



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 24-132

For business meeting on September 20, 2024

Title

Criminal Law: Firearm and Body Armor Prohibitions

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, and CR-210

Effective Date

January 1, 2025

Date of Report

September 9, 2024

Recommended by

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

Contact

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Executive Summary

The Criminal Law Advisory Committee recommends revising six criminal forms to incorporate firearm and body armor prohibitions enacted in recent legislation. The committee also recommends revisions to the plea and firearm relinquishment forms to reflect new procedures on firearm relinquishment, clarify prohibited items and relinquishment requirements, and refer to the possibility of a lifetime prohibition on firearm possession for misdemeanor domestic violence offenses. Finally, the committee recommends additional revisions to the felony plea form based on other statutory changes, and to the criminal protective order forms based on stakeholder suggestions.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2025:

1. Revise *Plea Form, With Explanations and Waiver of Rights—Felony* (form CR-101) to advise defendants about body armor, firearm, and ammunition-related prohibitions; delete

references to the Division of Juvenile Justice; and update information related to prison commitments based on parole violations;

2. Revise *Domestic Violence Plea Form, With Waiver of Rights—Misdemeanor* (form CR-102) to advise defendants about and clarify body armor, firearm, and ammunition-related prohibitions;
3. Revise *Criminal Protective Order—Domestic Violence* (form CR-160) and *Criminal Protective Order—Other Than Domestic Violence* (form CR-161) to advise defendants about body armor prohibitions and relinquishment and to clarify the item related to additional protected persons;
4. Revise *Order to Surrender Firearms in Domestic Violence Case* (form CR-162) to advise defendants about body armor prohibitions and relinquishment; and
5. Revise *Prohibited Persons Relinquishment Form Findings* (form CR-210) to advise defendants about body armor prohibitions and to align the form with statutory changes to the firearm relinquishment procedure.

The proposed revised forms are attached at pages 10–29.

Relevant Previous Council Action

The forms in this proposal all contain firearm and ammunition prohibitions for criminal defendants. The forms were most recently revised effective March 1, 2023, to update advisements on firearm prohibitions to reflect statutory changes to the definition of a firearm.¹

Analysis/Rationale

This proposal is needed to implement statutory changes regarding firearm, body armor, and ammunition prohibitions and firearm relinquishment requirements and procedures, and to make additional clarifications.

Firearm, body armor, and ammunition prohibitions and relinquishment

Body armor prohibition

Assembly Bill 92 (Stats. 2023, ch. 232) amended Penal Code section 31360² to expand the prohibition against owning, purchasing, or possessing body armor to any person prohibited from

¹ Assembly Bill 1621 (Stats. 2022, ch. 76) expanded the definition of a firearm as used in specified code sections to include completed frames, receivers, and “firearm precursor part[s].”

² All further statutory references are to the Penal Code unless otherwise specified.

possessing a firearm under state law,³ effective January 1, 2024.⁴ The amendment added a requirement that the court advise a prohibited person of the body armor prohibition.⁵

To implement the bill, the committee recommends incorporating a court advisement prohibiting body armor on six criminal forms. These forms currently include a court advisement prohibiting firearm possession due to qualifying convictions or being subject to a criminal protective order.⁶

Advisement of prohibited items and relinquishment requirements

Under existing law, criminal defendants are prohibited from possessing a firearm, ammunition, reloaded ammunition, and ammunition feeding devices if they are convicted of a felony or a specified misdemeanor, and they must relinquish any firearms in their possession.⁷ Courts must instruct defendants of these prohibitions and relinquishment requirements on conviction of a qualifying offense.⁸

The Judicial Council plea forms currently include some, but not all, of the advisements on prohibited items and relinquishment requirements. To incorporate all prohibitions, the committee recommends revising form CR-101, item 3j, and form CR-102, item 7f, to supplement the existing language to advise defendants not to own, purchase, receive, or have prohibited items under the defendant’s custody or control.⁹ The committee also recommends revising forms CR-101 and CR-102 to include reloaded ammunition and ammunition feeding devices, including but not limited to magazines, as prohibited items and state that firearms and firearm parts must be relinquished.¹⁰

Lifetime firearm ban for misdemeanor domestic violence convictions

Effective January 1, 2019, section 29805 was amended to require a lifetime ban on possession of firearms for anyone convicted of a misdemeanor violation of section 273.5 (willful infliction of

³ Except under section 29610.

⁴ Before this amendment, section 31360 prohibited only persons convicted of “a violent felony under the laws of the United States, the State of California, or any other state, government, or country” from purchasing, owning, or possessing body armor.

⁵ AB 92 also affects numerous protective orders issued in civil, domestic violence, and juvenile matters. The Joint Protective Order Working Group—composed of members from the Criminal Law Advisory Committee, the Civil and Small Claims Advisory Committee, and the Family and Juvenile Law Advisory Committee—met in January 2024 to coordinate consistent and clear language for the body armor prohibition across protective orders. The working group also concluded that clarifying legislation regarding how body armor must be relinquished would be helpful.

⁶ The criminal forms incorporate firearm prohibitions under sections 136.2(a)(1)(G)(ii), 29800, 29805, and Code of Civil Procedure section 527.9.

⁷ §§ 29800(a)(1), 29805, 29810(a)(1) & (2), 30305(a)(1).

⁸ § 29810(a)(2).

⁹ See § 29800(a)(1), 29805.

¹⁰ See §§ 29810(a)(1) & (2), 30305(a)(1).

corporal injury to a spouse or cohabitant) on or after January 1, 2019.¹¹ Additionally, existing federal law makes it unlawful for a person convicted in any court of a misdemeanor crime of domestic violence “to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”¹²

The committee recommends revising form CR-102 to refer to the possibility of a lifetime ban on possessing firearms and other prohibited items under state and federal law.

Court confirmation of firearm relinquishment

Effective January 1, 2024, section 29810 was amended to add new procedural requirements for firearm relinquishment due to a qualifying conviction.¹³ Among these changes, before final disposition or sentencing in the case, courts are required to “confirm” that the defendant relinquished all firearms and whether the court received a completed Prohibited Persons Relinquishment Form¹⁴ and receipts. Under prior law, the court was required to make findings “concerning whether the probation officer’s report indicates” that the defendant relinquished all firearms and turned in the Prohibited Persons Relinquishment Form and receipts.

To implement these changes, the committee recommends revising form CR-210’s Noncompliance section so a court can indicate whether the defendant turned in the form and reported any firearms, whether the probation officer’s report indicates that the defendant possessed firearms, and, if so, whether the firearms were recovered. Additionally, the committee recommends revisions to clarify the court’s options in the Compliance section and delete items reflecting former statutory provisions.

Additional legislative changes related to form CR-101

The felony plea form lists the Division of Juvenile Justice (DJJ) as an option for sentencing because criminal courts previously had authority, in limited circumstances, to commit a minor to the DJJ.¹⁵ However, the DJJ closed on June 30, 2023, due to legislation enacted in 2020 and 2021.¹⁶ The committee recommends deleting the reference to the DJJ on form CR-101.

Form CR-101 also refers to possible custody periods due to a parole violation, including being “returned to state prison for up to one year, up to a maximum of ____ years.” However, after criminal justice realignment, a person on parole can be returned to state prison to serve parole revocation time only in limited circumstances, and the maximum time served varies and is

¹¹ Assem. Bill 3129 (Stats. 2018, ch. 883).

¹² 18 U.S.C. § 922(g)(9).

¹³ Assem. Bill 732 (Stats. 2023, ch. 240).

¹⁴ As required by section 29810, the Department of Justice has developed such a form with that name and assigned it form number BOF 1022.

¹⁵ See Welf. & Inst. Code, §§ 736.5(c), 1731.5, 1732.6.

¹⁶ Sen. Bill 823 (Stats. 2020, ch. 337); Sen. Bill 92 (Stats. 2021, ch. 18).

determined by the Board of Parole Hearings.¹⁷ The committee recommends revising this language to state that if a defendant violates parole, the defendant may be returned to state prison if the conviction was for a crime subject to section 3000(b)(4) or 3000.1.¹⁸

Stakeholder suggestions related to criminal protective orders (forms CR-160 and CR-161)

The criminal protective orders underwent extensive revisions effective March 1, 2023. These revisions included a check box (new item 3a) for the court to indicate that it finds the protected person’s family members have been targeted or harmed by the defendant—a finding required for postconviction protective orders under section 136.2(i)(1). The committee added item 3a because under section 136.2(i)(1), a court may issue an order restraining the defendant from any contact with “a victim of the crime” for up to 10 years on conviction of specified offenses.

Courts have held that a victim’s family members cannot be included in the postconviction protective order under section 136.2(i)(1) without evidence they have been targeted or harmed. (See, e.g., *People v. Beckemeyer* (2015) 238 Cal.App.4th 461, 466–467; *People v. Delarosaranda* (2014) 227 Cal.App.4th 205, 212.) An attorney with the Los Angeles City Attorney’s office requested that item 3a include nonfamily members if there is evidence they were targeted or harmed during the incident of domestic violence. In support of this request, the attorney asserts that the case law defines a “victim” under section 136(i)(1) to include anyone targeted or harmed during the incident (see *People v. Beckemeyer, supra*, 238 Cal.App.4th at p. 466 [“victim” is broadly defined in section 136 as any person against whom there is reason to believe a crime has been committed] and *People v. Race* (2017) 18 Cal.App.5th 211, 219 [the term “victim” under section 136.2 criminal protective orders must be construed broadly to include any individual against whom there is “some evidence” from which the court could find the defendant had committed or attempted to commit some harm within the household]).

The committee recommends revising item 3a to apply to additional protected persons who are also victims of the crime.

An attorney with the Alameda County District Attorney’s office requested revising item 1 of the instructions for law enforcement (on page 4 of form CR-160 and page 3 of form CR-161) to state that postconviction protective orders may be issued by the court “regardless of” whether the

¹⁷ If a person is subject to parole for a specified sex offense (§ 3000(b)(4)) or a murder conviction with a maximum term of life imprisonment (§ 3000.1(a)(2)) and a court determines that the person has violated the law or the conditions of parole, the person “shall be remanded to the custody of the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.” (§ 3000.08(h).) For persons subject to life parole, a parole reconsideration hearing must be held on the next available calendar, but no later than 12 months from the date of the parole revocation. (§ 3000.1(d); 15 Cal. Code Regs. § 2275(a).) The panel or board must release the person within one year of the date of revocation unless it determines that the circumstances and gravity of the parole violation are such that consideration of public safety requires a lengthier period of incarceration or unless there is a new prison commitment following a conviction. (§ 3000.1(d).) If a person is not rereleased on parole, they must be reconsidered for release on parole annually. (*Ibid.*)

¹⁸ In a separate proposal, the committee is also recommending amendments to California Rules of Court, rule 4.433, to add a reference to the parole periods described in Penal Code section 3000.01 to the provision on the sentencing judge’s advisement to the defendant about the parole period to be served after expiration of the sentence.

defendant is sentenced to custody or probation. (See § 136.2(i)(1), which provides: “This protective order may be issued by the court regardless of whether the defendant is sentenced to the state prison or a county jail, whether the defendant is subject to mandatory supervision, or whether imposition of sentence is suspended and the defendant is placed on probation.” The committee agrees and recommends the revised language.

Policy implications

The recommended revisions will implement statutory changes so that council forms are accurate. These revisions are consistent with the judicial branch’s strategic plan goals of Modernization of Management and Administration (Goal III) and Quality of Justice and Service to the Public (Goal IV).

Comments

The committee received two comments agreeing with the proposal from the Orange County Bar Association and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. The Superior Court of Orange County and Giffords Law Center agreed with the proposal if modified, and the California Department of Justice’s Office of Gun Violence Prevention and Bureau of Firearms did not indicate a position but included a suggestion for revising language on a form.

A chart with the full text of the comments received and the committee’s responses is attached at pages 30–39. The main comments and the committee’s responses are discussed below.

Registered firearms

The California Department of Justice and Giffords Law Center objected to specified references to “registered firearms” on *Prohibited Persons Relinquishment Form Findings* (form CR-210), an optional form for courts to record findings about a defendant’s compliance with firearm relinquishment requirements under Penal Code section 29810. The circulated proposal referred to relinquishment of registered firearms in items 1c, 2a, 2b, and 3.¹⁹

Because section 29810 contemplates relinquishment of all firearms, both registered and nonregistered, the commenters request deleting the term “registered” from these items. In support of this position, the commenters point to statutory references in section 29810 referring to all firearms:

- “Upon conviction ... the person shall relinquish all firearms they own, possess, or have under their custody or control” (§ 29810(a)(1).)
- A probation officer must investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant has any firearms (§ 29810(c)(1)), and the officer must report to the court and the prosecuting attorney

¹⁹ Proposed form CR-210 as circulated for public comment can be found on page 29 of the invitation to comment, which can be found at www.courts.ca.gov/documents/spr24-16.pdf.

whether the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the relinquishment form. (§ 29810(c)(2).)

- “Prior to final disposition or sentencing ... the court shall confirm that the defendant has relinquished all firearms as required” (§ 29810(c)(4).)

The committee previously suggested referring to registered firearms because, in some members' experience, unregistered firearms are not being reported by defendants and probation officers to courts. Additionally, section 29810(c)(3) references follow-up actions the court must take “[i]f the report of the probation officer does not confirm relinquishment of firearms registered in the defendant's name.” However, the committee agrees with the commenters' position that the statute contemplates covering all firearms and recommends deleting the term “registered” from the form.

Factual basis for a plea

The Court's Findings and Order section of the felony plea form (form CR-101) states that the court finds that “[a] factual basis exists for the plea and admissions, or the defendant is pleading under a plea bargain under *People v. West*.” The committee requested specific comments on whether to delete the second clause in light of section 1192.5(c) (“The court shall also cause an inquiry to be made of the defendant to satisfy itself that the plea is freely and voluntarily made, and that there is a factual basis for the plea”) and case law.²⁰ Additionally, the reference to *People v. West* (1970) 3 Cal.3d 595 appears inaccurate, as *West* holds that a defendant may enter a guilty plea to a lesser related offense to avoid conviction of the greater offense, but a court would still need to find a factual basis for the plea.

The Superior Court of Orange County agreed with deleting the second clause, while the Orange County Bar Association disagreed, stating that “*People v. West* remains valid and does not contradict section 1192.5(c) or *People v. Willard*.”

The committee recommends deleting the second clause. In response to the Orange County Bar Association's comment, the committee agrees that *People v. West* remains valid for its holding that a defendant may enter a guilty plea to a lesser related offense to avoid conviction of the greater offense but contends that a *West* plea does not create an exception to a court finding of a factual basis for the plea and admissions.

Expanding additional protected persons for postconviction criminal protective orders

The committee requested specific comments on whether the proposed revisions to item 3a in forms CR-160 and CR-161 properly reflect the case law defining a “victim” for purposes of a postconviction protective order under section 136.2(i)(1).

²⁰ See *People v. Willard* (2007) 154 Cal.App.4th 1329 (a plea is not valid without an adequate factual basis).

The Orange County Bar Association commented that the proposed revisions could more specifically refer to a “victim who was targeted or harmed” or otherwise define a “victim.” The committee opts to use the term “victims of the crime” to mirror the language of section 136.2(i)(1).

Alternatives considered

The committee did not consider the alternative of not revising the forms, determining that it was important to revise the forms to implement legislative changes.

In implementing the new body armor prohibition, the committee considered providing more guidance on how “relinquishment” can be satisfied (e.g., include a deadline, who to give it to, and whether destruction of body armor qualifies). However, the committee decided against this approach because the statute does not define relinquishment or provide a framework for compliance.

The committee discussed whether to revise the advisement that a misdemeanor domestic violation conviction *may* subject a defendant to a firearm prohibition to be a mandatory prohibition. Even though the most common misdemeanor domestic violence offenses are listed under prohibitions of firearm possession,²¹ the committee decided not to recommend mandatory prohibition language because there could be offenses, such as vandalism, that may not be subject to a firearm prohibition but still be considered a domestic violence offense, given that a domestic violence offense is defined by the relationship between the defendant and the victim.²²

Fiscal and Operational Impacts

The fiscal and operational impacts of this proposal are largely attributable to legislation. Expected costs include training, case management system updates, and the production of new forms.

Attachments and Links

1. Forms CR-101, CR-102, CR-160, CR-161, CR-162, and CR-210, at pages 10–29
2. Chart of comments, at pages 30–39
3. Link A: Penal Code section 16288,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=16288.&lawCode=PEN
4. Link B: Penal Code section 29800,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=29800.&lawCode=PEN

²¹ For example, violations of sections 140, 243, 273.5, 422, and 646.9. (§ 29805(a)(1).)

²² The Penal Code defines “domestic violence” as abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. (§ 13700(b).)

5. Link C: Penal Code section 29805,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=29805.&lawCode=PEN
6. Link D: Penal Code section 29810,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=29810.&lawCode=PEN
7. Link E: Penal Code section 30305,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=30305.&lawCode=PEN
8. Link F: Penal Code section 31360,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=31360.&lawCode=PEN

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: FOR COURT USE ONLY 07/15/2024 DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
PLEA FORM, WITH EXPLANATIONS AND WAIVER OF RIGHTS—FELONY	

INSTRUCTIONS:

- (1) Fill out this form only if you want to plead guilty or no contest.
- (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- (3) On page 6, sign and date the form under "DEFENDANT'S STATEMENT."
- (4) Keep in mind that the court cannot give legal advice. If you have any questions about anything in this form, ask your attorney.

1. **CHARGES AND MAXIMUM TERM.** I want to plead guilty or no contest ("nolo contendere") to the charges and admit the following prior convictions, enhancements, allegations, and circumstances in aggravation listed below. I understand that the minimum and maximum penalties for the charges to which I am pleading guilty or no contest are listed below. INITIALS

COUNT	CHARGES (SECTION & DESCRIPTION)	YEARS / MONTHS		PRIOR CONVICTIONS, ENHANCEMENTS, ALLEGATIONS & CIRCUMSTANCES IN AGGRAVATION (SECTION & DESCRIPTION)	YEARS / MONTHS		TOTAL MAXIMUM TIME
		MINIMUM	MAXIMUM		MINIMUM	MAXIMUM	
AGGREGATE MAXIMUM TIME OF IMPRISONMENT							

2. **PLEA AGREEMENT.** I understand that I must tell the court on this form about any promises anyone has made to me about the sentence I will receive or the sentence recommendations that will be made to the court. My attorney, the court, or the prosecutor has explained to me that if I plead guilty or no contest to the charges and admit the prior convictions, enhancements, allegations, and circumstances in aggravation listed above, the court will sentence me as follows:

- a. Check one: **State Prison** for **County Jail** for
- (1) years and months or
- (2) not less than years and months and/or not more than years and months.
- (3) Other (specify):
- b. **Probation** for years under conditions to be set by the court, including
- days in the **county jail** or
- up to days in the **county jail**.

I understand that a violation of any of the conditions of probation, including failure to complete a drug education or treatment program, if ordered by the court, may cause the court to send me to **county jail or state prison** for up to the **"Aggregate Maximum Time of Imprisonment"** specified in item 1, which may include a period of mandatory supervision under Penal Code section 1170(h)(5)(B) if the court sends me to county jail.

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2. c. **Split Sentence (1170(h)(5)(B)):** years and days in the county jail and years and days on mandatory supervision under conditions set by the court. I understand that if I violate any of the terms or conditions of mandatory supervision, I may be remanded into custody for the entire unserved portion of the sentence.

d. **Open Plea**

- (1) I understand the maximum and minimum sentences for the charges, enhancements, and allegations stated on page 1. No one has made any other promises to me about what sentence the court may order.
- (2) I understand that I am not eligible for probation.
- (3) I understand that I will not be granted probation unless the court finds at the time of sentencing that this is an unusual case where the interests of justice would be best served by granting probation.

e. **Restitution, Statutory Fees, and Assessments**

I understand that the court will order me to pay the following amounts (if an amount is not yet known, "TBD" for "to be determined" is entered next to the \$); I must prepare financial disclosure statements to assist the court in determining my ability to pay; and refusal or failure to prepare the required financial disclosure statements may be used against me at sentencing:

- (1) \$ **to the Victim Restitution Fund**
- (2) \$ **restitution to actual victims**
- (3) \$ **restitution to the State of California, Victims of Crime Fund**
- (4) \$ **court operations assessment**
- (5) \$ **court facilities assessment**
- (6) \$ **base fine plus any applicable penalties, assessments, and surcharges**
- (7) \$ **other (specify):**
- (8) \$ **other (specify):**
- (9) An (additional) amount to be determined by the court at sentencing or such other hearing as the court may set.

f. **Fines for Revocation of Parole, Postrelease Community Supervision, Mandatory Supervision, or Probation**

I understand that if I am sentenced to **state prison**, the court **will** impose a parole revocation fine or a postrelease community supervision revocation fine, which will be collected only if my parole or postrelease community supervision is later revoked. I also understand that if I am granted probation or mandatory supervision, the court **will** impose a probation revocation fine or mandatory supervision revocation fine, which will be collected only if my probation or mandatory supervision is later revoked.

g. **Dismissal of Other Counts**

I understand that as part of the plea agreement bargain, the following counts will be dismissed after sentencing:

I understand and agree that the sentencing judge may consider facts underlying dismissed counts to determine restitution and to sentence me on the counts to which I am entering a plea.

h. **Other Terms (specify):**

3. **CONSEQUENCES OF MY PLEA**

a. **No Contest ("Nolo Contendere") Plea**

I understand that a no contest plea is the same as pleading guilty and that if I plead no contest, I will be convicted and my no contest plea could be used against me in a civil case.

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3. b. **Parole and Postrelease Community Supervision**

I understand that if I am sentenced to **state prison**

- (1) I will be placed on parole or postrelease community supervision for up to _____ years after my release.
- (2) if I abscond or the court tolls my supervision, the total time of parole or postrelease community supervision can be extended.
- (3) if I violate any of the terms or conditions of my parole, I can be sentenced to county jail for up to 180 days for each violation, or if I am convicted of a crime that is subject to parole pursuant to Penal Code section 3000(b)(4) or 3000.1, I could be returned to state prison.

c. **Effect of Conviction on Other Cases**

I understand that a conviction in this case may constitute a violation of any other current grant of parole, mandatory supervision, postrelease community supervision, or probation in any other case and that I may receive additional punishment as a result of that violation.

d. **Registration**

I understand that I will be required to register with the local police agency or sheriff's department in the city or county in which I reside as

- (1) an arson offender
- (2) a gang member
- (3) a sex offender (**this registration is a lifelong requirement**)
- (4) Other (*specify*):

and that if I fail to register or to keep my registration current for any reason, new felony criminal charges may be filed against me.

e. **Prints and DNA Samples**

I understand that I must provide biological samples and prints for identification purposes—including buccal (mouth) swab samples, right thumb prints, palm prints of each hand, and blood specimens or other biological samples required by law—and that failure to do so constitutes a new criminal offense.

f. **Serious or Violent Felony**

- (1) I understand that by pleading guilty or no contest to a serious or violent felony ("strike"), the penalty for any future felony conviction will be increased as a result of my conviction in this case, depending on the number of strikes I have, up to a mandatory prison sentence of double the term otherwise provided or a term of at least 25 years to life.
- (2) I understand that if I am convicted of a violent felony, jail or prison conduct/work-time credit I may accrue will not exceed 15 percent.
- (3) I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20 percent of the total term of imprisonment.
- (4) I understand that if I am convicted of murder or a third felony conviction of certain offenses, I am ineligible to receive work-time credits. Count _____ is such an offense.

g. **Prior Prison Term for Sexually Violent Offense**

I understand that if I am sentenced to serve a state prison term for this sexually violent offense, as defined in Welfare and Institutions Code section 6600(b), the penalty for any future felony conviction may be increased as a result of my incarceration in this case.

h. **Driver's License and Vehicle Forfeiture**

I understand that my privilege to drive a motor vehicle may be revoked or suspended by the court or the California Department of Motor Vehicles and my vehicle may be ordered forfeited if it was involved in the offense.

i. **Immigration Consequences**

I understand that if I am not a citizen of the United States, my plea of guilty or no contest may result in my deportation, exclusion from admission to the United States, or denial of naturalization under the laws of the United States.

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3. j. **Firearms (Guns), Firearm Parts, and Ammunition Prohibition and Relinquishment**

I understand that under federal and state law a conviction in this case prohibits me from owning, using, purchasing, receiving, or having under my custody or control firearms (guns), firearm parts, ammunition, reloaded ammunition, and ammunition feeding devices, including but not limited to magazines, for life. 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). I must relinquish any firearms and firearm parts I own, possess, or have under my custody or control (see Penal Code section 29810).

k. **Body Armor Prohibition and Relinquishment**

I understand that a conviction in this case prohibits me from purchasing, owning, or possessing body armor (defined in Penal Code section 16288). I must relinquish any body armor I have in my possession (see Penal Code section 31360).

l. **Other Consequences (specify):**

4. **RIGHT TO AN ATTORNEY**

I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me.

I hereby give up my right to be represented by an attorney.

5. **OTHER CONSTITUTIONAL RIGHTS**

I understand that I am entitled to each of the following rights as to the charges, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1):

a. **Right to a Jury Trial**

I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were unanimously convinced beyond a reasonable doubt that I am guilty. I have a right, through my counsel, to participate in jury selection.

b. **Right to a Court Trial**

I understand that, as an alternative to a jury trial, if the prosecutor agrees, I may give up a jury trial and have a court trial in which the judge alone, without a jury, hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge was convinced beyond a reasonable doubt that I am guilty.

c. **Right to Confront and Cross-Examine Witnesses**

I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney may question them.

d. **Right to Remain Silent and Not to Incriminate Myself**

I understand that I have the right to remain silent, and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself, and I cannot be forced to testify.

e. **Right to Produce Evidence and to Present a Defense**

I understand that I have a right to present evidence and to have the court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.

6. **BEFORE THE PLEA**

a. **Discussion With My Attorney**

Before entering this plea, I have had a full opportunity to discuss the following with my attorney:

- (1) The facts of my case;
- (2) The elements of the charged offenses, prior convictions, enhancements, allegations, and circumstances in aggravation;
- (3) Any defenses that I may have;
- (4) My constitutional and statutory rights and waiver of those rights;
- (5) The consequences of this plea, including the immigration consequences; and
- (6) Anything else I think is important to my case.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

6. b. **Questions**
 I have no further questions of the court or of my attorney with regard to my plea and admissions in this case, any of the rights, or anything else on this form.

c. **Stipulation to Commissioner**
 I understand that I have the right to have a judge take my plea and sentence me. I give up this right and agree to have a commissioner, sitting as a temporary judge, take my plea and sentence me.

d. **Medications or Controlled Substances**
 I am not taking any medication that affects my ability to understand this form and the consequences of my plea, have not recently consumed any alcohol or drugs, and am not suffering from any medical condition, except for the following:

e. **Court Approval of Plea Agreement**
 I understand that the plea agreement in item 2 (on pages 1 and 2) is based on the facts before the court. I understand that if the court approves this plea agreement, the approval of the court is not binding, and that the court may withdraw its approval of the plea agreement upon further consideration of the matter. I understand that if the court withdraws its approval of this plea agreement, I will be allowed to withdraw my plea. (Pen. Code, § 1192.5.)

7. **STATUTORY RIGHT TO A PRELIMINARY HEARING**
 I understand that before I have a trial, the law gives me the right to a speedy preliminary hearing at which the prosecution would produce evidence and the court must find reasonable cause to believe I committed the crimes with which I have been charged. I understand that I have all of the above constitutional rights at the preliminary hearing, except for the right to a jury trial.

I give up my right to a preliminary hearing and the constitutional rights listed in item 5 (on page 4).

8. **WAIVER OF CONSTITUTIONAL AND STATUTORY RIGHTS**
I give up, for each of the charges, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1), my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right to remain silent and not to incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf. I understand that I am, in fact, incriminating myself with my plea.

9. **THE PLEA**
 I freely and voluntarily plead GUILTY NO CONTEST to the charges listed in item 1 (on page 1) and admit the prior convictions, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1), understanding that this plea and admission will lead to the penalties listed in item 2 (on pages 1 and 2).

a. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or my loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

b. **I understand that the court is required to find a factual basis for my plea to make sure that I am entering a plea to the proper offenses under the facts of the case.**

I offer to the court the following as the basis for my plea of guilty or no contest and any admissions:

(1) **I understand that the court may consider the following as proof of the factual basis for my plea:**

- (a) Preliminary hearing transcript
- (b) Police report
- (c) Probation report
- (d) Welfare investigator's declaration
- (e) Court documents regarding any alleged prior offenses
- (f) Other (*specify*):
- (g) (*Specify facts*):

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

9. b. (2) **I am pleading guilty or no contest to take advantage of a plea agreement (my attorney will stipulate to a factual basis for the plea).** (*People v. West* (1970) 3 Cal.3d 595.)

10. AFTER THE PLEA

a. Surrender

I understand that the court is allowing me to surrender at a later date to begin serving time in custody.

I agree that if I fail to appear on the date set for surrender or sentencing without a legal excuse, my plea will become an "open plea" to the court, I will not be allowed to withdraw my plea, and I may be sentenced up to the maximum allowed by law.

b. Sentencing Court

I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea.

I give up that right and agree that any judge or commissioner may sentence me.

c. Sentencing Date

I understand that I have the right to be sentenced within 20 court days. I give up that right and agree to be sentenced at a later date.

11. MANDATORY WARNING

I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, or Vehicle Code section 23152 or 23153, the following warning applies:

You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving someone is killed, you can be charged with murder.

DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and effects of any prior convictions, enhancements, allegations, and circumstances in aggravation have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

Date:

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF DEFENDANT)
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ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of the defendant's questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge; any possible defenses to the charges; the effect of any prior convictions, enhancements, allegations, and circumstances in aggravation; and the consequences of the plea.

I concur in the plea and admissions and join in the waiver of the defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea and refer the court to the police report preliminary hearing transcript probation report other (*specify*): _____ . (*People v. West* (1970) 3 Cal.3d 595.)

Date:

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF ATTORNEY)
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PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (specify):

Date: _____ (CERTIFICATION NUMBER)

_____ (TYPE OR PRINT NAME)  _____ (SIGNATURE OF INTERPRETER)

DISTRICT ATTORNEY'S STATEMENT

I have read this form and understand the terms of the plea agreement.

I agree do not agree with the terms of the plea agreement and the indicated sentence.

Date: _____ (SIGNATURE OF DISTRICT ATTORNEY)

_____ (TYPE OR PRINT NAME) 

COURT'S FINDINGS AND ORDER

The court, having reviewed this form (and any addenda), and having orally examined the defendant, finds as follows:

1. The initialed items in this form have been read by or read to the defendant, and the defendant understands each of them.
2. The defendant understands the nature of the crimes, prior convictions, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1) and the consequences of the plea and any admissions.
3. The defendant expressly, knowingly, understandingly, and intelligently waives the constitutional and statutory rights associated with this plea.
4. The defendant's plea, admissions, and waiver of rights are made freely and voluntarily.
5. A factual basis exists for the plea and admissions.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Date: _____ (SIGNATURE OF JUDICIAL OFFICER)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

16

Print this form
Save this form
Clear this form

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY 07/15/2024 DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
DOMESTIC VIOLENCE PLEA FORM WITH WAIVER OF RIGHTS—MISDEMEANOR	CASE NUMBER:

Instructions:

- (1) Fill out this form only if you want to plead guilty or no contest.
- (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- (3) Sign and date the form under "DEFENDANT'S STATEMENT" on page 4.
- (4) Keep in mind that the court cannot give legal advice. If you have an attorney and have questions about anything in this form, ask your attorney.

INITIALS

1. **Charges and Maximum Penalties.** I want to plead guilty or no contest to the charges listed below. I understand that the maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

COUNT	CHARGES (SECTION & DESCRIPTION)	MAXIMUM PENALTY (FINE & JAIL)

2. **Prior Convictions.** I understand that I am also charged with a prior conviction in case number(s):

3. **Probation Violations.** I understand that I am also charged with a violation of probation in case number(s):

4. **Right to an Attorney** (Leave this box blank if you have an attorney). I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me. **I hereby give up my right to be represented by an attorney.**

5. **Other Constitutional Rights.** I understand that I am entitled to each of the following rights concerning the charges and prior convictions (if any) listed in items 1 and 2 (above):

- a. **Right to a jury trial.** I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were convinced beyond a reasonable doubt that I am guilty.
- b. **Right to confront and cross-examine witnesses.** I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court to testify under oath in my presence and I or my attorney may question them.
- c. **Right to remain silent and not incriminate myself.** I understand that I have the right to remain silent and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself and I cannot be forced to testify.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

6. **Rights for Probation Violations** (*Leave this box blank if you are not charged with a probation violation*). I understand that I have all the constitutional rights listed above for all probation violations charged against me, except that I do not have a right to a jury trial, only a court hearing before a judge.

7. **Consequences of My Plea**

a. **No contest plea.** I understand that a no contest plea has the same effect as a guilty plea except that it cannot be used against me in a civil case that derives from an act on which this prosecution is based unless the offense is punishable as a felony.

b. **Effect of conviction on other cases.** I understand that a conviction in this case may be used to increase my punishment for future domestic violence convictions and may constitute a violation of any other current grant of parole or probation, which may result in additional punishment.

c. **Mandatory minimum conditions of probation.** I understand that if I am granted probation, the terms and conditions will include *at least* all of the following (see Pen. Code, § 1203.097):

- (1) A minimum of either 36 months (three years) or 48 months (four years) of probation;
- (2) A criminal court protective order that may include residence exclusion or stay-away conditions;
- (3) Booking within one week of sentencing if I have not already been booked;
- (4) Several statutory fines, fees, and assessments, including a domestic violence fee, restitution fine, probation revocation fine (stayed), criminal conviction assessment, and court security fee;
- (5) Successful completion of an appropriate batterer's treatment program lasting at least 52 weeks;
- (6) Community service;
- (7) Restitution to the victim (if applicable); and
- (8) Other:

d. **Effect of future probation violation.** I understand that if I violate any of the terms or conditions of probation, I may be returned to court and sentenced up to the maximum punishment on each charge as indicated in item 1.

e. **Immigration consequences.** I understand that if I am not a citizen of the United States, my plea of guilty or no contest may result in my deportation, exclusion from admission to the United States, or denial of naturalization under the laws of the United States.

f. **Firearms (guns), firearm parts, and ammunition prohibition and relinquishment.** I understand that a conviction in this case may prohibit me from owning, using, purchasing, possessing, receiving, or having under my custody and control firearms (guns), firearm parts, ammunition, reloaded ammunition, and ammunition feeding devices, including but not limited to, magazines for 10 years to life under federal law and state law (Penal Code sections 29805 and 30305). 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). I understand that a conviction in this case may require me to relinquish any firearm or firearm parts I own, possess, or have under my custody or control (Penal Code section 29810).

g. **Body armor prohibition and relinquishment.** I understand that a conviction in this case may prohibit me from purchasing, owning, or possessing body armor (defined in Penal Code section 16288). I must relinquish any body armor I have in my possession (see Penal Code section 31360).

h. **Child custody consequences.** I understand that a conviction in this case may result in a rebuttable presumption that an award of sole or joint physical or legal custody of a child is detrimental to the best interest of the child under Family Code section 3044.

i. **Other consequences** (*specify*):

8. **Before the Plea**

a. **Discussion with my attorney** (*leave this box blank if you are not represented by an attorney*). Before entering this plea, I have had a full opportunity to discuss with my attorney the facts of the case, the elements of the charged offenses and prior convictions (if any), any defenses that I may have, my constitutional and statutory rights and waiver of those rights, the consequences of this plea, and anything else I think is important to my case.

b. **Questions.** I have no further questions for the court or for my attorney with regard to my plea and admissions in this case or any of my rights or anything else on this form.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant(s):	CASE NUMBER:
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INITIALS

- 9. **Waiver of Constitutional Rights.** For each of the charges, prior convictions (if any), and probation violations (if any) listed in items 1, 2, and 3, I give up my right to a jury trial, my right to a court hearing, my right to confront and cross-examine witnesses, and my right to remain silent and not to incriminate myself. I understand that I am, in fact, incriminating myself with my plea.
- 10. **The Plea** (*check one*). I freely and voluntarily plead GUILTY NO CONTEST to the charges listed in item 1. I offer my plea with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.
- 11. **Prior Convictions.** I freely and voluntarily admit the prior convictions (if any) listed in item 2, and I understand that this admission may increase the penalties that are imposed on me.
- 12. **Probation Violations.** I freely and voluntarily admit the probation violations (if any) listed in item 3.
- 13. **Sentencing.** I understand that I have a right to delay my sentencing at least 6 hours and as long as 5 days after my plea. I give up this right and agree to be sentenced at this time.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant(s):	CASE NUMBER:
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DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and the effects of any prior convictions and probation violations have been explained to me. I understand each of the rights outlined above and I give up each of them to enter my plea.

Date: _____

_____ _____

(TYPE OR PRINT NAME) SIGNATURE OF DEFENDANT

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of the defendant's questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge, any possible defenses to the charges, the effect of any prior convictions and probation violations, and the consequences of the plea.

Date: _____

_____ _____

(TYPE OR PRINT NAME) SIGNATURE OF ATTORNEY

INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (specify):

Date: _____

_____ (CERTIFICATION NUMBER)

_____ _____

(TYPE OR PRINT NAME) SIGNATURE OF INTERPRETER

COURT'S FINDINGS AND ORDER

The court, having reviewed this form and having orally examined the defendant, finds that (a) the defendant has read or been read and understands each of the initialed items on this form; (b) the defendant understands the nature of the crimes and allegations listed in items 1, 2, and 3 and the consequences of the plea and any admissions; (c) the defendant expressly, knowingly, understandingly, and intelligently waives the defendant's constitutional and statutory rights; and (d) the defendant's plea, admissions, and waiver of rights are made freely and voluntarily.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Date: _____

_____ (SIGNATURE OF JUDICIAL OFFICER)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> 07/09/2024 DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
CRIMINAL PROTECTIVE ORDER—DOMESTIC VIOLENCE (CLETS—CPO) <input type="checkbox"/> ORDER PENDING TRIAL (Pen. Code, § 136.2) <input type="checkbox"/> MODIFICATION <input type="checkbox"/> PROBATION CONDITION ORDER (Pen. Code, § 1203.097(a)(2)) ORDER UPON CONVICTION: <input type="checkbox"/> PENAL CODE, § 136.2(i) <input type="checkbox"/> PENAL CODE, § 273.5(j) <input type="checkbox"/> PENAL CODE, § 368(l) <input type="checkbox"/> PENAL CODE, § 646.9(k)	CASE NUMBER:

This order may take precedence over other conflicting orders; see item 4 on page 4.

1. Restrained person

*Name: _____ *Gender: M F Nonbinary *Race: _____
 *Date of birth: _____ Height: _____ Weight: _____ Hair color: _____ Eye color: _____

2. Protected person

*Name: _____ *Gender: M F Nonbinary Age: _____

3. Additional protected persons

*Name	*Gender	Relationship to person in item 2
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- a. The court finds that the additional protected persons were also victims of the crime (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).
- b. The court finds by clear and convincing evidence that the above named percipient witnesses have been harassed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).

(For items 1, 2, and 3: Information that has a star (*) next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)

4. Expiration date

- a. For pretrial orders, 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).
- b. For postconviction orders, this order expires on (date): _____ (Postconviction orders under Penal Code sections 136.2(i), 273.5(j), 368(l), and 646.9(k) may be valid for up to 10 years.)

5. Hearing

This proceeding was heard on (date): _____ at (time): _____ in Dept.: _____
 by (judicial officer): _____

6. Personal service

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.

7. The court finds good cause to grant a protective order. See items 8–19.

To the defendant

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- 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).)

DEFENDANT:	CASE NUMBER:
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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 body armor

The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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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15. **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 13 and 14 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.

16. **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):
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- 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.

17. **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).)

18. **Recordings**

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

19. **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:
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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), 273.5(j), 368(l), and 646.9(k) are valid for up to 10 years and may be issued by the court **regardless of** 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 **13** 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:	<i>FOR COURT USE ONLY</i>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	07/15/2025 DRAFT Not approved by the Judicial Council
CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE (CLETS—CPO) (Pen. Code, §§ 136.2, 136.2(i), 368(l), and 646.9(k)) ORDER <input type="checkbox"/> Pen. Code, § 136.2 <input type="checkbox"/> MODIFICATION PENDING TRIAL: <input type="checkbox"/> Pen. Code, § 136.2(i) <input type="checkbox"/> Pen. Code, § 646.9(k) ORDER UPON <input type="checkbox"/> Pen. Code, § 136.2(i) <input type="checkbox"/> Pen. Code, § 646.9(k) CONVICTION: <input type="checkbox"/> Pen. Code, § 368(l)	CASE NUMBER:

1. Restrained person

*Name: _____ *Gender: M F Nonbinary *Race: _____
 *Date of birth: _____ Height: _____ Weight: _____ Hair color: _____ Eye color: _____

2. Protected person

*Name: _____ *Gender: M F Nonbinary Age: _____

3. Additional protected persons

*Name _____ *Gender _____ Relationship to person in item 2 _____

- a. The court finds that the additional protected persons were also victims of the crime (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).
- b. The court finds by clear and convincing evidence that the above named percipient witnesses have been harassed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).

(For items 1, 2, and 3: Information that has a star (*) next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)

4. Expiration date

- a. For pretrial orders, 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).
- b. For postconviction orders, this order expires on (date): _____ (Postconviction orders under Penal Code sections 136.2(i) and 646.9(k) may be valid for up to 10 years.)

5. Hearing

This proceeding was heard on (date): _____ at (time): _____ in Dept.: _____
 by (judicial officer): _____

6. Personal service

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.

7. The court finds good cause to grant a protective order. See items 8–17.

To the defendant

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.

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.

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 body armor

The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.

10. **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.
11. **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.

12. **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.

13. **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.

14. **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:

15. **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 13 and 14 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.

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. **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 **regardless of** 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 **13** 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:	<i>FOR COURT USE ONLY</i> 06/13/2024 DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
ORDER TO SURRENDER FIREARMS IN DOMESTIC VIOLENCE CASE (CLETS—CPO) (Penal Code, § 136.2(a)(1)(G)(ii))	CASE NUMBER:

PERSON TO SURRENDER FIREARMS (*complete name*):

Gender: <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> 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 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.
5. **No body armor**
 The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.

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).)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> 9/9/2024 DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
PROHIBITED PERSONS RELINQUISHMENT FORM FINDINGS (Pen. Code, § 29810(c))	<i>FOR COURT USE ONLY</i> Date: Time: Department:

Any reference to "firearm" in this form includes any firearms (guns), receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16351). The defendant is prohibited from owning, purchasing, receiving, possessing, or having under their custody any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and must relinquish all firearms under Penal Code section 29810. The defendant is prohibited from purchasing, owning, or possessing body armor (defined in Penal Code section 16288) and must relinquish any body armor in their possession.

Compliance

1. The court received a Prohibited Persons Relinquishment Form from the defendant, and (choose one)
 - a. defendant relinquished all firearms to a local law enforcement agency or a licensed firearms dealer under Penal Code section 29810(a)(3) and provided relinquishment receipts;
 - b. defendant was allowed an alternative method of relinquishment under Penal Code section 29810(f) and relinquished all firearms under an alternative method; or
 - c. defendant has no firearms according to the Prohibited Persons Relinquishment Form and no firearms according to the probation officer's report

Noncompliance

2. The court has not received a Prohibited Persons Relinquishment Form from the defendant, and (choose one)
 - a. the probation officer's report does not indicate any firearms; or
 - b. the probation officer's report indicates the defendant has firearms. The firearms were:
 - (1) Recovered (explain):

 - (2) Not recovered (explain):

3. The court received a Prohibited Persons Relinquishment Form from the defendant. The probation officer's report indicates the defendant has firearms that were not reported on the form. The firearms were:
 - a. Recovered (explain):

 - b. Not recovered (explain):

(DATE)

(SIGNATURE OF JUDICIAL OFFICER)

SPR24-16

Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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

	Commenter	Position	Comment	Committee Response
1.	California Department of Justice, Division of Law Enforcement Office of Gun Violence Prevention and the Bureau of Firearms By Ari Freilich Director	N/I	<p>The Office of Gun Violence Prevention and the Bureau of Firearms, within the Division of Law Enforcement in the California Department of Justice (DOJ), respectfully submit this public comment regarding proposed changes to the Judicial Council form CR-210 (“Prohibited Persons Relinquishment Form Findings”). We wish to strongly urge the Judicial Council to reconsider and delete the proposed addition of the word “registered” before “firearm” in items 1(c); 2(a); 2(b); and (3).</p> <p>On the CR-210 form, courts make findings regarding whether a defendant convicted of a firearm-prohibiting criminal offense has complied with firearm relinquishment requirements. The CR-210 form’s current language requires courts to make findings regarding whether the defendant has relinquished <i>all</i> firearms identified in the probation officer’s report to the court. However, the proposed revisions to the CR-210 form would add four new references to “registered” firearms on form CR-210. (E.g., the revised language would prompt courts, among other things, to make findings regarding whether the defendant has relinquished any “registered” firearms identified in the probation officer’s report). This would have the effect of narrowing the court’s role in verifying whether a defendant convicted of a firearm-prohibiting crime has relinquished “all” firearms in their possession, including all firearms identified in the probation officer’s mandated investigation</p>	<p>The committee appreciates the comments.</p> <p>The committee agrees with the comment and recommends replacing the reference to registered firearms in items 1c, 2b, and 3 of form CR-210 with a reference to firearms generally.</p>

SPR24-16

Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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

	Commenter	Position	Comment	Committee Response
			<p>and report to the court. This would be contrary to public safety and generally inconsistent with the relevant statute, California Penal Code Section 29810.</p> <p>In the context of Penal Code Section 29810 and the CR-210 form, the term “registered” firearms presumably refers to firearms for which there is a record of legal acquisition in DOJ’s Automated Firearms System (AFS). However, many individuals convicted of firearm-prohibiting offenses are in possession of firearms that are not recorded in this system. For instance, AFS would generally not have firearm acquisition records for firearms that were unlawfully obtained, or self-assembled as unserialized ghost guns, or for rifles and shotguns that were lawfully acquired before 2014 when California first required DOJ to maintain long gun acquisition records in AFS.</p> <p>To protect the public and enforce laws prohibiting firearm access by individuals convicted of felonies and misdemeanors involving violence or misuse of weapons, California law requires courts, probation officers, and other stakeholders to ensure that newly prohibited criminal defendants verify that they relinquished <i>all</i> firearms, not just those that are “registered” as recorded in AFS.</p> <p>More specifically, Penal Code Section 29810(a) and (b) require courts to order defendants convicted of firearm-prohibiting offenses to</p>	

SPR24-16

Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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

	Commenter	Position	Comment	Committee Response
			<p>relinquish all firearms they own, possess, or have under their custody or control. Penal Code Section 29810(b) requires the defendant to declare all of their firearms, implicitly including firearms that are not recorded in AFS, on the Prohibited Persons Relinquishment Form.</p> <p>The probation officer must then also investigate and report to the court whether the prohibited defendant has any firearms, including firearms that are both recorded and not recorded in the defendant’s name: Penal Code Section 29810(c)(1) requires an assigned probation officer to investigate whether <i>either</i> the Automated Firearms System “or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under their custody or control any firearms.” This paragraph then requires the probation officer to ensure that AFS is properly updated to indicate that the defendant has relinquished any firearms identified in the probation officer’s report, which may in practice have the effect of “registering” some firearms in AFS that were not previously recorded in that system.</p> <p>Penal Code Section 29810(c)(2) then requires the probation officer to report to the court and prosecuting attorney whether the defendant has complied with the requirements of this statute by “relinquishing all firearms identified by the probation officer’s investigation or declared by the defendant on the Prohibited Persons Relinquishment Form.” This reference to “all</p>	

SPR24-16

Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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

	Commenter	Position	Comment	Committee Response
			<p>firearms” would, again, include unregistered firearms identified by either the assigned probation officer or by the defendant.</p> <p>We do acknowledge that Penal Code Section 29810(c)(3) includes a reference to “registered” firearms when it requires courts to take certain steps “if the report of the probation officer does not confirm relinquishment of firearms registered in the defendant’s name.” We believe this is a drafting oversight that is inconsistent with the intent and language used in the rest of the statute. For instance, Penal Code Section 29810(c)(3) directs courts to issue a warrant to search for and seize firearms in appropriate cases, if the court finds probable cause that the defendant has failed to relinquish “any firearms as required”. And more definitively, Penal Code Section 29810(c)(4) requires courts to ensure that the defendant relinquished “all” firearms prior to final disposition or sentencing: “Prior to final disposition or sentencing in the case, the court shall confirm that the defendant has relinquished all firearms as required.”</p> <p>As a result, it would be inconsistent with the language and intent of this statute for Form CR-210 to add the word “registered” where it appears before “firearm” on the draft form in items 1(c); 2(a); 2(b); and (3). This is inconsistent with the language used throughout most of Penal Code Section 29810 and with the voters’ stated intent in enacting Penal Code</p>	

SPR24-16

Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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

	Commenter	Position	Comment	Committee Response
			<p>Section 29810 through Proposition 63 in 2016; that ballot measure included no references to “registered” firearms. Finally, this would be inconsistent with the Legislature’s stated intent in adopting AB 732 (Fong), which amended Penal Code Section 29810 last year to ensure that fewer criminal defendants remained in unlawful possession of firearms (and also introduced an anomalous reference to “registered” firearms). See, e.g., paragraph (d) of AB 732’s codified findings (emphasis added): <i>“It is the intent of the Legislature that every person convicted of an offense that prohibits firearm ownership shall in fact relinquish all firearms at the time of conviction. It is the further intent of the Legislature that prosecuting attorneys and courts shall ensure relinquishment of firearms prior to the final disposition of a criminal case.”</i></p>	
2.	<p>Giffords Law Center to Prevent Gun Violence by Julia Weber, Esq., MSW, Consultant</p>	AM	<p>Giffords concurs with the comments submitted by the Department of Justice’s Office of Gun Violence Prevention. In addition, we note that the form (CR-210) should not be limited to registered firearms because the probation report and other sources of evidence may also provide the court with information about unregistered firearms. As CR-210 currently indicates, California Penal Code section 29810 prohibits defendants from having firearms. Within section 29810, there is no distinction between registered and unregistered firearms. The proposed addition of “registered” would create confusion about whether the court could include unregistered firearms when addressing non-</p>	<p>The committee appreciates the comments.</p> <p>The committee agrees with the comment and recommends replacing the reference to registered firearms in items 1c, 2b, and 3 of form CR-210 with a reference to firearms generally.</p>

SPR24-16

Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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

	Commenter	Position	Comment	Committee Response
			<p>compliance on this form, thereby unnecessarily increasing risk and avoiding holding defendants accountable.</p>	
3.	<p>Orange County Bar Association by Christina Zabat-Fran, President</p>	A	<p>Proposes revising court forms to incorporate new firearm prohibitions, modifying plea and relinquishment forms and revising criminal protective orders to reflect new relinquishment procedure, clarify prohibited items, and incorporate legislative changes</p> <p><i>Does the proposal appropriately address the stated purpose?</i> Yes</p> <p><i>Item 5 of the Court Findings and Order section on page 7 of CR-101 states “A factual basis exists for the plea and admissions, or the defendant is pleading under a plea bargain under People v. West.” Should the second clause be deleted in light of section 1192.5(c) (“The court shall also cause an inquiry to be made of the defendant to satisfy itself that the plea is freely and voluntarily made, and that there is a factual basis for the plea.”) and case law (see People v. Willard (2007) 154 Cal.App.4th 1329 (a plea is not valid without an adequate factual basis)?</i> No. <i>People v. West</i> remains valid and does not contradict section 1192.5(c) or <i>People v. Willard</i>.</p>	<p>The committee appreciates the comments.</p> <p>No response required.</p> <p>The committee agrees that <i>People v. West</i> remains valid for its holding that a defendant may enter a guilty plea to a lesser related offense to avoid conviction of the greater offense, but that a <i>West</i> plea does not create an exception to a court</p>

SPR24-16

Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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

	Commenter	Position	Comment	Committee Response
			<p><i>Do the proposed revisions to item 3a in forms CR-160 and CR-161 properly reflect the case law defining a “victim” for purposes of a postconviction protective order under section 136.2(i)(1)?</i></p> <p>The proposed revisions are not in conflict with case law, but could more specifically refer to a “victim who was targeted or harmed” or otherwise define a “victim.”</p>	<p>finding of a factual basis for the plea and admissions.</p> <p>The committee recommends using the term “victim[s] of the crime” to mirror the language of Penal Code section 136.2(i)(1).</p>
4.	Superior Court of Orange County by Elizabeth Flores, Operations Analyst	AM	<p><i>Position on Proposal:</i></p> <p>Overall, the proposal addresses its stated purpose. Additionally, items 3k of the felony plea form (CR-101) and 7g of the Misdemeanor plea form (CR-102) should be modified to reference PC 31360.</p> <p><i>Does the proposal appropriately address the stated purpose?</i></p> <p>Yes, the proposal appropriately addresses the stated purpose.</p> <p><i>Item 5 of the Court Findings and Order section on page 7 of CR-101 states “A factual basis exists for the plea and admissions, or the defendant is pleading under a plea bargain under People v. West.” Should the second clause be deleted in light of section 1192.5(c) (“The court shall also cause an inquiry to be</i></p>	<p>The committee appreciates the comments.</p> <p>The committee recommends including a reference to Penal Code section 31360 on these items.</p> <p>No response required.</p>

SPR24-16

Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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

	Commenter	Position	Comment	Committee Response
			<p><i>made of the defendant to satisfy itself that the plea is freely and voluntarily made, and that there is a factual basis for the plea.”) and case law (see People v. Willard (2007) 154 Cal.App.4th 1329 (a plea is not valid without an adequate factual basis?</i></p> <p>Yes, the second clause should be deleted considering PC 1192.5(c) and the precedent reiterated in People v. Willard (2007) 154 Cal.App.4th 1329.</p> <p><i>Do the proposed revisions to item 3a in forms CR-160 and CR-161 properly reflect the case law defining a “victim” for purposes of a postconviction protective order under section 136.2(i)(1)?</i></p> <p>Yes, they do. “Immediate family members” include the spouse, children, or parents of the victim or witness.”</p> <p><i>Would the proposal provide cost savings? If so, please quantify.</i></p> <p>This is not a cost-saving measure. New guilty plea waiver forms, revised protective orders, revised finding forms, and a new form of relinquishment have to be produced.</p> <p><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></p>	<p>The committee agrees with the comment and will recommend removing it from the form.</p> <p>The committee appreciates the comment.</p> <p>The committee appreciates the comment.</p>

SPR24-16

Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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

	Commenter	Position	Comment	Committee Response
			<p>OCSC implemented docket codes that reference both the firearms and body armor prohibition. The proposal addresses them as two separate items, therefore, we would have to remove reference to body armor from existing docket codes and create them separately. In addition, the courtroom clerks will need to be more vigilant of the specific box, which must be checked as well.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> For OCSC, three months is sufficient because it would not be a great impact to the court.</p> <p><i>How well would this proposal work in courts of different sizes?</i> This proposal works well for a court of our size.</p>	<p>The committee appreciates the comment.</p> <p>The committee appreciates the comment.</p> <p>The committee appreciates the comment.</p>
5.	<p>Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) by TCPJAC/CEAC Joint Rules Subcommittee (JRS)</p>	A	<p>The JRS notes that the proposal is required to conform to a change of law.</p> <p>The JRS also notes the following:</p> <p>The proposal does appropriately address the stated purpose. Regarding the requested comment as to Item 5 of the Court Findings and Order section on CR-101 plea form, the second clause should be deleted in light of the cited language from section 1192.5(c) in the Request for Specific Comments. Additionally, the proposed revisions to item 3a in forms CR-160 and CR-161 do properly reflect the caselaw</p>	<p>The committee appreciates the comments.</p> <p>The committee agrees with the comment and will recommend removing the second clause from the form.</p> <p>The committee appreciates the comment.</p>

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Criminal Law: Firearm and Body Armor Prohibitions (Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210)

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	Commenter	Position	Comment	Committee Response
			<p>defining a “victim” for purposes of a postconviction protective order under section 136.2(i)(1) and preserve the trial court’s discretion to make appropriate orders.</p> <p>Overall, the changes made to the forms provide consistency and clarity to the various forms as to the Firearm and Body Armor Prohibitions. There will not be a significant fiscal impact in that the proposal will amend existing forms, not create new forms. Existing case management codes should be largely unaffected. A three month implementation date appears to be adequate for courts of all sizes.</p>	<p>The committee appreciates the comment.</p>