



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: September 21, 2018

Title

Civil Practice and Procedure: Review of
Denial of Request to Remove Name From
Shared Gang Database

Agenda Item Type

Action Required

Effective Date

January 1, 2019

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rule 3.2300;
revise form MC-1000

Date of Report

August 10, 2018

Recommended by

Civil and Small Claims Advisory Committee
Hon. Anne I. Jones, Chair

Contact

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Executive Summary

Recent legislation amended statutes relating to criminal gang databases and the process that authorizes challenges to a law enforcement agency's inclusion of a person in a shared gang database. The Civil and Small Claims Advisory Committee proposes amending the rule of court and revising the Judicial Council form that address a petition for a superior court to review a law enforcement agency's denial of a request for removal from a shared gang database to reflect this legislation.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2019:

1. Amend rule 3.2300 of the California Rules of Court to conform to changes made by legislation and further clarify the petition process; and
2. Revise form MC-1000 to change the form name, add instructions, and make changes to conform to legislation.

The text of the amended rule and the revised form are attached at pages 7–12.

Relevant Previous Council Action

The Judicial Council adopted rule 3.2300 and approved *Request for Review of Denial of Request to Remove Name From Gang Database* (form MC-1000), effective January 20, 2017, without a public comment period. The proposal thereafter circulated for comment from February 27 to April 28, 2017. The comments received inform the changes in this proposal.

Analysis/Rationale

Background

The State of California currently maintains a CalGang System of databases, which contains information about approximately 150,000 individuals designated by law enforcement as suspected gang members, associates, or affiliates.¹ According to the August 22, 2016, Senate Floor Analysis of Assembly Bill 2298, the CalGang System contains data “including name, address, description, social security number, and race or ethnicity” of individuals in the database.² The database is widely accessed by law enforcement officers for various reasons, including “to determine who should be served with civil gang injunctions, given gang sentences and targeted for saturation policing.”³

In response to concerns about the accuracy and secrecy of the CalGang database system, the Legislature enacted Penal Code section 186.34, effective January 1, 2014, requiring that before a law enforcement agency designates a person who is under 18 years of age as a suspected gang member, associate, or affiliate, or otherwise identifies the person in a shared gang database, the agency must provide written notice and the basis for the proposed designation to the person and his or her parent or guardian, unless providing this notice would compromise an active criminal investigation or the health or safety of the minor. (Pen. Code, § 186.34(c)(1).) If the law enforcement agency sends such a notice, the minor or his or her parent or guardian may contest the designation with the law enforcement agency. (Pen. Code, § 186.34(e).)

AB 2298 also enacted section 186.35 to provide the right to a judicial review of a law enforcement agency’s denial of a contested designation and procedures for seeking review. Section 186.35, at the time of its enactment, stated that a person may seek this judicial review by “filing an appeal” in the superior court. It also provided that the procedure for judicial review of a law enforcement agency’s denial is a “limited civil case.”

As discussed below, new legislation—Assembly Bill 90 (Stats. 2017, ch. 695)—made some changes to this statutory scheme.

¹ Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 2298 (2015–2016 Reg. Sess.), http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160AB2298.

² *Id.* at p. 5.

³ *Id.* at p. 6.

AB 90, among other changes, amended Penal Code section 186.35 to recast, as a petition process rather than an “appeal,” the superior court review in which a person may challenge a law enforcement agency’s denial of a request to be removed from the gang database. It also deleted the provision designating this proceeding as a limited civil case and added a provision stating that it is not a criminal case.

Some of the changes made to section 186.35 have already been incorporated into rule 3.2300 as technical amendments. Effective January 1, 2018, the rule was amended in response to the statutory change recognizing that a request to be removed from the gang database⁴ does not always result in a decision from the law enforcement agency denying the request; the request may be *deemed denied*. This occurs when the law enforcement agency fails to provide a verification of its decision within 30 days of the submission of the written documentation contesting the designation.

This proposal amends rule 3.2300 and revises current *Request for Review of Denial of Request to Remove Name From Gang Database* (form MC-1000) to conform to the other changes made by AB 90 and further clarify the petition process. Specifically, rule 3.2300 is amended to:

- Refer to form MC-1000 by its proposed revised name, using the word “Petition” rather than “Request”;
- Require that a petition for review of a denial of a request to be removed from the gang database that is not on form MC-1000 must be named “*Petition for Review of Denial of Request to Remove Name From Gang Database*”—the same as the form name;
- Provide that a person filing a petition for review must file either (1) the law enforcement agency’s written verification of the decision denying the request or, if none was received, (2) a copy of the request and written documentation that was submitted to the law enforcement agency contesting the designation;
- Add the qualifying language “if assigned” to the requirement that the court case number be included on the first page of the record because a petitioner could file his or her part of the record with the petition and before a case number is assigned; and
- Switch the word order for clarity in subdivisions (e)(1)(C) and (e)(3)(A)(ii) as follows: “documents that are [. . .] ~~sealed or~~ confidential under Welfare and Institutions Code section 827 or have been sealed.”

Form MC-1000 is revised to:

- Change the form name by replacing the first “Request” with “Petition” and changing the text of the form accordingly by replacing “request” with “petition” where appropriate;
- In item 2, add a place for the petitioner to check that the law enforcement agency did not respond to the request and to indicate how and when the request was served;
- In the instructions section, include what to do if the request to be removed was deemed denied and a review of the decision is sought;

⁴ The process of requesting removal from the gang database is also referred to as *contesting the designation*.

- In the instructions section, add “civil” before clerk’s office so the petitioner knows where to file the form; and
- Incorporate other minor edits for accuracy and clarity.

Policy implications

Any policy implications are derived from the statutes that require notice and the right to challenge designation as a gang member, the right to a judicial review of a law enforcement agency’s denial of a contested designation, and procedures for seeking review. This proposal revises the form for seeking judicial review and amends the rule that provides procedures for seeking review to make them consistent with recent statutory changes.

Comments

The proposal circulated for public comment from April 9 to June 8, 2018. Three commenters submitted comments: the Superior Court of San Bernardino County (which submitted two), the Superior Court of San Diego County, and the Orange County Bar Association.

Commenters agreed that any petition that does not use optional form MC-1000 should bear the same name as that form, “Petition for Review of Denial of Request to Remove Name From Gang Database”; that the rule should not require the petition to be bound; that the proposal appropriately addresses the stated purpose; and that three months from the effective date is sufficient time for implementation.

Commenters disagreed about:

- Whether form MC-1000 should have a notice to the clerk concerning the judge designated to hear petitions for review of denial of the request to remove a name from the gang database; and
- How to reduce the burden of determining that law enforcement failed to file the record in individual cases.

Following discussion, the committee decided to keep the notice to the clerk, which appears at the top of form MC-1000. Based on a comment when the proposal first circulated that it is burdensome for the court—because of limited resources—to determine when law enforcement has failed to file the record, the committee considered amending the rule to require petitioners to do so.⁵ The committee concluded, however, that because many petitioners are believed to be self-represented litigants, it is appropriate to place the obligation on the court to determine whether law enforcement has failed to file the record.

⁵ The question on the invitation to comment read as follows: “Rule 3.2300(e)(4) requires that a court notify the law enforcement agency of its failure to timely file the record, which means that a clerk must identify all petitions for review of denial of request to be removed from a gang database and determine when the record is due. Is there anything that could be added to the rule text to make this easier?”

Alternatives considered

Based on comments received when the initial proposal to adopt rule 3.2300 and approve form MC-1000 was circulated, the advisory committee considered amending rule 3.2300 to remove the detailed requirements on the format and length of the argument in support of the petition. Though the specific requirements on format and length of the argument in rule 3.2300(f)(3) are also required by rules 2.109 and 2.111—rules governing all papers filed in the trial court—they are repeated in subdivision (f)(3) to assist self-represented litigants who may not know to consult these rules and might file papers that do not comply with the format and length requirements. For these reasons, the advisory committee decided that the requirements should remain in the rule.

One commenter (to the spring 2017 circulation for public comment) recommended that the council develop a form for a person listed in the gang database (or his or her parent or guardian, if a minor) to submit to a law enforcement agency to contest the designation. The advisory committee determined that this is outside its purview.

Two commenters addressed specific practices for protecting the privacy of juvenile records. One suggested that rule 3.2300(e)(1)(c), which currently provides that the statement, “[i]f the record contains any documents that are part of a juvenile case file or are sealed or confidential under Welfare and Institutions Code section 827, the law enforcement agency must include a coversheet that states ‘Confidential Filing – Juvenile Case File Enclosed,’” be amended to require the law enforcement agency to include an envelope, marked “Sealed and Confidential Filing Enclosed,” that may be sealed by the court after it has reviewed the record in its entirety.

Another commenter recommended including the police report as a separate item in the subdivision governing the juvenile case file (subd. (e)(1)(C)) and indicating that the police report, though confidential, is not required to be sealed. Advisory committee staff consulted with staff from the Family and Juvenile Law Advisory Committee and concluded that the first comment concerns a matter that can be left to local court practices and that rule 3.2300(e)(1)(C) is intended to be narrowly tailored to juvenile court records. The text of subdivisions (e)(1)(C) and (e)(3)(A)(ii), however, was amended for clarity, as discussed on page 3 in the final bullet pertaining to the rule.

Fiscal and Operational Impacts

The amended rule and revised form are intended to comply with statutory changes and to continue to provide an efficient, clear process for courts to manage petitions for review of denials of request to remove names from the gang database. Expected fiscal and operational impacts result from the legislation and are limited to training, possible case management system updates, and the production of new forms.

Attachments and Links

1. Cal. Rules of Court, rule 3.2300, at pages 7–10
2. Form MC-1000, *Petition for Review of Denial of Request to Remove Name From Gang Database*, at pages 11–12

3. Chart of comments, at pages 13–20
4. Attachment A: Chart of comments on proposal SPR17-26 [this proposal circulated for comment twice, and this chart from the first comment cycle is provided for background]
5. Link A: Assembly Bill 90 (Stats. 2017, ch. 695) https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB90

Rule 3.2300 of the California Rules of Court is amended, effective January 1, 2019, to read:

Rule 3.2300. Review under Penal Code section 186.35 of law enforcement agency denial of request to remove name from shared gang database

(a)–(c) * * *

(d) Petition

(1) Form

(A) Except as provided in (i) and (ii), ~~Request~~ Petition for Review of Denial of Request to Remove Name From Gang Database (form MC-1000) must be used to seek review under Penal Code section 186.35 of a law enforcement agency's decision denying a request to remove a person's name from a shared gang database.

(i) A petition filed by an attorney need not be on form MC-1000. For good cause the court may also accept a petition from a nonattorney that is not on form MC-1000.

(ii) Any petition that is not on form MC-1000 must contain the information specified in form MC-1000 and must bear the name "Petition for Review of Denial of Request to Remove Name From Gang Database."

(B) The person seeking review must attach to the petition under (A) either:

(i) The law enforcement agency's written verification, if one was received, of its decision denying the person's request under Penal Code section 186.34 to remove his or her name—or, if the request was filed by a parent or guardian on behalf of a child under 18, the name of the child—from the shared gang database;
or

(ii) If the law enforcement agency did not provide written verification responding to the person's request under Penal Code section 186.34 within 30 days of submission of the request, a copy of the request and written documentation submitted to the law enforcement agency contesting the designation.

(2)–(5) * * *

1 **(e) Record**

2
3 **(1) Filing**

4
5 (A) The law enforcement agency must serve the record on the person filing
6 the petition and must file the record in the superior court in which the
7 petition was filed.

8
9 (B) The record must be served and filed within 15 days after the date the
10 petition is served on the law enforcement agency as required by
11 subdivision (d)(5) of this rule.

12
13 (C) If the record contains any documents that are part of a juvenile case file
14 or are ~~sealed or~~ confidential under Welfare and Institutions Code
15 section 827 or have been sealed, the law enforcement agency must
16 include a coversheet that states “Confidential Filing – Juvenile Case
17 File Enclosed.”

18
19 (D) The procedures set out in rules 2.550 and 2.551 apply to any record
20 sought to be filed under seal in a proceeding under this rule.

21
22 **(2) Contents**

23
24 The record is limited to the documents required by Penal Code section
25 186.35(c).

26
27 **(3) Format**

28
29 (A) The cover or first page of the record must:

30
31 (i) Clearly identify it as the record in the case;

32
33 (ii) Clearly indicate if the record includes any documents that are
34 ~~sealed or~~ confidential under Welfare and Institutions Code
35 section 827 or have been sealed;

36
37 (iii) State the title and court number of the case; and

38
39 (iv) Include the name, mailing address, telephone number, fax
40 number (if available), e-mail address (if available), and California
41 State Bar number (if applicable) of the attorney or other person
42 filing the record on behalf of the law enforcement agency. The
43 court will use this as the name, mailing address, telephone

number, fax number, and e-mail address of record for the agency unless the agency informs the court otherwise in writing.

(B) All documents in the record must have a page size of 8.5 by 11 inches;

(C) The text must be reproduced as legibly as printed matter;

(D) The contents must be arranged chronologically;

(E) The pages must be consecutively numbered; and

(F) The record must be ~~bound on the left margin~~ stapled and two-hole punched at the top of the page.

(4) *Failure to file the record*

If the law enforcement agency does not timely file the required record, the superior court clerk must serve the law enforcement agency with a notice indicating that the agency must file the record within five court days of service of the clerk's notice or the court may order the law enforcement agency to remove the name of the person from the shared gang database.

(f) **Written argument**

(1) *Contents*

(A) The person filing the petition may include in the petition or separately serve and file a written argument about why, based on the record specified in Penal Code section 186.35(c), the law enforcement agency has failed to establish by clear and convincing evidence the active gang membership, associate status, or affiliate status of the person so designated or to be so designated by the law enforcement agency in the shared gang database.

(B) The law enforcement agency may serve and file a written argument about why, based on the record specified in Penal Code section 186.35(c), it has established by clear and convincing evidence the active gang membership, associate status, or affiliate status of the person.

(C) If an argument refers to something in the record, it must provide the page number of the record where that thing appears or, if the record has not yet been filed, the page number of the relevant document.

1
2 (D) Except for any required attachment to a petition, when an argument is
3 included in the petition, nothing may be attached to an argument and an
4 argument must not refer to any evidence that is not in the record.
5

6 (2) *Time to serve and file*
7

8 Any written argument must be served and filed within 15 days after the date
9 the record is served.
10

11 (3) *Format and length of argument*
12

13 (A) The cover or first page of any argument must:
14

15 (i) Clearly identify it as the argument of the person filing the petition
16 or of the law enforcement agency;
17

18 (ii) State the title and, if assigned, court number of the case; and
19

20 (iii) Include the name, mailing address, telephone number, fax
21 number (if available), e-mail address (if available), and California
22 State Bar number (if applicable) of the attorney or other person
23 filing the argument.
24

25 (B) An argument must not exceed 10 pages.
26

27 (C) The pages must be consecutively numbered.
28

29 (g)–(i) * * *
30

**Petition for Review of Denial of
Request to Remove Name From
Gang Database**

Clerk stamps date here when form is filed.

DRAFT
Not Approved by
the Judicial Council**Instructions:** Please read the instructions on page 2 of this form before completing and filing this form.**Notice to the Clerk:** This petition is filed under Penal Code section 186.35 and California Rules of Court, rule 3.2300. Rule 3.2300(c) requires the presiding judge of each superior court to designate one or more judges to hear such petitions. This petition must be submitted to one of those judges.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**1 Name of Person Filing This Petition:**

I am: ☐ The person whose name is in the gang database.
☐ The parent or guardian of the child under 18 whose name is in the gang database.

Your lawyer in this case (if you have one):

Name: _____ State Bar No.: _____

Firm Name: _____

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer, give your information.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____ E-mail: _____

2 Decision You Are Requesting Be Reviewed

I am seeking review of the following law enforcement agency's denial of my request under Penal Code section 186.34 to remove my name or the name of my child or ward from a shared gang database. (Complete a. or b.)

Name of law enforcement agency: _____

Address: _____

City: _____ State: _____ Zip: _____

- ☐ a. The decision denying the request was served on me/my client by the law enforcement agency:
☐ By personal delivery ☐ By mail on (date:) _____

You must attach a copy of the written verification denying your request.

- ☐ b. The agency did not respond to my request, which I submitted in writing:
☐ By personal delivery ☐ By mail on (date:) _____

You must attach a copy of your request and written documentation contesting your designation.

3 Reason for This Petition for Review

I am seeking review of the denial of my request on the basis that the law enforcement agency has not established by clear and convincing evidence the active gang membership, associate status, or affiliate status of the person whose name I requested be removed from the shared gang database.

4 Written Argument

- ☐ I have attached my written argument about why, based on the record specified in Penal Code section 186.35(b), the law enforcement agency has failed to establish by clear and convincing evidence the gang membership, associate status, or affiliate status of the person whose name I requested be removed from the street gang database.

NOTE: You do not have to submit written argument, but if you wish to, you can either include that argument in this petition or serve and file the argument separately within 15 days after the law enforcement agency serves and files the record in this proceeding. Please see rule 3.2300(f) for information about submitting written argument.



5 Request for or Waiver of Oral Argument

I understand oral argument can be requested in this case. I ☐ am ☐ am not requesting oral argument.

Date: _____

Type or print your name

 _____
Signature

Instructions

This form is only for seeking review by a court of a local law enforcement agency's written or deemed denial of a request under Penal Code section 186.34 to remove an individual's name from a shared gang database.

You must serve and file this form **no later than 90 calendar days** after either (1) the law enforcement agency serves you with written verification of its decision denying your request under Penal Code section 186.34 to remove your name from a shared gang database or, if you are the parent or guardian of a child under 18 whose name is in the gang database, the child's name; or (2) the date your request was deemed denied under Penal Code section 186.34(e). **If your petition is late, your request will be dismissed.**

To serve and file this form, complete the following steps:

1. Fill out this form

In the second box on the right-hand side: Fill in the name of the county for the superior court where you plan to file the petition and the street address for the court (see rule 3.2300(d)(3) for information about where to file this form).

In Item 1: Fill in your name and check the box to indicate if you are the person whose name is in the gang database or that person's parent or guardian.

Fill in the name and firm name of your lawyer, if you have one.

Fill in your lawyer's contact information or, if you do not have a lawyer, your contact information.

In Item 2: Fill in the name and address of the law enforcement agency whose decision you are petitioning the court to review.

(a) If you received a written decision from the law enforcement agency denying your request to remove your name or the name of your child or ward from the gang database, attach a copy to the form.

(b) If you did not receive a decision, and your request was deemed denied, complete the date and way in which you submitted the request.

In Item 4: Check to indicate if you are attaching written argument to this request.

In Item 5: Indicate whether or not you want to have oral argument on your petition or whether you want to give up (waive) oral argument and have the court decide the case without oral argument.

At the end of the form: Print and sign your name and fill in the date you signed the form.

2. Make copies of the form

Make a copy of the completed form for your records and one for the law enforcement agency.

3. Serve the form

Serve a copy of the completed form and any required attachment on the law enforcement agency and keep proof of this service. You can get information about how to serve court papers and proof of service on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

4. File the form

Take or mail the original completed form with a copy of the law enforcement agency decision attached and proof of service on the law enforcement agency to the civil clerk's office of the court where you file this form. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

Pay the \$25 filing fee and file this form, or if you are unable to pay this fee, file a request to waive court fees (form FW-001) in the court.

SPR18-09**Civil Practice and Procedure: Review of Denial of Request to Remove Name From Shared Gang Database** (Amend Cal. Rules of Court, rule 3.2300; revise form MC-1000)

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

	Commenter	Position	Comment	Committee Response
1.	Superior Court of San Bernardino County by Executive Office San Bernardino, CA	AM	<p>Does the proposal appropriately address the stated purpose?</p> <p>o Yes</p> <p>Rule 3.2300(e)(3)(F) requires that the record be bound on the left margin. Is this necessary and helpful for courts, or do courts file records with a two-hole punch at the top?</p> <p>o The binding would not be necessary. Two-hole punch would be preferable.</p> <p>Revise Rule 3.2300(e)(3)(F) as follows:</p> <p>(F) The record must be bound on the left margin. <u>Stapled and two-hole punched at the top of the page.</u></p> <p>Rule 3.2300(e)(4) requires that a court notify the law enforcement agency of its failure to timely file the record, which means that a clerk must identify all petitions for review of denial of request to be removed from a gang database and determine when the record is due. Is there anything that could be added to the rule text to make this easier?</p> <p>o In large courts, such as ours, a requirement that the clerk notify law enforcement upon their failure to timely file the record is burdensome/cumbersome due to limited resources.</p>	<p>The committee appreciates the comments in response to specific questions.</p> <p>The committee has made this change.</p> <p>The committee discussed this matter and decided that retaining the requirement was appropriate as the alternative would be to require petitioners to notify the court that they had not received the record and for the court to notify law enforcement. Because many petitioners are</p>

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Civil Practice and Procedure: Review of Denial of Request to Remove Name From Shared Gang Database (Amend Cal. Rules of Court, rule 3.2300; revise form MC-1000)

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	Commenter	Position	Comment	Committee Response
			<p>Should a petition filed by an attorney that is not on form MC-1000 use the same name as that form (Petition for Review of Denial of Request to Remove Name From Gang Database) or is it sufficient if the petition simply includes “Gang Database Review” in its name?</p> <p>o The petition should read the same as the title of the judicial council form—Petition for Review of Denial of Request to Remove Name from Gang Database.</p> <p>Revise Rule 3.2300(d)1)(A)(ii) as follows:</p> <p>(ii) Any petition that is not on form MC-1000 must<u>shall</u> contain the information specified in form MC-1000 and <u>shall</u> must include in its name the caption the words “Gang Database Review. <u>Petition for Review of Denial of Request to Remove Name from Gang Database</u>.”</p> <p>On form MC-1000, is the description of requirements of rule 3.2300(c) under “Notice to the Clerk:” helpful or can it be removed?</p> <p>o Yes, this is helpful.</p> <p>In the instructions on page 2 of form MC-1000, is it helpful to direct filers to take or mail the form to the “civil” clerk’s office?</p> <p>o Yes</p>	<p>believed to be self-represented litigants, the committee decided not to impose the requirement on petitioners.</p> <p>The committee has made this change to the rule text (but retained use of the word “must” rather than “shall.”)</p> <p>The committee retained the information under “Notice to Clerk.”</p> <p>The committee thanks the commenter for the comments below, which require no change to the proposal as circulated.</p>

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	Commenter	Position	Comment	Committee Response
			<p>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.</p> <p>o This would require training of Legal Processing Assistants, Judicial Assistants, and Operation Supervisor I's not to exceed 8 hours along with revising procedures manuals.</p> <p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>o Yes</p>	
2.	Superior Court of San Diego by Mike Roddy Executive Officer San Diego, CA	AM	<p>Q: Does the proposal appropriately address the stated purpose?</p> <p>Yes.</p> <p>Q: Rule 3.2300(e)(3)(F) requires that the record be bound on the left margin. Is this necessary and helpful for courts, or do courts file records with a two-hole punch at the top?</p> <p>Request that requirement that record be bound on the left margin be removed, as many courts have</p>	<p>The committee appreciates the comments in response to specific questions.</p> <p>The committee has made this change.</p>

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	Commenter	Position	Comment	Committee Response
			<p>transitioned to electronic case files and scan documents.</p> <p>Q: Rule 3.2300(e)(4) requires that a court notify the law enforcement agency of its failure to timely file the record, which means that a clerk must identify all petitions for review of denial of request to be removed from a gang database and determine when the record is due. Is there anything that could be added to the rule text to make this easier?</p> <p>Yes, revise the rule to require the petitioning party to notify the court when the law enforcement agency has failed to file the record. This would be similar to the default process in civil actions. Upon notification by the party that the law enforcement agency has failed to file the record, the clerk would then send notice to the agency.</p> <p>Q: Should a petition filed by an attorney that is not on form MC-1000 use the same name as that form (Petition for Review of Denial of Request to Remove Name From Gang Database) or is it sufficient if the petition simply includes “Gang Database Review” in its name?</p> <p>The same name should be used for consistency and to ensure that the filing is processed correctly.</p>	<p>The committee discussed this and decided that because many petitioners are believed to be self-represented litigants, it would be best to require the court to determine that law enforcement had not filed the record, rather than imposing this on petitioners.</p> <p>The committee has made this change.</p>

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			<p>Q: On form MC-1000, is the description of requirements of rule 3.2300(c) under “Notice to the Clerk:” helpful or can it be removed?</p> <p>This language can be removed. If a court does not already have established procedures for the process, the clerk can refer to the applicable statutes and rule referenced in the footer of the form for direction.</p> <p>Q: In the instructions on page 2 of form MC-1000, is it helpful to direct filers to take or mail the form to the “civil” clerk’s office?</p> <p>Yes, otherwise there is no indication on the form of the appropriate business office to file the form in. While the form does reference rule 3.2300(d)(3), the rule simply instructs the party to submit the form in the county in which the law enforcement agency is located or in which they reside. A reasonable person could assume that since the form references the Penal Code and “review” throughout, that it should be filed in the criminal or appellate division. In larger counties this could result in parties having to drive to another location.</p> <p>Q: Would the proposal provide cost savings? No.</p>	<p>The Superior Court of San Bernardino County (comment #1) and the Orange County Bar Association (comment #4) commented that having the requirements on the form is helpful. The committee discussed this question and decided to keep the requirements on the form under “Notice to the Clerk.”</p> <p>The committee thanks the commenter for the comments below; no further response is necessary.</p>

SPR18-09**Civil Practice and Procedure: Review of Denial of Request to Remove Name From Shared Gang Database** (Amend Cal. Rules of Court, rule 3.2300; revise form MC-1000)

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	Commenter	Position	Comment	Committee Response
			<p>Q: 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.</p> <p>Minor updates to existing procedures and renaming filing in case management system.</p> <p>Q: Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes.</p> <p>Q: How well would this proposal work in courts of different sizes?</p> <p>This proposal would work for all courts, but may have a larger impact on larger courts.</p>	
3.	Superior Court of San Bernardino County by Executive Office	NI	<p>Comment: If the matter was originally sealed in the juvenile court, are the records submitted by the petitioner also “sealed” or “confidential”. ?</p> <p>The civil computer system can be accessed by any party and if the documents that were “sealed” are available to the general public, then the petitioners sealed record becomes available to everyone, defeating the purpose of sealing</p>	This proposal does not change the status of records as being sealed or confidential. The rule requires that the coversheet indicate if the record contains any documents that are confidential under Welfare and Institutions Code section 827 or that have been sealed. (Rule 3.2300 (e).)

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			juvenile records. (Regardless of the outcome of the petition, granted or denied)	
4.	Orange County Bar Association by Nikki P. Miliband President Newport Beach, CA	A	<p>Does the proposal appropriately address the stated purpose?</p> <p>The proposals adequately meets the recent changes in the statutory procedure.</p> <p><input type="checkbox"/> Rule 3.2300(e)(3)(F) requires that the record be bound on the left margin. Is this necessary and helpful for courts, or do courts file records with a two-hole punch at the top?</p> <p>If binding means more than a mere staple, then binding is not helpful to those courts who use electronic filling and storage.</p> <p><input type="checkbox"/> Rule 3.2300(e)(4) requires that a court notify the law enforcement agency of its failure to timely file the record, which means that a clerk must identify all petitions for review of denial of request to be removed from a gang database and determine when the record is due. Is there anything that could be added to the rule text to make this easier?</p> <p>No suggestion.</p>	<p>The committee appreciates the comments.</p> <p>This change has been made to the rule.</p>

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	Commenter	Position	Comment	Committee Response
			<p><input type="checkbox"/> Should a petition filed by an attorney that is not on form MC-1000 use the same name as that form (Petition for Review of Denial of Request to Remove Name From Gang Database) or is it sufficient if the petition simply includes “Gang Database Review” in its name?</p> <p>The attorney should use the same name as the form so as not to confuse the clerk’s office.</p> <p><input type="checkbox"/> On form MC-1000, is the description of requirements of rule 3.2300(c) under “Notice to the Clerk:” helpful or can it be removed?</p> <p>The notice is helpful to both attorneys and the clerk’s office. It should remain.</p> <p><input type="checkbox"/> In the instructions on page 2 of form MC-1000, is it helpful to direct filers to take or mail the form to the “civil” clerk’s office?</p> <p>The instructions are helpful.</p>	<p>This change has been made to the rule.</p> <p>The committee decided to retain this notice.</p> <p>The committee thanks the commenter for this, which requires no change to the proposal as circulated.</p>