



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

Item No.: 26-073

For business meeting on April 24, 2026

Title

Criminal Law: Advisements on the Felony
Plea Form

Report Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Revise form CR-101

Effective Date

July 1, 2026

Recommended by

Criminal Law Advisory Committee
Hon. Lisa Rodriguez, Chair

Date of Report

March 30, 2026

Contact

Sarah Fleischer-Ihn, 415-865-7702
sarah.fleischer-ihn@jud.ca.gov

Executive Summary

Before accepting a plea of guilty or no contest, courts must advise a defendant on the record that if they are not a citizen, conviction of the charged offense may result in specified immigration consequences. Recent legislation requires courts to advise defendants of these immigration consequences with the verbatim language of Penal Code section 1016.5(a). Additionally, when a defendant pleads guilty or no contest to a sexually violent offense, the California Supreme Court has directed trial courts to advise defendants about the possibility of being referred to sexually violent predator civil commitment proceedings. The Criminal Law Advisory Committee recommends amendments to the optional felony plea form to incorporate the verbatim immigration advisement and to clarify the advisement in cases involving sexually violent offenses.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective July 1, 2026, revise *Plea Form, With Explanations and Waiver of Rights—Felony* (form CR-101) to incorporate recent statutory amendments on immigration advisements and update the existing advisement on sexually violent predator civil commitment proceedings.

The proposed revised form is attached at pages 6–13.

Relevant Previous Council Action

Form CR-101 was most recently revised effective July 1, 2025, to include two new advisements. Based on the Supreme Court’s decision in *In re Tellez* (2024) 17 Cal.5th 77, an advisement was added for defendants convicted of a sexually violent offense about the possibility of being referred to sexually violent predator civil commitment proceedings. The second advisement was added to implement a new statute under Proposition 36 requiring an advisement for defendants convicted of specified felony drug offenses about the possibility of being charged with murder if death results from illicitly manufacturing, distributing, selling, furnishing, or giving away drugs.¹

Analysis/Rationale

Since January 1, 1978, Penal Code section 1016.5² has required courts, before accepting a guilty or no contest plea, to advise a defendant on the record that, if they are not a citizen, conviction of the charged offense may result in deportation, exclusion from admission to the United States, or denial of naturalization. Based on this statute, *Plea Form, With Explanations and Waiver of Rights—Felony* (form CR-101) includes an immigration advisement as item 3j that a defendant initials.³

Effective January 1, 2026, Senate Bill 281 (Stats. 2025, ch. 666) amended section 1016.5 to require courts to administer the advisement using the verbatim language of the statute. According to the bill’s author, the bill’s intent is to ensure consistency in the administration of the immigration advisement by courts. The author noted that some courts state that as a result of the plea, immigration consequences “will” occur, versus using the statutory language that they “may” occur, impacting the defendant’s understanding of the plea agreement.⁴ To assist courts with providing the statutory verbatim advisement, the committee proposes adding a new court mandatory oral advisement section with the verbatim language of section 1016.5(a).

In addition to the immigration advisement, courts are required to advise a defendant when they could be subject to civil commitment as a sexually violent predator. Specifically, *In re Tellez* requires trial courts to advise a defendant—when pleading guilty or no contest to a sexually violent offense⁵ or when the court is aware that the defendant has a prior conviction for a sexually violent offense—along the following lines: “At the end of your sentence for this offense, you may be subject to screening by the State Department of State Hospitals to determine

¹ Health & Saf. Code, § 11369(b) & (c).

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

³ “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.”

⁴ Sen. Com. on Pub. Saf., Analysis of Sen. Bill 281 (2025–2026 Reg. Sess.), Mar. 25, 2025, p. 2.

⁵ As defined in Welfare and Institutions Code section 6600(a)(2) and (b).

whether you qualify for trial as a sexually violent predator, which could result in your being committed to a secure medical facility indefinitely.”⁶

To implement the advisement in *In re Tellez*, the Judicial Council approved revisions to form CR-101 effective July 1, 2025.⁷ After these revisions, a superior court judge advised the committee of a minor error: although *In re Tellez* states that specified defendants may be subject to screening by the State Department of State Hospitals, the judge noted that the California Department of Corrections and Rehabilitation (CDCR) and the Board of Parole Hearings actually conduct the initial screening.⁸ If this screening determines that the person potentially meets the criteria for a sexually violent predator, CDCR then refers the person to the State Department of State Hospitals for a full evaluation of whether the person meets the statutory criteria for a sexually violent predator.⁹

As a result, the committee recommends removing the reference in the advisement to the State Department of State Hospitals so that the advisement generally states that the person may be subject to screening. The committee believes that specifying the state agency conducting the screening is not necessary for the advisement, which is merely intended to notify a defendant that they could be subject to civil commitment as a sexually violent predator.

To implement these changes, the committee recommends the following revisions to form CR-101:

- Add a new court mandatory oral advisement section on page 8 with the verbatim statutory language from Penal Code section 1016.5(a); and
- Modify item 3h, Sexually Violent Predator Civil Commitment, on page 3 to remove a reference to the State Department of State Hospitals as the agency conducting the screening for whether the person meets the criteria for indeterminate commitment as a sexually violent predator.

Policy implications

The form implements new and updated legal requirements. Accordingly, the key policy implications are ensuring that council rules and forms correctly reflect the law. These revisions are therefore consistent with *The Strategic Plan for California’s Judicial Branch*, specifically the goals of Modernization of Management and Administration (Goal III) and Quality of Justice and Service to the Public (Goal IV).

⁶ *In re Tellez*, *supra*, 17 Cal.5th at pp. 92–93.

⁷ See Judicial Council of Cal., Advisory Com. Rep., *Criminal Law: Felony Plea Form* (Apr. 2, 2025), <https://jcc.legistar.com/View.ashx?M=F&ID=14012017&GUID=F5BB7680-05A8-47F3-9A01-3D9E376E9BF0>.

⁸ Welf. & Inst. Code, § 6601(b).

⁹ *Ibid.*

Comments

The proposal circulated for comment from December 5, 2025, to January 7, 2026. Five comments were received. Three commenters agreed with the proposal and two commenters, California Attorneys for Criminal Justice and the California Public Defenders Association, disagreed with the changes to the immigration advisement, which is discussed below. The committee appreciates the time taken by commenters to respond to this proposal. All comments received, and the committee's responses, are provided in the attached chart of comments at pages 14–21.

In the proposal that circulated for public comment, the committee modified existing item 3j, Immigration Consequences, to both reflect defendant's understanding of the immigration advisement and the verbatim statutory language of section 1016.5(a), as follows:

I understand the following:

If you are not a citizen of the United States, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

California Attorneys for Criminal Justice and the California Public Defenders Association both commented that the immigration advisement should not include language about whether the defendant understood the advisement, since that is not part of the verbatim language of the statute. The concern is partly related to receipt of the “generic” immigration advisement under section 1016.5(a) being used to find that a defendant meaningfully understood the actual or potential adverse immigration consequences at the time of the plea for purposes of a motion to vacate a conviction or sentence under section 1473.7(a)(1).¹⁰

The commenters mistakenly believed that the current plea form did not already contain language about the defendant's understanding of the advisement, and that the statement in item 3j about the defendant's understanding was new. However, the current version of the advisement states that “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.”

The committee believes that a court must ascertain a defendant's understanding of items on the plea form and does not recommend removing language on this point. However, the committee acknowledges that the proposed modification's attempt to satisfy two distinct obligations in one item was potentially confusing. In response, the committee recommends separating the

¹⁰ Under section 1473.7(a)(1), a person who is no longer in criminal custody may file a motion to vacate a conviction or sentence due to prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence.

obligations by keeping the current language of item 3j while adding a new court mandatory oral advisement section with the verbatim statutory language of section 1016.5(a).

Alternatives considered

The committee did not consider the alternative of not revising the form because it determined that implementing SB 281’s requirements on the plea form was both necessary and helpful.

The committee considered including the mandatory oral advisement under section 1016.5(a) immediately before or after item 3j, so a court could address all immigration-related matters at once. However, the committee preferred to separate item 3j, which is intended to ascertain the defendant’s understanding of the consequences of the plea, from the mandatory oral advisement by the court, as they serve different purposes.

For the *In re Tellez* advisement, the committee considered referencing both the CDCR and the State Department of State Hospitals as the agencies that conduct the screening and evaluation for sexually violent predator civil commitment proceedings. However, the committee concluded that a simplified approach referencing a screening as part of the procedure was sufficient.

The committee also considered a request from a superior court judge to add a waiver of appellate rights to the plea form. The committee declined this request, finding that local practices on waiving appellate rights differed across the state and did not seem suitable for a statewide form.

Fiscal and Operational Impacts

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

Attachments and Links

1. Form CR-101, at pages 6–13
2. Chart of comments, at pages 14–21
3. Link A: Sen. Bill 281 (Stats. 2025, ch. 666),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202520260SB281

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY 03/24/2026 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** per Penal Code section 1170(h) 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.

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

INITIALS

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.



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

INITIALS

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 under 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. **Sexually Violent Predator Civil Commitment**

If I am or previously have been convicted of a sexually violent offense and am ever committed to the custody of the California Department of Corrections and Rehabilitation, I may at the conclusion of that term be subject to screening to determine whether I meet the criteria for indeterminate commitment as a sexually violent predator and, potentially, be made subject to civil commitment proceedings.



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

INITIALS

- i. **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.
- j. **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.
- k. **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).
- l. **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).
- m. **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.



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

INITIALS

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;
- (6) Anything else I think is important to my case.

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 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.



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

INITIALS

9. 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.

(1) I admit that on the dates charged, I (*describe the facts establishing all elements of the offense as to each count*):

(2) I offer to the court as the basis for the plea of guilty or no contest and any admissions the following documents that are in the record or that are attached to this plea form to become part of the record:

- (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*):

c. I am pleading guilty or no contest to take advantage of a plea agreement or to avoid the risk of conviction of a greater offense and I understand that my attorney will stipulate that there is a factual basis for the plea. (*N.C. v. Alford* (1970) 400 U.S. 25; *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

a. 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.

b. I understand that if I am charged with violating Health and Safety Code section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, or 11379.6 involving a hard drug, the following warning applies:

You are hereby advised that it is extremely dangerous and deadly to human life to illicitly manufacture, distribute, sell, furnish, administer, or give away any drugs in any form, including real or counterfeit drugs or pills. You can kill someone by engaging in this conduct. All drugs and counterfeit pills are dangerous to human life. These substances alone, or mixed, kill human beings in very small doses. If you illicitly manufacture, distribute, sell, furnish, administer, or give away any real or counterfeit drugs or pills, and that conduct results in the death of a human being, you could be charged with homicide, up to and including the crime of murder, within the meaning of section 187 of the Penal Code.



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

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)
-------------------------------	---

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 following documents that are in the record or that are attached to this plea form to become part of the record:

- police report preliminary hearing transcript probation report
- other (*specify*):

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:

_____ (Type or Print Name)	_____ (Certification Number)  _____ (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:

_____ (Type or Print Name)	 _____ (Signature of District Attorney)
-------------------------------	---



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

COURT'S MANDATORY ORAL ADVISEMENT

If you are not a citizen of the United States, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

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.
6. For convictions of a sexually violent offense, the parties discussed the possibility of a disposition involving a plea to an offense that is not a sexually violent offense.

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: _____

Judicial Officer

W26-06**Criminal Law: Advisements on the Felony Plea Form (Revise form CR-101)**

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

	Commenter	Position	Comment	Committee Response
1.	California Attorneys for Criminal Justice by Heather M. Boxeth, Member, Board of Governors	N	<p>The California Attorneys for Criminal Justice “CACJ” respectfully submits that, although the proposed change adds only the words “I understand,” that addition is not merely stylistic. An express, immigration-specific statement of understanding alters the legal character of the Penal Code section 1016.5 advisement. Section 1016.5 requires courts to deliver a standardized warning; it does not require courts to obtain a defendant’s acknowledgment of understanding regarding immigration consequences. By contrast, Penal Code section 1473.7 focuses on whether a defendant meaningfully understood or knowingly accepted those consequences.</p> <p>Because immigration consequences are highly fact-specific and fall outside the trial court’s role, requiring a defendant to affirm “understanding” on the plea form risks transforming a neutral statutory advisement into evidence of subjective comprehension. Appellate courts have repeatedly rejected that inference when based solely on receipt of the section 1016.5 warning. Adding an express affirmation of understanding invites renewed litigation over whether the plea form itself should defeat claims of lack of meaningful understanding, notwithstanding SB 281’s limited purpose and the established allocation of responsibilities between courts and defense counsel.</p> <p>For these reasons, the CACJ Legislative Committee respectfully urges that the form be</p>	<p>The committee appreciates the comment.</p> <p>An acknowledgement of the defendant’s understanding is incorporated into most items on form CR-101, including current item 3j. The committee believes that the court must ascertain a defendant’s understanding of items on the plea form and declines to remove existing language about a defendant’s understanding in item 3j. However, the committee will not modify item 3j and will instead add a new mandatory oral advisement section with the language of section 1016.5(a).</p> <p>It is the committee’s position that SB 281 does not prevent courts from ascertaining whether a defendant understands the generic advisement given by the court under section 1016.5 for purposes of taking the plea.</p>

W26-06**Criminal Law: Advisements on the Felony Plea Form** (Revise form CR-101)

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

	Commenter	Position	Comment	Committee Response
			limited to the verbatim statutory advisement required by SB 281, without additional immigration-specific statements of understanding.	
2.	California Public Defenders Association and the CPDA Immigration Committee by Kate Chatfield, Executive Director	N	<p>I. INTRODUCTION</p> <p>The Immigration Committee of the California Public Defenders Association is comprised of attorneys who work at the intersection of immigration and criminal law. We conduct legal trainings for attorneys across the State, participate in legislative advocacy, and assist public defenders and indigent defense counsel in their work representing noncitizen clients.</p> <p>This memorandum is submitted in opposition to the Judicial Council Criminal Law Advisory Committee’s proposal to amend the Judicial Council plea form related to Penal Code section 1016.5. The proposed amendment exceeds the scope of Senate Bill 281, is redundant of existing language, and risks creating confusion and unnecessary litigation, contrary to both the Legislature’s intent and established appellate authority.</p> <p>II. BACKGROUND: SENATE BILL 281 AND SECTION 1016.5</p> <p>Senate Bill 281 made a single substantive change to Penal Code section 1016.5: it directed courts to administer the immigration advisement verbatim, using the statutory</p>	The committee appreciates the comment.

W26-06

Criminal Law: Advisements on the Felony Plea Form (Revise form CR-101)

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

	Commenter	Position	Comment	Committee Response
			<p>language that a conviction “may” result in adverse immigration consequences. As the committee correctly notes in its proposal, the Legislature’s purpose was to promote consistency across courts, particularly where some courts had improperly provided over-advisals by stating in every case that immigration consequences “will” occur, regardless of whether that statement was accurate. These over-advisals functioned to improperly foreclose future challenges to legally defective pleas by creating a misleading record of certainty where none existed.</p> <p>Importantly, the Judicial Council was already in compliance with this legislative directive. Prior efforts to amend the plea form in 2019 to warn of mandatory immigration consequences were rejected.¹ This reflects an understanding that section 1016.5 requires only a general, statutory warning—not a declaration of certainty or an individualized assessment of consequences.</p> <p>¹See SPR19-16, p.3 (“However, the committee ultimately decided against making this change at this time, in part because the current form includes a declaration that the attorney advised the defendant of consequences of the plea, which would include immigration consequences.”), and SPR 21-06.</p> <p>III. THE PROPOSED AMENDMENT IS UNNECESSARY AND REDUNDANT</p>	

W26-06

Criminal Law: Advisements on the Felony Plea Form (Revise form CR-101)

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

Commenter	Position	Comment	Committee Response
		<p>The committee now proposes to add new language requiring an affirmative statement of understanding immediately prior to the section 1016.5 warning. This requirement is not mandated by SB 281 and is entirely redundant. Page 7 of the existing plea form already requires the defendant to affirm that they “<i>understand and agree with what is stated in each item that [they] have initialed</i>” before signing the form. Thus, defendants already attest to their understanding of the section 1016.5 advisement. Adding a second, specific statement of understanding serves no substantive purpose.</p> <p>IV. THE PROPOSED LANGUAGE RISKS CONFUSION AND INVITES LITIGATION</p> <p>More significantly, the proposed amendment is likely to generate confusion and increased litigation, particularly in the context of Penal Code section 1473.7.</p> <p>Section 1473.7 permits vacatur of a conviction where a defendant failed “<i>to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence.</i>” For years, prosecutors have argued—and some courts have erroneously agreed—that receipt of the generic section 1016.5 warning conclusively establishes a defendant’s understanding of immigration consequences, thereby barring relief under section 1473.7.²</p>	<p>An acknowledgement of the defendant’s understanding is incorporated into most items on form CR-101, including current item 3j. The committee believes that the court must ascertain a defendant’s understanding of items on the plea form and declines to remove existing language about a defendant’s understanding in item 3j. However, the committee will not modify item 3j and will instead add a new mandatory oral advisement section with the language of section 1016.5(a).</p>

W26-06

Criminal Law: Advisements on the Felony Plea Form (Revise form CR-101)

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

	Commenter	Position	Comment	Committee Response
			<p>²See, e.g., <i>People v. Rodriguez</i> (2021) 68 Cal.App.5th 301, 318-19 (prosecution argued that a 1473.7 motion should be denied because defendant had initialed the 1016.5 warning and defense counsel signed the declaration that they had reviewed the consequences to defendant); <i>People v. Olvera</i> (2018) 24 Cal.App.5th 1112, 1114-15 (trial court denied the section 1437.7 motion because the plea form language that they should “expressly assume that [their] plea . . . will, now or later, result in [their] deportation” was “pretty clear”).</p> <p>Although numerous appellate courts have rejected this argument—holding that section 1016.5 provides only a general warning and “<i>is not designed, nor does it operate, as a substitute for</i>”³ defense counsel’s advice—the proposed language is likely to revive these arguments. By adding an express statement of understanding to the plea form, the committee risks inviting renewed litigation over whether the form itself defeats a defendant’s claim that they failed to meaningfully understand the actual or potential immigration consequences of their plea.</p> <p>³See, e.g., <i>People v. Lopez</i> (2021) 66 Cal.App.5th 561, 577 (citing <i>In re Hernandez</i> (2019) 33 Cal.App.5th 530, 545); see also <i>People v. Patterson</i> (2017) 2 Cal.5th 885, 898 (generic warning should not bar relief under section 1018).</p> <p>Such an outcome would be inconsistent with both legislative intent and settled appellate guidance.</p>	<p>It is the committee’s position that SB 281 does not prevent courts from ascertaining whether a defendant understands the generic advisement given by the court under section 1016.5 for purposes of taking the plea.</p>

W26-06**Criminal Law: Advisements on the Felony Plea Form** (Revise form CR-101)

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

	Commenter	Position	Comment	Committee Response
			<p>V. CONCLUSION</p> <p>The additional language proposed by the Judicial Council Criminal Law Advisory Committee does not advance compliance with either the letter or the spirit of Senate Bill 281. Instead, it is unnecessary, duplicative, and likely to create confusion and unintended litigation.</p> <p>For these reasons, we respectfully urge the committee to make no changes to the Judicial Council plea form with respect to Penal Code section 1016.5.</p>	
3.	Orange County Bar Association by Shirin Forootan, President	A	Both proposals appropriately address the stated purposes as they are based on specific statutory provisions.	The committee appreciates the comment.
4.	Superior Court of Los Angeles County by Stephanie Kuo	A	<p>The following comments are representative of the Superior Court of California, County of Los Angeles, and do not represent or promote the viewpoint of any particular officer or employee.</p> <p>In response to the Judicial Council of California’s Invitation to Comment, “W26-06 Criminal Law: Advisements on the Felony Plea Form,” the Superior Court of California, County of Los Angeles (Court), agrees with the proposal.</p> <p>The proposal will not provide cost savings. It will require the Court to update its forms and create specific case management system codes to reflect that the advisements have been given. The Court already has an immigration</p>	<p>The committee appreciates the comment.</p> <p>No response needed.</p>

W26-06

Criminal Law: Advisements on the Felony Plea Form (Revise form CR-101)

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

	Commenter	Position	Comment	Committee Response
			<p>advisements case management system code. A code for the civil commitment as a sexually violent predator would have to be created. Two months should be sufficient time to implement the proposal, including training and updating the case management system.</p> <p>The proposal should work well in courts of different sizes. The only difference may be the number of people that would need to be trained. All Criminal management would need to be made aware and all judicial assistants covering in Criminal courtrooms would need to be trained, which is several hundred employees for the Superior Court of Los Angeles County. However, the needed training would not be significant.</p>	<p>No response needed.</p>
5.	<p>Superior Court of Orange County by Nevely Herrera, Operations Analyst I</p>	A	<p>In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p> <ul style="list-style-type: none"> • <i>Does the proposal appropriately address the stated purpose?</i> The proposal appropriately addresses the stated purpose, as indicated. <p>The advisory committee also seeks comments from courts on the following cost and implementation matters:</p> <ul style="list-style-type: none"> • <i>Would the proposal provide cost savings? If so, please quantify.</i> No. Orange County Superior Court utilizes a local form for felony pleas that contains language consistent with proposed changes 	<p>The committee appreciates the comment.</p> <p>No response needed.</p>

W26-06

Criminal Law: Advisements on the Felony Plea Form (Revise form CR-101)

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

	Commenter	Position	Comment	Committee Response
			<p>in this proposal as to immigration advisement.</p> <ul style="list-style-type: none"> <li data-bbox="823 407 1367 667">• <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> N/A. Orange County Superior Court’s local form for felony pleas contains language consistent with proposed immigration advisement. Additionally, as to the advisement for cases involving sexually violent offenses, the prosecutor currently provides the court with addendum that incorporates advisement proposed. <li data-bbox="823 979 1367 1206">• <i>Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Due to minimal anticipated impact, two months would be sufficient time for implementation. <li data-bbox="823 1255 1367 1352">• <i>How well would this proposal work in courts of different sizes?</i> N/A 	<p>No response needed.</p> <p>No response needed.</p> <p>No response needed.</p>