justice by Elizabeth Troxel, Staff Services Manager II	On page one prior to number 1, “This Order May Take Precedence Over Other Conflicting Orders: See Item 4 on Page 2” should state “See Item 4 on Page 4”.	The committee agrees with this suggestion.
Family Violence Appellate Project by Cory Hernandez, Staff Attorney	First, the caption. After “Criminal Protective Order—Domestic Violence (CLETS-CPO)” why does it have a string citation? Those citations are already in the footer, bottom right of the page. They are likely confusing and do not seem to provide useful information. But the parenthetical one-statute citations next to some checkboxes are helpful to differentiate between specific types of CPOs.	The committee agrees with the suggestion and will delete the string citation.

Caption and header (both forms)		
Commenter	Comment	Committee Response
Superior Court of San Diego County by Mike Roddy, Executive Officer	On both forms, <i>header and elsewhere as appropriate</i> , should the references to PC 136.2 be changed to PC 136.2(a) [to distinguish them from orders issued under subd. (i)]? Should the references to PC 136.2(i)(1) be changed to PC 136.2(i) [to accommodate orders under 136.2(i)(2)]?	The committee agrees, in part, with this suggestion and will revise the footer to cite to Penal Code section 136.2(i) instead of 136.2(i)(1). The citation to section 136.2 in both the form and footer will remain to reflect references to orders issued under section 136.2 as stated in Penal Code sections 136.3 and 29825(a).

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)****Items 1 – 3 [information on restrained person and protected persons] (both forms)**

Request for specific comment: The proposed revisions ask for the protected person and additional protected persons' name and gender, which are mandatory fields in CARPOS, as well as race and date of birth, which are optional fields in CARPOS. Additionally, the additional protected persons provision in the form asks about the person's relationship to the primary protected person and whether they live in the same household, which are also optional fields in CARPOS. Should the optional information be included in the forms, given privacy considerations and identity theft concerns? Should date of birth be changed to year of birth or age? For example, the civil domestic violence protective order, form DV-130, only lists the protected person's name and the name, gender, and relationship to the primary protected person of any additional protected persons. Other identifying information such as race and date of birth is in a separate confidential form, Confidential CLETS Information (form CLETS-001), that the restrained person and public cannot access.

Commenter	Comment	Committee Response
California Partnership to End Domestic Violence by Christine Smith, Public Policy Coordinator	PG. 1 of the CR-160, there should be an instruction that all items with an asterisk (*) are mandatory. They should also include lines on Items 1-3 to indicate where people are to write the name, etc. The optional information should be removed, given privacy considerations and identity theft concerns. Only age (or birth year) should be included, not date of birth. This is identifying information and should not be shared.	The form includes an instruction that states that information that has a star (*) next to it is required. The electronic version of the forms includes fillable fields. The committee agrees to remove the optional identifying information for a protected person and replace the field asking for the protected person's date of birth with age. The committee also recommends removing the optional identifying information for an additional protected person with the exception of the additional protected person's relationship to the primary protected person, consistent with the civil domestic violence restraining order (item 3, form DV-130).
Superior Court of Los Angeles County by Bryan Borys	If the information about the protected persons is optional in CARPOS, it should not be required on the protective orders for privacy considerations. Date of birth should be changed to age, if included at all. Any other necessary identifying information should be entered on the Confidential CLETS Information form (CLETS-001),	The committee agrees with the comment for the reasons stated above.

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)****Items 1 – 3 [information on restrained person and protected persons] (both forms)**

Request for specific comment: The proposed revisions ask for the protected person and additional protected persons' name and gender, which are mandatory fields in CARPOS, as well as race and date of birth, which are optional fields in CARPOS. Additionally, the additional protected persons provision in the form asks about the person's relationship to the primary protected person and whether they live in the same household, which are also optional fields in CARPOS. Should the optional information be included in the forms, given privacy considerations and identity theft concerns? Should date of birth be changed to year of birth or age? For example, the civil domestic violence protective order, form DV-130, only lists the protected person's name and the name, gender, and relationship to the primary protected person of any additional protected persons. Other identifying information such as race and date of birth is in a separate confidential form, Confidential CLETS Information (form CLETS-001), that the restrained person and public cannot access.

Commenter	Comment	Committee Response
	which cannot be accessed by the restrained person.	
Superior Court of Orange County by Iyana Doherty, Courtroom Operations Supervisor	The optional information should not be included on the form unless it is needed to differentiate between another person with a similar name or relationship that is not protected. Orange County Superior Court's protective order unit already practices entering the additional information from the CLETS-001 form to the Family Law's domestic violence protective orders. I am unaware that anyone listed in a protective order become a victim of identity theft. The current CR-160 and CR-161 forms do not include any fields for the restrained person's address, place of employment, driver's license number, and vehicles, which would be unnecessary because the main point is to identify the restrained person. We are also unaware if a defendant has ever become a victim of identity theft due to a criminal protective order. It is easier for law enforcement to compare the restrained person's identification card to the protective order, by using the month, date, and year of birth. If the restrained person does not have any identification, law enforcement can use other means to determine the person's identity.	The committee agrees with the comment for the reasons stated above.

SPR 22-08

Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)

Items 1 – 3 [information on restrained person and protected persons] (both forms)

Request for specific comment: The proposed revisions ask for the protected person and additional protected persons' name and gender, which are mandatory fields in CARPOS, as well as race and date of birth, which are optional fields in CARPOS. Additionally, the additional protected persons provision in the form asks about the person's relationship to the primary protected person and whether they live in the same household, which are also optional fields in CARPOS. Should the optional information be included in the forms, given privacy considerations and identity theft concerns? Should date of birth be changed to year of birth or age? For example, the civil domestic violence protective order, form DV-130, only lists the protected person's name and the name, gender, and relationship to the primary protected person of any additional protected persons. Other identifying information such as race and date of birth is in a separate confidential form, Confidential CLETS Information (form CLETS-001), that the restrained person and public cannot access.

Commenter	Comment	Committee Response
Superior Court of San Diego County by Mike Roddy, Executive Officer	Should the optional information be included in the forms, given privacy considerations and identity theft concerns? No. Should date of birth be changed to year of birth or age? Yes. For example, the civil domestic violence protective order, form DV-130, only lists the protected person's name and the name, gender, and relationship to the primary protected person of any additional protected persons. Other identifying information such as race and date of birth is in a separate confidential form, Confidential CLETS Information (form CLETS-001), that the restrained person and public cannot access. It is recommended to follow the same approach.	The committee agrees with the comment for the reasons stated above.
TCPJAC/CEAC Joint Rules Subcommittee	Yes. Form should be designed to protect privacy of victims as much as possible	The committee agrees with the comment for the reasons stated above.

SPR 22-08

Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)

Item 4, expiration date (both forms)		
Commenter	Comment	Committee Response
California Partnership to End Domestic Violence by Christine Smith, Public Policy Coordinator	On Item 4, the 3 year assumption should remain. Allowing an order to expire upon entrance of a sentence could prejudice survivors if there is a clerical error or oversight re. termination of the CPO.	The committee recommends deleting the three-year expiration default, as it appears overbroad as it relates to pretrial orders, which by law should terminate upon sentence or dismissal (see <i>People v. Stone</i> (2004) 123 Cal.App.4th 153, 160 [order must be “limited to the pendency of the criminal proceeding”]).
Family Violence Appellate Project by Cory Hernandez, Staff Attorney	The form says: “If no date is listed, this order remains in effect until there is a sentence or termination of the protective order.” This seems tautological. Since “expire” and “terminate” can both basically mean “end,” it sounds like it’s saying, “the order ends when it ends,” which isn’t helpful, particularly to unrepresented persons. If “termination” is supposed to be distinct from “expiration,” in that “termination” refers to the affirmative act of the court and “expiration” refers to the general end of the protective order, then clearer language is needed. Instead, maybe use: “If no date is listed, this order remains in effect until further court order.” This is much clearer, and still says basically the same thing as is drafted since both “a sentence” and “termination of the protective order” can only happen via a court order.	The committee agrees with this suggestion in part, but believes a date should always be entered for post-conviction orders, and so recommends the following language for this item: For pretrial orders, this order remains in effect until further court order. For post-conviction orders, this order expires on (date): _____.
Superior Court of Orange County by Iyana Doherty, Courtroom Operations Supervisor	Number 4 on each form raises some concerns. Number 4 is regarding the expiration date of a protective order. The current form displays three years from when the person is served, but the new format says, “If no date is listed, this order remains in effect until there is a sentence or termination of the protective order.” The court’s safety net is if the district attorney did not write a specific date, the expiration date would default to three years. With this statement being deleted, it will give people misinformation. How will anyone looking at a protective through CARPOS or CLETS know that there was a sentence? Currently, CLETS requires an expiration date to be entered. A	The committee recommends deleting the three-year expiration default, as it appears overbroad as it relates to pretrial orders, which should terminate by law upon sentence or dismissal (see <i>People v. Stone</i> (2004) 123 Cal.App.4th 153, 160 [order must be “limited to the pendency of the criminal proceeding”]). If a protective order is issued as a probationary condition under Penal Code section 1203.097, the court has jurisdiction as long as the defendant is on probation, so the court would likely set the expiration date for the

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Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)

Item 4, expiration date (both forms)		
Commenter	Comment	Committee Response
	protective order cannot be submitted without an expiration date. Suppose a defendant is sentenced or pled guilty with a protective order issued for a domestic violence case or non-domestic violence, and the expiration date is not stated. Currently, in that case, the protective order will automatically expire in three years, and with the proposed modifications the defendant will not know if the order is active. Again, suppose a case is in the preliminary stages, and it is years before the defendant pleads guilty or is sentenced. In that case, the district attorney must renew the protective order every three years. By operation of law, a protective order is only in effect for three years unless specified with an expiration date, non-expiring, or permanently.	order in line with the probation term. In other postconviction settings, the court has authority to issue a protective order for up to 10 years, and therefore, a court should note the expiration date on the protective order. If a pretrial protective order terminates because the defendant has been sentenced or the case has been dismissed, the court must terminate the order through <i>Notice of Termination of Protective Order in Criminal Proceeding</i> (form CR-165), which is used to update CLETS. There is no statutory basis for a default expiration date in this context. Accordingly, the committee recommends clarifying this item with the following language: For pretrial orders, this order remains in effect until further court order. For post-conviction orders, this order expires on (date): _____.
Superior Court of San Diego County by Mike Roddy, Executive Officer	On both forms, <i>item 4</i>, since this could be an order pending up to sentencing only (PC 136.2(a)), an order as a condition of probation (PC 1203.097(a)(2), 273.5(g)) or an order imposed at sentencing that could last up to 10 years (PC 136.2(i), the following language may be confusing to a layperson: “If no date is listed, this order remains in effect until there is a sentence or termination of the protective order.” Consider something along the lines of: “If no date is listed, this order remains in effect as noted in the <i>Instructions for Law Enforcement</i> below, item 1, or at an earlier time if the protective order is terminated by the court.” And modify the instructions for law enforcement to state: “This order ends as ordered in item 4, or:”? Finally, in the instructions, add a note on how long orders per PC 136.2(i)(2) last.	The committee recommends clarifying this item with the following language: For pretrial orders, this order remains in effect until further court order. For post-conviction orders, this order expires on

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Item 4, expiration date (both forms)		
Commenter	Comment	Committee Response
		(date): _____.
TCPJAC/CEAC Joint Rules Subcommittee	While pre-trial orders expire at time of sentence, post-conviction orders pursuant to PC 136.2(i)(1), 368(l) 273.5(j), and 646.9(k) “may be valid up to 10 years.” As written, the form does not reflect this. Suggest modifying this to make it easier for trial judge to set time for post-conviction order. Again, separating the pre- and post-conviction forms would reduce confusion.	The committee agrees with the comment and will add the following note: Post-conviction orders pursuant to Penal Code sections 136.2(i)(1), 368(l) 273.5(j), and 646.9(k) may be valid up to 10 years.

Item 7, good cause to grant protective order and warnings to defendant (form CR-160)		
Commenter	Comment	Committee Response
Family Violence Appellate Project by Cory Hernandez, Staff Attorney	The box admonishing/warning the defendant, at the bottom of the first page, starting with “To the defendant.” What does it mean when it says “or make the protected persons do so?” How can protected persons disobey the order protecting them?	The committee recommends retaining the following language: Traveling across state or tribal boundaries with the intent to violate the order may be punishable as a federal offense (18 U.S.C. § 2261(a)(1).)

Item 8, no firearms or ammunition (form CR-160)		
Commenter	Comment	Committee Response
California Partnership to End Domestic Violence by Christine Smith, Public Policy Coordinator	On Pg. 2 of the same form, Item 8’s bolded text should include a reference to firearm precursors, i.e. “No firearms, ammunition, or firearm precursors”.	The committee initially declined the suggestion because the firearm precursor part prohibition did not apply to all persons subject to a protective order under form CR-160. However, due to AB 1621, the firearm precursor part prohibition now applies to all persons subject to a protective order under form CR-160, so the committee has added “firearm parts,” a plain language reference to firearm precursor parts, to the title of item 8.
Family Violence Appellate Project by Cory Hernandez, Staff Attorney	Fourth, item 8 regarding prohibitions on firearms and ammunition. The form needs more plain language use,	The committee agrees and will incorporate the firearms prohibition language in the civil domestic violence

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Item 8, no firearms or ammunition (form CR-160)		
Commenter	Comment	Committee Response
	especially this item. “Get” is more plain language than “obtain,” and “turn into” is more plain language than “surrender.” “Compliance” is not plain language; “obeying” or “following” may be better. The average reading level in California is about the 8th grade. Moreover, in this item 8, why is the exemption in (e) there? Federal law preempts state law. Federal law prohibits this even if California law allows it. This is confusing and potentially subjects unwitting defendants to federal prosecution.	protective order (form DV-130). The exemption in item 8(e) reflects existing state law under Code of Civil Procedure, section 527.9(f). The existence of the exemption relates to policy issues outside the scope of this proposal.

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)****Item 8, no firearms or ammunition (both forms)**

Request for specific comment: The civil domestic violence protective order forms and gun violence restraining order forms propose using “unfinished receiver/frame as defined in Penal Code section 16531” to refer to a firearm precursor part, as a clearer way of describing the prohibited parts. Should the criminal protective orders adopt similar language for clarity and consistency?

Commenter	Comment	Committee Response
California Partnership to End Domestic Violence by Christine Smith, Public Policy Coordinator	We do not have specific comments on this Section but agree generally that clarity and Consistency is appropriate.	Due to AB 1621, the committee recirculated the proposal and replaced references to “firearm precursor parts” with “unfinished receiver/frame as defined in Penal Code section 16531.” Due to comments received, the committee recommends referring to firearm precursor parts as any item that may be used as or easily turned into a receiver or frame, with a reference to Penal Code section 16531. The Civil and Small Claims Advisory Committee is recommending the same language for a variety of civil protective order forms in a separate report to the council.
Department of Justice by Elizabeth Troxel, Staff Services Manager II	CA DOJ recommends adding the language to the CPOs for consistency. Additionally, CARPOS will be adding “firearm parts” to the definition of the firearms provisions.	Please refer to the response above.
Superior Court of Los Angeles County by Bryan Borys	The criminal protective orders should use the same language for firearm precursor parts as used in the civil DV protective order and gun violence restraining order for consistency. Using “unfinished receiver/frame as defined in Penal Code section 16531” has the benefit of reference to a statutory definition.	Please refer to the response above.
Superior Court of Orange County by Iyana Doherty, Courtroom Operations Supervisor	All language should be similar for both clarity and consistency, as a court employee. Research of the definition and reading it several times to understand the exact meaning was required. Defendants or gun owners will understand what an unfinished receiver/frame is rather than a firearm precursor part	Please refer to the response above.

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)****Item 8, no firearms or ammunition (both forms)**

Request for specific comment: The civil domestic violence protective order forms and gun violence restraining order forms propose using “unfinished receiver/frame as defined in Penal Code section 16531” to refer to a firearm precursor part, as a clearer way of describing the prohibited parts. Should the criminal protective orders adopt similar language for clarity and consistency?

Commenter	Comment	Committee Response
Superior Court of San Diego County by Mike Roddy, Executive Officer	Should the criminal protective orders adopt similar language for clarity and consistency? Yes.	Please refer to the response above.
TCPJAC/CEAC Joint Rules Subcommittee	Should the criminal protective orders adopt similar language for clarity and consistency? ○ Yes. Consistency should require same language across similar forms.	Please refer to the response above.

Item 8, firearm prohibition exemption (both forms)

Commenter	Comment	Committee Response
Giffords Law Center by Julia Weber, Implementation Director	With respect to the exemption on both these forms under Code of Civil Procedure 527.9, please consider modifying the forms to include the following required findings under CCP 527.9 and FC 6389(h) under #8: [insert checkbox] A mandatory psychological evaluation of the defendant, a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, was conducted on ____ [insert checkbox on CR-160]. The court finds that the officer does not pose a threat of harm. [insert check box] Defendant must enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.	In addition to the language in item 8 on both forms, the committee has, in light of this comment, returned the following item to the forms as a reminder to the courts of the specific findings necessary: Peace Officer Firearm Prohibition Exemption If a peace officer’s employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm, but only if the court determines, after a required psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).) The committee will retain and update the statutory language on the instructions portion of the form. The

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Item 8, firearm prohibition exemption (both forms)		
Commenter	Comment	Committee Response
	Overarching suggestion: use of the term “turn in” is more plain language than “surrender” which can be misconstrued to refer to an expectation that an individual surrender rather than they turn in, store, or sell (or relinquish) firearms.	committee will consider adding the items suggested here to the orders in a future proposal cycle. The committee agrees and will incorporate the firearms prohibition language in the civil domestic violence protective order (form DV-130).

Item 9, no dissuading victim or witness (form CR-160)		
Commenter	Comment	Committee Response
Family Violence Appellate Project by Cory Hernandez, Staff Attorney	Using lists with commas would be easier to read than long sentences with many conjunctions. For instance, this should be a list with commas: “attending a hearing, testifying, or making a report to...”	The committee agrees with this suggestion.

Item 10, no obtaining addresses (both forms)		
Commenter	Comment	Committee Response
Family Violence Appellate Project by Cory Hernandez, Staff Attorney	If the court has to check one of these, that should be clearer. For example, in the parentheses, say: “the court must check one box below for orders issued under Penal Code section 136.2.”	The committee agrees, in part, and modifies this item so that a checkbox is only included if the court finds good cause not to make the order.

Item 11, order to not abuse (form CR-160)		
Commenter	Comment	Committee Response

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Family Violence Appellate Project by Cory Hernandez, Staff Attorney	Note coercive control now also includes reproductive coercion (SB 374; see Fam. Code, § 6320, subd. (c)(5)), and the civil DVRO forms are being updated to reflect that.	The committee recirculated the proposal and included “reproductive coercion” in item 11 of recommended form CR-160.
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Item 11, order to not abuse (form CR-161)

Request for specific comment: The committee did not revise form CR-161 to incorporate changes to Family Code section 6320 adding definitions of “disturbing the peace of the other party” and “coercive control” because these appeared to apply in the context of domestic violence, and form CR-161 is a non-domestic violence criminal protective order. Should these definitions be included in form CR-161 for consistency in both forms?

Commenter	Comment	Committee Response
California Partnership to End Domestic Violence by Christine Smith, Public Policy Coordinator	Yes, we believe this change should be made for clarity. Furthermore, a victim may be experiencing coercive control/disturbing the peace yet the relationship may not qualify under the DVPA. The forms currently ask for the protected persons’ full name, gender, and age.	Because form CR-161 is a non-domestic violence criminal protective order, the committee declines to add the definitions, which are statutorily limited to domestic violence protective orders.
Superior Court of Los Angeles County by Bryan Borys	CR 161 does not need to incorporate changes to Family Code section 6320 because it is used in a non-domestic violence context.	The committee agrees with the comment.
Superior Court of Orange County by Iyana Doherty, Courtroom Operations Supervisor	We agree “coercive control” is not needed on CR-161, but “disturb the peace” applies to both and is often one of the primary means of harassment of any kind. We suggest adding the definition of “disturb the peace” as follows to CR-161: “Disturb the peace of” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online.”	Because form CR-161 is a non-domestic violence criminal protective order, the committee declines to add the definitions, which are statutorily limited to domestic violence protective orders.
Superior Court of San Diego County by Mike Roddy, Executive Officer	Yes	Because form CR-161 is a non-domestic violence criminal protective order, the committee declines to add the definitions, which are statutorily limited to domestic violence protective orders.

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TCPJAC/CEAC Joint Rules Subcommittee	Not necessary.	The committee agrees with the comment.
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Item 12, no contact order (form CR-160)		
Commenter	Comment	Committee Response
Orange County Bar Association by Daniel S. Robinson, President	Form CR-160 - #12 – needs to be amended. The language is inconsistent with the language of PC 136.2(a)(1)(D), which states “An order that a person described in this section shall have no communication whatsoever with a specified witness or victim, except through an attorney under reasonable restrictions that the court <i>may</i> impose. The proposed language in #12 could be construed as prohibiting contact through an attorney unless the contact is first approved by the court. This is not the law. If it were the law it would be a due process violation by prohibiting counsel for a criminal defendant from contacting a witness. Form CR-160 - #12 – needs to be amended. The language and structure are confusing and inconsistent with the language of PC §§ 136.2(a)(1)(D) and 136.2(a)(G)(i). As written, #12 provides two options: a) A no-contact order, or b) No contact with the intent to annoy [etc.], which would apply only in a case involving a violent crime.	The committee disagrees that the language could be construed as prohibiting the attorney from contacting a witness.

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	PC 136.2(a)(1)(D) describes an order prohibiting “<u>communication</u> ... with a specified witness or victim, except through an attorney under reasonable restrictions that the court may impose.” PC 136.2(a)(G)(i) applies specifically to victims or witnesses of violent crimes and provides two options: 1) “An order protecting a victim or witness...from <u>all contact</u> by the defendant,” or 2) from “contact with the intent to annoy, harass [etc.] by the defendant.” The proposed language in #12 states “(<i>check one</i>),” rendering the options provided under PC §§ 136.2(a)(1)(D) and 136.2(a)(G)(i) mutually exclusive, which is contrary to the language of the statute. There is no language in the statute providing such limitations on which orders may be issued. #12(a) should be rephrased to provide an option prohibiting the defendant from <u>communicating</u> with the protected persons, except through an attorney under reasonable restrictions the court may impose. As in 12(b), the source of authority (Pen. Code § 136.2(a)(1)(D)) should be provided for the sake of clarity.	It is the committee’s position that “no contact” is easier to understand than “no communication,” and conveys the same prohibited behavior. The term “no contact” is currently used in the criminal protective orders and civil domestic violence restraining orders.
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	#12(b) should provide both options provided by the statute (this is where “<i>check one</i>” would be appropriate): 12(b)(i): Should provide the victim or witness protection from <u>all contact</u> by the defendant; 12(b)(ii): Should provide the victim or witness protection from contact made by the defendant with the <u>intent to annoy</u>, harass [etc.] Finally, language should indicate that 12(a) and 12(b) may both be applied, as they are different orders, provided by authority from different provisions of the statute, and are not mutually exclusive.	Upon further review, the committee decided not to add a provision on limited contact under Penal Code section 136.2(a)(1)(G)(i) at this time in order to conduct further research on limited contact options in general. The committee recommends reincorporating an item allowing the court to issue other orders into the forms.
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Item 14, exceptions (both forms)		
Commenter	Comment	Committee Response
Adrian Contreras San Diego, CA	I would like to see a box where the court can order a general “no negative contact” order. This often comes up when the defendant and the victim live together and have reconciled but the criminal case is still proceeding. Right now, when the court wants to include such an order, we have to handwrite it in the margin, which looks messy. Box 14 does not seem to account for this because it says it applies only for court-ordered visitation in a concurrent family, juvenile, or probate proceeding. But what if there are no such concurrent proceedings, and the criminal proceedings are the only proceedings being litigated? Having a general no negative contact order option in the form would fill this gap.	Because this would be a substantive change to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee will consider this suggestion during the next proposal cycle.

SPR 22-08**Criminal Procedure: Criminal Protective Orders (Forms CR-160 and CR-161)**

Item 17, Recordings (CR-160)		
Commenter	Comment	Committee Response
Family Violence Appellate Project by Cory Hernandez, Staff Attorney	Item 17 regarding recordings, “prohibited communications” is not plain language; see DV-110, item 16.	The committee recommends using the language in the civil domestic violence protective order form: The protected person in item (2) may record communications made by the person in item (1) that violate this order.
TCPJAC/CEAC Joint Rules Subcommittee	Recordings. While there may not be statutory specific authority to allow a non-DV protected person to record calls, this has been a common feature of these forms, and a source of protection and enforcement for many years. Suggest keeping in the recording provision for protected person by adding language that such recording may be ordered by the court as part of OR release, pre-trial supervision, etc. Therefore, there is consent granted to allow the recordings.	Form CR-161 currently states that the protected person may record any prohibited communication made by the defendant. While a court may issue such an order upon the request of a victim of domestic violence who is seeking a domestic violence restraining order (Pen. Code, § 633.6(a)), there appears to be no corresponding statutory authorization for a nondomestic violence criminal protective order. Accordingly, the committee recommends deleting this prohibition from the form.

Instructions for Law Enforcement (both forms)		
Commenter	Comment	Committee Response
Family Violence Appellate Project by Cory Hernandez, Staff Attorney	Ninth and last, per California Manual Style § 1:4, there’s no need for the “See” signal in the parenthetical in the first dot-point listed under the “Start and End Date of Order” under the Instructions for Law Enforcement.	The committee agrees with this suggestion.

SP22-11

Criminal Protective Orders and Firearm Relinquishment Orders (Revise forms CR-160, CR-161, and CR-162)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	California Department of Justice, Division of Law Enforcement, Bureau of Firearms by Charlie Sarosy, Deputy Attorney General	AM	The Bureau of Firearms (BOF), within the Division of Law Enforcement in the California Department of Justice, respectfully submits this public comment regarding the revisions made to two Judicial Council criminal protective order forms and one domestic violence firearms relinquishment form pursuant to Assembly Bill 1621 (Stats. 2022, ch. 76) (AB 1621). For the sake of brevity, this comment will not speak to each of the three forms within Item SP22-11. It is also unnecessary because each form makes the same, or a similar, revision that this comment seeks to address. Specifically, each revised form describes three categories of prohibited items resulting from a criminal protective order or firearm relinquishment order: (1) “firearms (guns)”; (2) “firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531)”; and (3) “ammunition.” For the reasons described below, the following revisions are recommended: (1) that the phrase “Firearms (Guns), Firearm Parts, and Ammunition” be revised to “Firearms, Receivers/Frames, Firearm Precursor Parts, and Ammunition”; and (2) that the phrase “firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), or ammunition” be revised to “firearms, receivers/frames, firearm precursor parts (as defined in Penal Code section 16531), or ammunition.”	The committee appreciates the comment.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SP22-11

Criminal Protective Orders and Firearm Relinquishment Orders (Revise forms CR-160, CR-161, and CR-162)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			As to the first category, “firearms (guns),” the use of “guns” in a parenthetical to presumably attempt to describe a “firearm” in plain language is unnecessary and potentially confusing. The term “firearm” has a statutory definition that does not use the word “gun” or otherwise refer to a “gun.” Under Penal Code section 16520, subdivision (a), “firearm” is defined as “a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” Not all guns meet this definition of a firearm. Thus, equating a firearm with a gun, and vice versa, is incorrect. For example, there are separate statutory definitions for a blowgun (Pen. Code, § 16270), stun gun (Pen. Code, § 17230), and an imitation firearm such as a BB device, spot marker gun, or airsoft gun (Pen. Code, § 16700). These separately defined guns are subject to different statutory restrictions and punishments from those that apply to firearms. (Compare Pen. Code, Part 6, Title 3 [“Weapons and Devices Other than Firearms”] with Pen. Code, Part 6, Title 4 [“Firearms”].) The Background section in the Invitation to Comment described the need for the revision to be a result of AB 1621, which “expands the definition of a firearm” in the statutes relevant to the orders that are the subject of these forms, with a citation to Penal Code section 16520, subdivision (b)(1), (24). However, as just described, “guns” are not	The committee discussed the suggestion and recommends retaining the word “guns” as a plain language synonym for “firearms.” The term “gun” appears to be more widely used and accessible to individuals with limited English proficiency. Moreover, the likelihood that an individual understands “guns” to include items which a restrained person is not prohibited from having seems low.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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Criminal Protective Orders and Firearm Relinquishment Orders (Revise forms CR-160, CR-161, and CR-162)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			included within the definition of firearm in Penal Code section 16520 and the term “guns” can include items that are defined under other statutes. Therefore, equating “firearms” with “guns” will possibly confuse the court and the restrained person as to which items are prohibited pursuant to the restraining order. Moreover, the CR-162 form in Item SP22-11, and the three Judicial Council criminal law forms revised in Item SP22-12, do not use the phrase “firearms (guns),” so inconsistency exists across these forms. Accordingly, it is recommended that the parenthetical use of “guns” be stricken and the phrase “firearms (guns)” simply read as “firearms.” There are also some inaccuracies with regards to the second category previously described, “firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531).” First, the term “firearm parts” is not a term used by the BOF, or other law enforcement agencies, to collectively refer to receivers, frames, and unfinished receivers or frames. In addition to being an unfamiliar term, “firearm parts” also lacks any statutory definition. Thus, using this term in three court forms will create a new term that lacks a statutory basis and one that is not used by the agencies tasked with enforcing the criminal protective orders and firearm relinquishment orders.	The committee recommends including “guns” in these forms, for the reasons stated above. The committee recommends the use of “firearm parts” as a plain language term to refer to frames, receivers, and firearm precursor parts. The committee believes that a significant portion of court users would better understand what items are prohibited through referring to them as “firearm parts.”

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SP22-11

Criminal Protective Orders and Firearm Relinquishment Orders (Revise forms CR-160, CR-161, and CR-162)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Second, connecting “unfinished receiver or frame” with Penal Code section 16531 is inaccurate because AB 1621 eliminated these terms from section 16531. Before AB 1621, section 16531 defined a “firearm precursor part” as “a component of a firearm that is necessary to build or assemble a firearm and is described in either of the following categories: (1) An unfinished receiver (2) An unfinished handgun frame.” (Former Pen. Code, § 16531, subd. (a).) But AB 1621 amended section 16531 and replaced the previously-described definition of a firearm precursor part with the following: “any forging, casting, printing, extrusion, machined body or similar article [1] that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or [2] that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.” (Pen. Code, § 16531, subd. (a).) The terms “unfinished receiver” and “unfinished frame” no longer appear in Penal Code section 16531 because of AB 1621. Indeed, this fact is acknowledged at page 3, footnote 3 in Item SP22-11’s Invitation to Comment. Thus, continuing to use those terms and tying them to section 16531 contradicts the current wording of the statute. Moreover, the BOF does not use “unfinished receiver or frame” in its Firearm Precursor Part Identification Guidebook, available here, https://oag.ca.gov/system/files/media/bof-reg-	The committee agrees, in part, and will replace “unfinished receiver or frame” with “any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).”

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SP22-11

Criminal Protective Orders and Firearm Relinquishment Orders (Revise forms CR-160, CR-161, and CR-162)

All comments are verbatim unless indicated by an asterisk (*).

Commenter	Position	Comment	Committee Response
		rev-fpp-id-guidebook.pdf, or in the related regulations. (See also Cal. Code Regs., tit. 11, § 4303.) Accordingly, it is recommended that “firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531)” be replaced with: “receivers/frames, firearm precursor parts (as defined in Penal Code section 16531).” This recommended iteration is clearer because the terms “receiver” and “frame” are defined under California regulations (Cal. Code Regs., tit. 11, § 4303(a)(3), (6)), and federal regulations (Definition of “Frame or Receiver” and Identification of Firearms, 87 Fed. Reg. 24652, 24739, codified at 27 C.F.R. pts. 447, 478 and 479). Although “firearm precursor part” might be a relatively new term, the reference to the specific Penal Code section will assist with understanding its meaning. A plain language description of a “firearm precursor part” would likely be too cumbersome because of the two categories of such an item, i.e., a readily convertible item or a marketed/sold item. (Pen. Code, § 16531, subd. (a).) This recommended iteration is also more consistent with the wording in Penal Code section 16520, subdivision (b), which is the basis for including this language in these court forms. That language states: “As used in the following provisions, ‘firearm’ includes the	The committee believes a plain language description of a “firearm precursor part” is helpful to insure that restrained persons are as aware as possible of the prohibition. The committee agrees, in part, and has modified the reference to prohibited items to generally refer to: any firearms (guns), firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SP22-11**Criminal Protective Orders and Firearm Relinquishment Orders** (Revise forms CR-160, CR-161, and CR-162)

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	Commenter	Position	Comment	Committee Response
			frame or receiver of the weapon: weapon, including both a completed frame or receiver, or a firearm precursor part.” (Pen. Code, § 16520, subd. (b).) Using this recommended iteration would ensure that law enforcement agencies remove the correct items from restrained and prohibited persons, which would avoid the need for duplicative law enforcement efforts resulting from prohibited persons maintaining possession of items they should not have. Moreover, this iteration would avoid the possibility of an unknown term, “firearm parts,” being used in the California Restraining and Protective Order System (CARPOS), which collects the information in these forms and orders so that law enforcement agencies can enforce these orders and be aware of the restrained person, should they come across them in the field. Although there is a separate statutory definition for a “federally regulated firearm precursor part” under Penal Code section 16519, it is unnecessary to mention that term because such an item is considered a firearm pursuant to federal law, and thus would fall within the meaning of a “firearm.”	The committee agrees with the comment.
2.	Superior Court of Orange County by Iyana Doherty, Courtroom Operations Supervisor		CR-160 On page 1, hearing information was moved to item 5, but is now missing the Department / Room number field. Should be added back. On page 2, Item 12 there is this statement:	The committee agrees with this suggestion. The committee agrees with this suggestion and has incorporated it into the recommended form. It

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SP22-11

Criminal Protective Orders and Firearm Relinquishment Orders (Revise forms CR-160, CR-161, and CR-162)

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	Commenter	Position	Comment	Committee Response
			No-contact order: Defendant must not contact the protected persons named above, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means. Contact through an attorney under reasonable restrictions set by the court does not violate this order. However, since this is now a 2 page order, the protected persons are now on page 1, so referencing “named above” is not accurate. Should state “protective persons named on page 1 of this order” or refer to the item #. Also, previous order stated that third party contact is not allowed except by attorney of record. New form does not reference that warning, just states that they can make contact through an attorney. Believe adding reference that no contact through a third party provides more clarity to the defendant and should be re-added. CR-161 On page 1, hearing information was moved to item 5, but is now missing the Department / Room number field. Should be added back. On page 2, item #11 refers to “protected persons named above”, should state “protected persons named on page 1”, or specify the item #'s. Same comment for item #12	also incorporated this change into items 11, 14, and 15. The committee agrees with this suggestion, with modifications, and has incorporated it into the form that it is recommending for adoption. The committee agrees with this suggestion. The committee agrees with this suggestion and has incorporated it into the recommended form. It also incorporated this change into item 14.

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			Previous order stated that third party contact is not allowed except by attorney of record. New form does not reference that warning, just states that they can make contact through an attorney. I believe that “no contact through a third party” provides more clarity to the defendant and should be re-added.	The committee agrees with this suggestion, with modifications, and has incorporated it into the form that it is recommending for adoption.
			“Recordings: The protected person may record communications made by the person that violate this order” was on the old order but not on this new one, should be added.	The committee declines this suggestion. While a court may issue such an order upon the request of a victim of domestic violence who is seeking a domestic violence restraining order (Pen. Code, § 633.6(a)), there appears to be no corresponding statutory authorization for a nondomestic violence criminal protective order. Accordingly, the committee recommends deleting this prohibition from the form.
			Request for Specific Comments In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following: • <i>Does the proposal appropriately address the stated purpose?</i> Yes. The advisory committee also seeks comments from <i>courts</i> on the following cost and implementation matters: • <i>Would the proposal provide cost savings? If so, please quantify.</i> No.	The committee appreciates the comments.

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			• <i>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i> Reviewing the new forms with the courtroom clerks would be about two hours for each courthouse. Docket codes to conform with the new verbiage added to the forms and update of procedures as needed. Approximately 2 weeks to train and implement successfully. • <i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation, or would January 1 be a better effective date?</i> Yes, 3 months would be sufficient and the preferred timeline to implement this new form instead of January 1st. Legislation updates are the priority for January 1st. • <i>How well would this proposal work in courts of different sizes?</i> No difference anticipated for different sized courts.	
3.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	Request for Specific Comments <i>Does the proposal appropriately address the stated purpose?</i> Yes. <i>Would the proposal provide cost savings? If so, please quantify.</i> No.	The committee appreciates the comments.

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			<i>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? Revisions to internal procedures, local packets, and training for staff.</i> <i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation, or would January 1 be a better effective date? January 1, 2023 would be the preferred effective date since the forms are mandatory and the new law is already operative. It would benefit courts to have JCC approved forms prior to March 1, 2023.</i> <i>How well would this proposal work in courts of difference sizes? It appears that the proposal would work for courts of all sizes. No additional Comments.</i>	The committee discussed the comment but, based on feedback from judicial administrators on the committee, recommends a March 1, 2023 effective date in order to give courts sufficient time to implement the changes, as they are extensive and many courts use triplicate paper for these orders.
4.	Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee Joint Rules Subcommittee	AM	* The proposal will have a <i>significant</i> fiscal and/or operational impact for the trial courts by impacting existing automated systems (e.g., case management system, accounting system, technology infrastructure or security equipment) and require the development of local forms. Currently there is not a check box to include civil, elder or criminal protective orders with Firearm Relinquishment Orders on the CCPOR.	The committee acknowledges the additional work that may be required due to the form revisions, but believes that the revisions are necessary to comply with the relevant statutes and to increase accessibility for both restrained and protected persons. The California Courts Protective Order Registry (CCPOR) is a statewide system for storing data and images of restraining and protective orders

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			Protective orders Firearm Relinquishment Orders information must be written into the text free form box which has limited characters. It would be extremely helpful to have CCPOR updated to include check boxes for the protective orders with Firearm Relinquishment Orders	that is accessible to judicial officers to reduce the issuance of conflicting orders. The registry also has a gateway for entering orders into the Department of Justice's California Restraining and Protective Order System (CARPOS). The comment is, however, beyond the scope of the proposal and has been passed along to Judicial Council staff that administers CCPOR.

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