

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Criminal Law Advisory Committee
Hon. Steven Z. Perren, Chair
Joshua Weinstein, Committee Counsel, 415-865-7688,
joshua.weinstein@jud.ca.gov

DATE: August 31, 2006

SUBJECT: Criminal Law: Criminal Protective Order Forms (revise form CR-160 and adopt forms CR-161 and CR-162) (Action Required)

Issue Statement

The Judicial Council is statutorily required to develop and maintain forms for criminal protective orders. Since the council last modified the order, form CR-160, there have been statutory changes that require it to be updated. Additionally, an Attorney General's task force on domestic violence cases has made several suggestions for improving enforcement of criminal protective orders.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2007, revise mandatory form CR-160, *Criminal Protective Order — Domestic Violence*; and adopt mandatory forms CR-161, *Criminal Protective Order — Other Than Domestic Violence*, and CR-162, *Order to Surrender Firearms in Domestic Violence Case*, to comply with new statutory requirements and to improve the enforcement of criminal protective orders.

The proposed forms are attached at pages 5–9.

Rationale for Recommendation

The three forms in this proposal are related to criminal protective orders (CPOs) in both domestic and nondomestic violence cases. Currently, there is one CPO for all criminal cases. Under this proposal the current protective order (form CR-160) would be revised to limit its application to domestic violence cases and two new forms would be added: form CR-161, a criminal protective order for cases other than domestic violence and form

CR-162, which would allow courts to order the surrender of firearms in domestic violence cases, without ordering the other typical criminal protective order provisions.

As noted above, the current form CR-160, *Protective Order in Criminal Proceeding*, would be limited to domestic violence cases. This change is based on a proposal in the report from the Attorney General's recent task force on domestic violence cases. In its report, the task force expressed concern that the domestic violence box on the current form CR-160 is often not checked, resulting in the order's not being entered in relevant domestic violence police registries and databases. Other changes to the form are both stylistic and substantive. The substantive changes include:

- Modifying the no-contact portion of the order (item 5) to follow the language in other protective orders.
- Changing the firearm surrender provision (item 6) by eliminating check boxes for 48-hour and 24-hour surrender periods, requiring that the firearms be surrendered within 24 hours of service of the order, and requiring the defendant to file a receipt showing compliance with the surrender order within 48 hours. This change complies with recent amendments to Code of Civil Procedure section 527.9(b).
- Adding a new provision (item 8) to conform with new Penal Code section 136.3, which provides that the restrained person is "prohibited from taking any action to obtain the address or location of a protected party or a protected party's family members, caretakers, or guardian, unless there is good cause not to make that order." (Pen. Code, § 136.3(a).) There is also a check box to indicate that the court has found good cause not to make this order.
- Changing the warnings regarding which conflicting protective order takes precedence, to comply with recent statutory amendments. The Legislature provided that the emergency protective order (EPO) has precedence over the CPO and other protective orders if (1) the EPO is to protect a person already subject to the CPO, (2) the person to be restrained by the EPO is also restrained by the CPO, and (3) the EPO is more restrictive than the CPO. (Pen. Code, § 136.2(b).) To that end, two changes are proposed: the front of the form refers the reader to item 1 on page 2 if there are conflicting orders, and item 1 on page 2 is modified to reflect the new provisions in Penal Code section 136.2(b).

Proposed form CR-161, *Criminal Protective Order — Other Than Domestic Violence*, is essentially identical to form CR-160. The only substantive difference is that the warnings and notices on page have been changed to remove those that are specific to domestic violence cases.

Proposed form CR-162, *Order to Surrender Firearms in Domestic Violence Case*, is designed to comply with a new provision in Penal Code section 136.2. Under that new provision a court in a domestic violence case, on its own motion, “shall consider” issuing an order providing that “the defendant shall not own, possess, purchase, receive, or attempt to purchase or receive, a firearm.” (Pen. Code, §136.2(a)(7)(B)(i)(I).) The court is to enter such an order “upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur.” (Pen. Code, §136.2(a)(7)(B)(i).)

Alternative Actions Considered

The committee considered using the current CPO to comply with the new law allowing the court to issue a firearm surrender order without the other typical protective order conditions. However, the committee decided not to because the CPO would have to be changed substantively to comply with this new law. With no separate firearm surrender form, every other provision on the form would need to include check boxes (so that the judge could order only the firearms surrender). This option was not practical for two reasons. First, it would add confusion about which provisions are mandatory and, second, it would result in significant workload for clerks.

Comments From Interested Parties

The forms were circulated for 10 weeks in the spring 2006 circulation cycle. 17 comments were received. Of those, 6 agreed with the proposal, 8 agreed if modifications were made, and 3 did not agree.

There were two recurring comments. First, it was noted that forms CR-160 and CR-161 needed more room for stating the terms of the order. The terms and order are on page 1 of the current version of CR-160, and the notices and warnings are on page 2. The committee agreed with this comment and expanded the substantive portions of the form to the second page as there was no extra room on page 1. The notices and warnings were compressed to accomplish this expansion. As a result, there will be more room for the handwritten entries. Similar changes were made to proposed CR-161.

The second recurring comment addressed the expiration date of the orders. The proposed (and current) version of the forms has a blank for filling in the expiration date, but the forms also state that if there is no expiration date, the order is effective for three years from issuance. Some of the comments suggested that the holding in *People v. Stone* (2004) 123 Cal.App.4th 153 required that the order expire at sentencing as the court’s jurisdiction under Penal Code section 136.2 does not extend past sentencing. Another comment suggested that the three-year default expiration be raised to 10 years as some protective orders are valid for 10 years.

The committee declined to adopt either of the suggested changes but did add clarifying language to the warnings and notices section on page 2. One of the changes was to

reference *People v. Stone* and explain the court's jurisdiction after sentencing under Penal Code section 136.2. The second addition, item 6 on page 2 in CR-160, recognizes that in domestic violence cases the court's jurisdiction is not limited to section 136.2. That form is also used for probationary protective orders under Penal Code section 1203.097, and the *Stone* limitations do not apply to those orders. This dual use is also addressed in the new portion of the warnings and notices section on page 2 of CR-160.

Two identical comments argue that CPOs should not be issued in the absence of the defendant (because of due process considerations). The committee decided not to change the forms in light of these comments. While the due process argument may be well taken in an appropriate case, the proposed forms comply with statutory law and there is no case law nullifying these CPOs on this due process basis. Thus, these issues seem more appropriately clarified through legislation or litigation.

Some comments were focused on form CR-162, *Order to Surrender Firearms in Criminal Case*; these comments appeared to indicate a mistaken belief that this order is to be used in conjunction with other protective orders. In response, the committee changed the notices to clearly state that CR-162 is to be used only if no other CPO is issued.

The remaining comments focused on specific provisions or wording in the forms. Those comments and the committee's responses are contained in the comment chart, attached at pages 10–35.

Implementation Requirements and Costs

Implementation would impose costs of copying new forms.

Attachments

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 vs.. DEFENDANT:	
CRIMINAL PROTECTIVE ORDER — DOMESTIC VIOLENCE (CLETS-CPO) (Penal Code, §§ 136.2 and 1203.097(a)(2)) <input type="checkbox"/> ORDER PENDING TRIAL (Pen. Code § 136.2) <input type="checkbox"/> MODIFICATION <input type="checkbox"/> ORDER POST TRIAL PROBATION CONDITION (Pen. Code § 1203.097) For domestic violence cases as defined in Penal Code § 13700 or Family Code § 6211	CASE NUMBER:

This Order May Take Precedence over Other Conflicting Orders, See Item 1 on Page 2.

PERSON TO BE RESTRAINED (<i>Complete name</i>): _____ Sex: <input type="checkbox"/> M <input type="checkbox"/> F Ht.: _____ Wt.: _____ Hair Color: _____ Eye Color: _____ Race: _____ Age: _____ Date of Birth: _____ <input type="checkbox"/> The defendant is a peace officer with _____ Department:
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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 expires three years from the date of issuance.
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. COMPLETE NAME OF EACH PROTECTED PERSON: _____

GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT

5. must not harass, strike, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons named above.
6. **must surrender to local law enforcement or sell to a licensed gun dealer any firearm owned or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.**
7. must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
8. must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian unless good cause exists otherwise. The court finds good cause not to make the order in item 8.
9. must have no personal, electronic, telephonic, or written contact with the protected persons named above.
10. must have no contact with the protected persons named above through a third party, except an attorney of record.
11. must not come within _____ yards of the protected persons named above.
12. may have peaceful contact with the protected persons named above only for the safe exchange of children for court-ordered visitation as stated in the attached Family, Juvenile, or Probate court order in Case No. _____, issued on (*date*): _____, as an exception to the “no-contact” or “stay-away” provision in paragraph 9, 10, or 11 of this order.
13. may have peaceful contact with the protected persons named above only for the safe exchange of children for visitation as stated in a Family, Juvenile, or Probate court order issued after the date this order is signed, as an exception to the “no-contact” or “stay-away” provision in paragraph 9, 10, or 11 of this order.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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14. The protected persons may record any prohibited communications made by the restrained person.

15. Other orders including stay-away orders from specific locations:

Date:

JUDICIAL OFFICER

Department/Division:

WARNINGS AND NOTICES

1. Except as provided in this paragraph, this order takes precedence over any conflicting protective order, visitation order, or any other court order if the protected person is a victim of domestic violence under Penal Code section 13700. However, this order does not take precedence if (1) there is a more restrictive Emergency Protective Order (form EPO-001) restraining and protecting the same parties as in this order, or (2) if box 12 or 13 has been checked on page 1 of this order. (Pen. Code, § 136.2(e)(2).)
2. **VIOLATION OF THE ORDER IS SUBJECT TO CRIMINAL PROSECUTION.** Violation of this protective order may be punished as a misdemeanor, a felony, or a contempt of court. Taking or concealing a child in violation of this order may be a felony and punishable by confinement in state prison, a fine, or both. Traveling across state or tribal boundaries with the intent to violate the order may be punishable as a federal offense under the Violence Against Women Act, 18 U.S.C. § 2261(a)(1) (1994).
3. **NOTICE REGARDING FIREARMS. Any person subject to a protective order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. The person subject to these orders shall relinquish any firearms and not own or possess any firearms during the period of the protective order. Under federal law, the issuance of a protective order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime. (Pen. Code, §136.2(d).)**
4. **ENFORCING THIS ORDER IN CALIFORNIA**
 - This order **shall** 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 **shall** determine whether the restrained person had notice of the order. If notice cannot be verified, law enforcement **shall** advise the restrained person of the terms of the order and, if the restrained person fails to comply, shall enforce it. (Fam. Code, § 6383.)
5. **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 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.
6. **EFFECTIVE DATE AND EXPIRATION DATE OF ORDERS**
 - These orders are effective as of the date they were signed by a judicial officer.
 - These orders expire as explained in item 2 on the reverse.
 - Orders under Penal Code section 136.2 are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a state prison commitment. (See *People v. Stone* (2004) 123 Cal.App.4th 153.).
 - Orders under Penal Code section 1203.097 are probationary orders and the court has jurisdiction as long as the defendant is on probation. (Pen. Code, § 1203.097(a)(2).)
 - To terminate this protective order, use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding* (CLETS).
7. **CHILD CUSTODY AND VISITATION**
 - Child custody and visitation orders may be established or modified in Family, Juvenile, or Probate court.
 - Unless box 13 on page 1 is checked, contact between the restrained and protected persons permitted by a Family, Juvenile, or Probate court order for child custody or visitation must not conflict with the provisions of this order.
 - If box 12 or 13 on page 1 is checked, the restrained and protected persons should always carry a certified copy of the most recent child custody or visitation order issued by the Family, Juvenile, or Probate court.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <h1>9.26.06</h1>
PEOPLE OF THE STATE OF CALIFORNIA vs.. DEFENDANT:	CASE NUMBER:
CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE (CLETS-CPO) (Penal Code, § 136.2) <input type="checkbox"/> ORDER PENDING TRIAL <input type="checkbox"/> MODIFICATION <input type="checkbox"/> ORDER POSTTRIAL PROBATION CONDITION	
PERSON TO BE RESTRAINED (Complete name): _____ Sex: <input type="checkbox"/> M <input type="checkbox"/> F Ht.: _____ Wt.: _____ Hair Color: _____ Eye Color: _____ Race: _____ Age: _____ Date of Birth: _____ <input type="checkbox"/> The defendant is a peace officer with _____ Department:	

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 expires three years from the date of issuance.
3. Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this restraining order is required.
4. COMPLETE NAME OF EACH PROTECTED PERSON: _____

GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT

5. must not harass, strike, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons named above.
6. **must surrender to local law enforcement or sell to a licensed gun dealer any firearm owned or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.**
7. must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
8. must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian. The court finds good cause not to make the order in item 8.
9. must have no personal, electronic, telephonic, or written contact with the protected persons named above.
10. must have no contact with the protected persons named above through a third party, except an attorney of record.
11. must not come within _____ yards of the protected persons named above.
12. may have peaceful contact with the protected persons named above only for the safe exchange of children for court-ordered visitation as stated in the attached Family, Juvenile, or Probate court order in Case No. _____ issued on (date): _____, as an exception to the "no-contact" or "stay-away" provision in paragraph 9, 10, or 11 of this order.
13. may have peaceful contact with the protected persons named above only for the safe exchange of children for court-ordered visitation as stated in a Family, Juvenile, or Probate court order issued after the date this order is signed, as an exception to the "no-contact" or "stay away" provisions in paragraph 9, 10, or 11 of this order.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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- 14. The protected persons may record any prohibited communications made by the restrained person.
- 15. Other orders including stay-away orders from specific locations:

Date: _____ JUDICIAL OFFICER Department/Division: _____

WARNINGS AND NOTICES

- 1. **VIOLATION OF THE ORDER IS SUBJECT TO CRIMINAL PROSECUTION.** Violation of this protective order may be punished as a felony, a misdemeanor, or contempt of court.
- 2. **NOTICE REGARDING FIREARMS.** Any person subject to a protective order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. The person subject to these orders shall relinquish any firearms and not own or possess any firearms during the period of the protective order. Under federal law, the issuance of a protective order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime. (Pen. Code, § 136.2(d).)
- 3. **ENFORCING THIS ORDER IN CALIFORNIA**
 - This order **shall** 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 **shall** determine whether the restrained person had notice of the order. If notice cannot be verified, law enforcement **shall** advise the restrained person of the terms of the order and, if the restrained person fails to comply, shall enforce it. (Code Civil Proc., § 527.6.)
- 4. **EFFECTIVE DATE AND EXPIRATION DATE OF ORDERS**
 - These orders are effective as of the date they were signed by a judicial officer.
 - These orders expire as explained in item 2 on the reverse.
 - Orders under Penal Code section 136.2 are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a state prison commitment. (See *People v. Stone* (2004) 123 Cal.App.4th 153.).
 - To terminate this protective order, use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding (CLETS)*.
- 5. **CHILD CUSTODY AND VISITATION**
 - Child custody and visitation orders may be established or modified in Family, Juvenile, or Probate court.
 - Unless box 13 on page 1 is checked, contact between the restrained and protected persons permitted by a Family, Juvenile, or Probate court order for child custody or visitation must not conflict with the provisions of this order.
 - If box 12 or 13 on page 1 is checked, the restrained and protected persons should always carry a certified copy of the most recent child custody or visitation order issued by the Family, Juvenile, or Probate court.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> 9.26.06 sl
PEOPLE OF THE STATE OF CALIFORNIA vs.. DEFENDANT:	CASE NUMBER:
ORDER TO SURRENDER FIREARMS IN DOMESTIC VIOLENCE CASE (CLETS-CPO) (Penal Code, § 136.2(a)(7)(B))	
PERSON TO SURRENDER FIREARMS <i>(Complete name):</i>	
Sex: <input type="checkbox"/> M <input type="checkbox"/> F Ht.: _____ Wt.: _____ Hair Color: _____ Eye Color: _____ Race: _____ Age: _____ Date of Birth: _____	
<input type="checkbox"/> The defendant is a peace officer with _____ Department.	

- This proceeding was heard on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____ by judicial officer *(name)*: _____
- This order expires on *(specify date)*: _____ If no date is listed, this order expires three years from the date of issuance.
- 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.

GOOD CAUSE APPEARING, THE COURT ORDERS

- The above-named defendant must surrender to local law enforcement or sell to a licensed gun dealer any firearms owned or subject to his or her immediate possession or control within 24 hours after issuance of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving the order. You are prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment.

Date: _____

JUDICIAL OFFICER Department/Division:

NOTICES

This order is effective as of the date it was signed by the judicial officer and expires as explained 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).

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 Criminla Law: Criminal Protective Order Forms
 (revise form CR-160; adopt forms CR-161 and CR-162)

	Commentator	Position	Comment on behalf of group?	Comment	Proposed Committee Response
1.	Hon. Ronald L. Bauer Chair, Rules & Forms Committee Orange County Superior Court Santa Ana, California	AM	Y	<p>The proposal was reviewed by court staff and the Rules and Forms Committee of the Orange County Superior Court. The Committee disagrees with the changes and submits the following for consideration:</p> <p>These orders are currently faxed to our Protective Order Registry unit for validation and entry into the Domestic Violence Registry. The information contained on these forms in the present and proposed formats is very difficult to read and often necessitates staff to write additional orders in margins. Therefore, we make the following suggestions to improve the legibility and clarity of the form to ensure the accuracy and thoroughness of vital information ultimately placed in the state's DVROS system. All forms should state they are a "Criminal Protective Order" to distinguish it from any other type of civil protective order.</p> <p>Criminal Protective Order – Domestic Violence</p> <ul style="list-style-type: none"> • Increase protective orders to 2 pages; warnings and notices page on back side of page 2. • All fields which require manual insertion by the preparer to be increased in height allowing more available space for writing. 	<p>Agree. Forms (CR-160 and CR-161) are two pages, but they are reconfigured to make order portion go onto second page, thus providing for more room.</p> <p>Agree.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Proposed Committee Response
				<ul style="list-style-type: none"> • Page 1, between the 2 boxed areas has proposed verbiage of “In Case of Conflicting Court Orders, See Item 1 on Page 2”. We propose to change it to read: “This order may take precedence over existing conflicting orders, See Item 1 on Page 2.” • Page 1, after 5(b) add another condition of “is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive or otherwise obtaining a firearm.” This will necessitate all additional conditions to be renumbered accordingly. • Page 1, #7. This area necessitates more space available for manual insertion by the preparer as this is commonly used for numerous locations ordered by the court. Or have checkboxes including but not limited to: Protected person’s place of employment, protected person’s children’s child care facility or home, protected person’s vehicle(s), protected person’s church and a blank field for other specific locations. Note: The proposed spacing will be populated by the judicial officer’s signature reducing the available space for listing specific locations. • Page 1. There should be an area available for “Other orders or conditions of protective order” allowing the court to insert any other specific 	<p>Disagree. Warning is already in warnings and notice section on page two and space on page one is a premium.</p> <p>Disagree. there is not enough room on form for checkboxes and fill-in area.</p> <p>Other orders already exists, but will make more room for this item.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Proposed Committee Response
				<p>orders.</p> <ul style="list-style-type: none"> • Page 1, #3. Add a statement that the defendant was served with a copy of the order. • Occasionally, a request is made to certify the protective order for requesting parties. There needs to be area available in the footer for such certification, therefore, increasing the order to 2 pages will allow more space. <p>Criminal Protective Order – Other than Domestic Violence</p> <p>The proposal states that there is no difference between the content of this protective order and that of the Domestic Violence nature; however, the warnings and notices are different. Why do we need an additional form for courtroom staff to use? If the forms are increased to 2 pages the warnings and notices for both types of orders can be placed on the back side of each page.</p> <ul style="list-style-type: none"> • Suggest having the same form for both, but a checkbox in the header to check “Domestic Violence related” or “Non-Domestic Violence related”, to simplify processing for the courtrooms. If not, then suggest changing the verbiage of “Other than Domestic Violence” to “Non-Domestic Violence related”. 	<p>Agree.</p> <p>Disagree. Unless certification is filled out in every case, this would be confusing to law enforcement. Also, there does not appear to be significant need for certification.</p> <p>Disagree. The CR-160 currently has that provision and the Attorney General’s Task Force recommended this change as the check box is not reliably used.</p> <p>Agree. Forms (CR-160 and CR-161) are two pages, but they are</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Proposed Committee Response
				<ul style="list-style-type: none"> • Increase protective orders to 2 pages, warnings and notices page on back side of page 2. • All fields which require manual insertion by the preparer to be increased in height allowing more available space for writing. • Page 1, after 5(b) add another condition of “is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive or otherwise obtaining a firearm.” This will necessitate all addition conditions to be renumbered accordingly. • Page 1, #7. This area necessitates more space available for manual insertion by the preparer as this is commonly used for numerous locations ordered by the court. Or have checkboxes including but not limited to: Protected person’s place of employment, protected persons children’s child care facility or home, protected person’s vehicle(s), protected person’s church and a blank field for other specific locations. Note: The proposed spacing will be populated by the judicial officer’s signature reducing the available space for listing specific locations. • Page 1. There should be an area available for 	<p>reconfigured to make order portion go onto second page, thus providing for more room.</p> <p>Disagree. Warning is already in warnings and notice section on page two and space on page one is a premium.</p> <p>Disagree. there is not enough room on form for checkboxes and fill-in area.</p> <p>Other orders already exists, but will make more room for this item.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Proposed Committee Response
				<p>“Other orders or conditions of protective order” allowing the court to insert any other specific orders.</p> <ul style="list-style-type: none"> • Page 1, #3. Add a statement that the defendant was served with a copy of the order. • Occasionally, a request is made to certify the protective order for requesting parties. There needs to be area available in the footer for such certification, therefore, increasing the order to 2 pages will allow more space. <p>Order to Surrender Firearms in Criminal Case</p> <ul style="list-style-type: none"> • Item #4. Emphasize this by either making it a larger font and/or bolding. Suggest adding a check box or blank line(s) for the restrained person to indicate types of weapons they own or possess. This will assist the court when reviewing their proof of surrender of these same firearms. • Add a #5 indicating: “The above named defendant is ordered to file proof of surrender of firearms with the court no later than Date_____, Time _____, Dept./Office_____. Failure to submit proof of surrender of firearms may result in the revoking of your probation, bail, or release on 	<p>Agree.</p> <p>Disagree. Unless certification is filled out in every case, this would be confusing to law enforcement. Also, there does not appear to be significant need for certification.</p> <p>Disagree. This is a controversial concept that should not be implemented without full vetting via public comment.</p> <p>Disagree. As defendant is not always served when form is filled out or signed, surrender date (which is certain amount of time from service) is not always known.</p> <p>Agree, but warning is enlarged to make it more prominent.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Proposed Committee Response
				<p>your own recognizance and a warrant issued for your arrest.”</p> <ul style="list-style-type: none"> • Area titled “Notice regarding effective date and expiration date of order” remove 3rd bullet as it’s covered in the above 2nd bullet reference item 2 on the form. • Area titled “Notice to Clerks” the font is different than the remainder of the form. 	Agree.
2.	Ms. Mary Carnahan	A	N	Agree with proposed changes.	
3.	Ms. Rolanda Pierre Dixon Assistant District Attorney Santa Clara County District Attorney’s Office San Jose	AM	Y	I am concerned about giving the courts one more form to fill out in re the order to surrender firearms in a criminal case. If this is used only in the non dv case I can see it, but if the court and clerks are expected to fill out the criminal protective order and the firearms surrender, I think it would become cumbersome. The criminal protective order already tells them the weapons must be surrendered.	Disagree. Both forms need not be filled out, as proposed CR-162 is to be used if there is only firearms restriction and not other CPO terms. However, CR-162 is revised to clarify that it is only to be used if no other criminal protective order is issued.
4.	Douglas S. Feinberg, Defense Attorney Fresno County Public Defender 2220 tulare Street, Ste. 300 Fresno, CA 93721	AM	N	An order made under Penal Code section 136.2 must terminate after the defendant has been convicted or the case is dismissed. (<i>People v. Stone</i> (2004) 123 Cal.App.4 th 153, 160 (order must be “limited to the pendency of the criminal proceeding”].) The proposed CR-160 form does not contain any such limitation. “It is not the content or format of the Judicial Council form that determines the propriety of the challenged protective order, but the authorizing statute.	Disagree. The form is for orders under Penal Code sections 136.2 and 1203.097. While <i>Stone</i> does limit duration of order under Penal Code section 136.2, it does not apply to orders under Penal Code section 1203.097. Under section 1203.097, the order may in effect as long as the defendant is on probation, which can be longer than

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	Commentator	Position	Comment on behalf of group?	Comment	Proposed Committee Response
				<i>(People v. Hall (1995) 8 Cal.4th 950, 960 [35 Cal. Rptr. 2d 432, 883 P.2d 974] [Judicial Council cannot adopt rules inconsistent with the governing statute].)</i> ” (<i>Stone, supra</i> , at p. 158.)	three years.
5.	Hon. Susan Finlay, Judge San Diego County Superior Court San Diego	AM	N	Re CR-160 – defines DV as defined in P. C. § 13700. This flies in the face of P. C. § 1203.097 which defines DV as a crime where victim is a person described in Fam. Code 6211. Our DV court includes case of Child and Elder Abuse where relationship is within Fam. Code § 6211 definition. Are you sure you want to <u>limit</u> “DV” to <u>Intimate Partner Violence</u> only? Question: what about CR-165 – Termination? Keep the same form or have a different one for each type of order?	Agree. As the definitions are different, form changed to indicate that it is a domestic violence case under either Penal Code section 13700 or Family Code section 6211.
6.	Ms. Janice Fukai Alternate Public Defender Law Offices of the Los Angeles County Alternate Public Defender Los Angeles, California	AM	Y	The proposed changes to form CR-160 and the adoption of forms CR-161 and CR 162, which are all criminal protective order forms are unacceptable. These forms are purportedly in compliance with Penal Code 136.2. Each of these forms allows a court to issue an injunctive order restraining a criminal defendant from otherwise legal conduct in the absence of notice, the presentation of evidence, or the opportunity to be heard. Each of the forms states, “If no date is listed, this order expires three years from the date of issuance.” There is no provision for any hearing ever to be conducted upon the validity of the injunctive order.	Disagree. The proposed form complies with the law and judges are presumed to make the orders correctly. If they do not, there are manners to challenge unlawful orders. These issues can be clarified by the Legislature or through litigation.

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				<p>It is, of course, an elementary proposition of law that no person can be deprived of any significant interest in the absence of notice, hearing, and a meaningful opportunity to be heard. In the case of a <u>proven</u> emergency, a <u>temporary</u> order may be issued.</p> <p>However, the United States Supreme Court has permitted a temporary deprivation of a substantial interest only when that <u>temporary</u> deprivation is preceded by at least notice, an explanation of the evidence, and an opportunity to respond, when the person is entitled to a full adversarial evidentiary hearing within a reasonable length of time.</p> <p>These cases reflect that the constitutional requirement of a meaningful opportunity to respond before a temporary deprivation may take effect entails, at a minimum, the right to be informed not only of the nature of the charges but also of the substance of the relevant supporting evidence.</p> <p>These constitutional imperatives have been recognized in the rulings of our sister states. For example, in Illinois, an emergency order can be issued only upon the presentation of <u>affidavits</u> demonstrating the need for such an order, and when such an order is issued there must be an evidentiary bearing within 21</p>	

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	Commentator	Position	Comment on behalf of group?	Comment	Proposed Committee Response
				<p>days) In Connecticut, an emergency order can be issued upon proof by preponderance of the evidence, but the defendant has the right to demand an evidentiary hearing, which can be held in as brief a time as 12 days.</p> <p>In <i>Ex Pane Flares</i>, the court recognized that, “With the exception of emergency situations, due process requires that when a governmental entity seeks to terminate a protected interest, it must afford notice and opportunity for a hearing which is appropriate to the nature of the case before the termination becomes effective.” As far as emergency orders were concerned, the court stated that “it is the <u>temporary</u> and <u>emergency</u> nature of emergency protective orders which allows them to pass constitutional muster.” Finally, the court noted that although the statute in that case did not expressly require a prompt hearing, “the availability of the writ of habeas corpus procedure affords one the opportunity to obtain an adversarial hearing to contest the emergency protective order. This ameliorates the ex parte nature of the procedure.”</p>	

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				<p>The necessity for adequate notice, hearing, and opportunity to be heard was recently recognized by the California Court of Appeal in <i>Gray v. Superior Court</i>. In <i>Gray</i>, a physician’s medical license was suspended as a condition of bail following the filing of a felony charge of unlawfully prescribing a controlled substance, and misdemeanor charges including sexually exploiting a patient and possessing child pornography. This action was taken at the time of the defendant’s arraignment, upon motion of the Medical Board represented by the Attorney General. Without prior notice to the defendant. The Court of Appeal found the order to be constitutionally infirm: The Attorney General simply appeared at Gray’s arraignment with a motion in hand, giving Gray’s attorney no opportunity to research the issue before arguing against it. The trial court significantly impaired Gray’s freedom to pursue a private occupation without giving him notice, an effective opportunity to confront the charges or witnesses against him, or a full hearing, in violation of his due process rights.</p>	

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				<p>It is thus the clearly accepted law of the United States that to pass constitutional muster, a protective order generally cannot be issued absent adequate notice, an evidentiary hearing, and a meaningful opportunity to be heard. An emergency order can be made without the full panoply of rights y if first, it is issued upon an evidentiary showing of need, and second, it is of temporary duration pending a prompt hearing. The forms under consideration fail to fulfill that constitutional mandate in any way.</p> <p>However, it does not appear that the Legislature intended to adopt a patently unconstitutional procedure permitting the issuance of injunctions absent notice, evidentiary hearing, or a meaningful opportunity to be heard. Penal Code section 136.2 incorporates Family Code §6320. The latter statute permits the issuance of an <i>ex parte</i> order enjoining various forms of behavior and contact with others. The effectiveness of such <i>ex parte</i> orders is governed by Family Code §240, et seq. Family Code §241 provides that such orders can be issued ex parte only if there is an</p>	

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				<p><u>affidavit</u> showing that great or irreparable injury would result if notice were required. Family Code §242(b) provides that if there is not a formal hearing on an order to show cause within 20 days (extendable to 25 days for good cause) “the order is unenforceable unless reissued under Section 245.” The only basis for extending an order under Family Code 245 is that the respondent (i.e., defendant) could not be timely served with the order to show cause. Any orders issued after the <i>ex parte</i> order must be based upon notice, an order to show cause, and an adversary hearing.</p> <p>It is unknown where the idea developed that a protective order could last for three years even when issued without notice and hearing. The Family Code provides for the duration of orders issued notice and hearing, stating that “[T]he personal conduct, stay-away, and residence exclusion orders contained in a court order <u>issued after notice and hearing</u> under this article may have a duration of not more than three years. . . .” Obviously, this provision is applicable to allow enforcement of an order made <u>without</u> notice and hearing for three years.</p>	

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				<p>It thus appears that it was the intent of the Legislature that protective orders issued under Penal Code § 136.2 be effective for three years, but, effective only for 21 days, or until such time as a proper evidentiary hearing can be conducted upon adequate notice and with a meaningful opportunity for the parties to the injunction to be heard. Anything beyond this would be unconstitutional, and forms should not be promulgated which result in unconstitutional procedures.</p> <p>Moreover, even if the injunctive orders could be made effective for more <i>than a</i> brief period of time pending a hearing comporting with due process, such orders still cannot be effective for three years, at least as a general rule. This issue was addressed in <i>People v. Stone</i>, which case held that the intent of the Legislature was that orders issued under Penal Code §136.2 should be effective only while criminal proceedings are pending, i.e., until the pending charge is resolved by a judgment. Thus, such orders are enforceable for three years if the judgment occurs sooner. Accordingly, the form should be altered to</p>	

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				reflect that orders issued in the absence of notice, an evidentiary hearing, and a meaningful opportunity to be heard must be based upon the presentation of evidence demonstrating a need for an emergency order, and are effective only until a hearing which comports with due process can be held, and in no event longer than the period permitted by Family Code §6320, and that such orders expire when no criminal proceedings remain pending.	
7.	Ms. Janet Garcia Manager Planning and Research Unit Los Angeles Superior Court Los Angeles, California	AM	Y	Proposed Form CR-162 does not have the compliance language that is reflected on Forms CR 160 and CR 161. Although the code does not set forth a time frame for compliance with the court order to surrender, this language is reflected in the other forms. For consistency it should also be included in CR-162.	Agree. Language added.
8.	Mr. Dennis B. Jones Court Executive Officer Sacramento Superior Court Sacramento, California	AM	Y	We suggest adding a check box for lifting the order or the creation of a new form lifting the order so that it can be easily identified and removed from CLETS.	Disagree. There is a termination form already. (CR-165.)
9.	Michael Judge Public Defender Los Angeles Public Defender's Office Los Angeles, California	N	Y	Mr. Judge's comments are identical to Ms. Fukai's, above.	See response to Ms. Fukai above.
10.	Ms. Cheryl Kanatzar Deputy Executive Officer Superior Court of California,	A	Y	Except different forms may cause more confusion.	

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	County of Ventura Ventura, California				
11.	Peggy Kelly & Valerie Fercho-Tillery Field Representative/Manager Automated Systems Program California Department of Justice Sacramento, California	AM	Y	<p>SPR06-27 - Criminal Law: Criminal Protective Order Forms (amend CR-160 and adopt forms CR-161 and 162)</p> <p>Criminal Protective Order – Domestic Violence, CR-160</p> <p>At the bottom of both pages, within the CLETS parenthesis (), please add (CLETS – CPO). This will keep the form consistent with all other CLETS orders.</p> <p>Page 1 of 2, item 5 (d), second sentence, “The court finds good cause not to make the order in this paragraph.” May confuse law enforcement and the restrained/protected parties. Our suggestion is to word the sentence: “The court finds good cause not to make the order in 5 (d).”</p> <p>Page 2 of 2, item 1. This item is confusing. Does this mean that if box 5 (h) or 5 (i) is checked that law enforcement cannot enforce the Emergency Protective Order? This information needs clarification and to be stated in such a way that law enforcement knows how/when to enforce an EPO if there is an existing CPO. You should also include a reference to the Penal Code section which governs this warning/notice.</p>	<p>Agree.</p> <p>Agree.</p> <p>Agree.</p>

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				<p>Page 1 of 2, item 5 (a) through (i). The way this is structured on the form is confusing. The first three items (a, b, c, d) are considered mandatory orders of the court, and the remaining items are optional. We suggest you re-number the mandatory orders (5, 6, 7, 8) and you could revert to the numbering using alphabetic for the remaining optional orders containing check boxes (5 a. through 5 i. should be re-numbered 9 a. through 9 e.). Move the “The above-named defendant” next to “GOOD CAUSE APPEARING, THE COURT ORDERS THE ABOVE-NAMED DEFENDANT”.</p> <p>Criminal Protective Order – Other than Domestic Violence, CR-161</p> <p>At the bottom of both pages, within the CLETS parenthesis (), please add (CLETS – CPO). This will keep the form consistent with all other CLETS orders.</p> <p>Page 1 of 2, item 5 (b). Shouldn’t there be a check box in front of 5b? These forms get used a lot for trespassing cases and to keep the homeless out of certain areas. Does that carry mandatory firearm restrictions? Also, not sure the firearm restrictions should be on the back of the form either, page 2 of 2, item 2.</p>	<p>Agree.</p> <p>Agree.</p> <p>Disagree. Firearms relinquishment is required by Penal Code section 136.2(d).</p>

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				<p>Page 1 of 2, item 5 (d), the wording should be consistent with the CR-160, and please correct. Placement of the check box should be consistent on both the CR-160 and CR-161, please correct. Second sentence, “The court finds good cause not to make the order in this paragraph.” May confuse law enforcement and the restrained/protected parties. Our suggestion is to word the sentence: “The court finds good cause not to make the order in 5 (d).”</p> <p>Page 1 of 2, item 5 (a) through (i). The way this is structured on the form is confusing. The first three items (a, b, c, d) are considered mandatory orders of the court, and the remaining items are optional. We suggest you re-number the mandatory orders (5, 6, 7, 8) and you could revert to the numbering using alphabetic for the remaining optional orders containing check boxes (5 a. through 5 i. should be re-numbered 9 a. through 9 e.). Move the “The above-named defendant” next to “GOOD CAUSE APPEARING, THE COURT ORDERS THE ABOVE-NAMED DEFENDANT”.</p> <p>Does this version of a CPO (CR-161) take precedence over other types of restraining orders issued by the court? Whatever the answer is, this information must be included on page 2 of 2 under Warnings and Notices. Law enforcement needs to know this information in</p>	<p>Agree.</p> <p>Agree.</p> <p>No, the CR-161 does not take precedence over other conflicting orders, as that only applies to domestic violence restraining orders. However, the warning on</p>

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				<p>order to properly enforce the order(s) that may be given to them at the scene of an incident OR if there is more than one order in the DVROS. Also include a reference to the section(s) of law if this CPO takes precedence over other types of orders or if the order issued last is the one that should be enforced.</p> <p>Order to Surrender Firearms in Criminal Case, CR-162</p> <p>At the bottom of the page, within the CLETS parenthesis (), please add (CLETS – CPO). This will keep the form consistent with all other CLETS orders.</p>	<p>the CR-160 has been reworded to clarify.</p> <p>Agree.</p>
12.	Tressa Kentner and Debra Meyers Court Executive Officer and Chief of Staff Counsel Services San Bernardino Superior Court San Bernardino, California	Y	N	Agree with proposed changes.	
13.	Ms. Deborah A. Kwast Public Defender Orange County Pobic Defender Santa Ana, California	N	Y	Draft 9 (CR-161) and Draft 11 (CR-160) each contain a requirement located in box 5(d) that if the court is not issuing a protective order that the court find good cause not to make the order. This finding is contrary to statutory law and case law dealing with domestic violence criminal protective orders. The language of Penal Code section 136.2 contains no such	Disagree. Penal Code section 136.3 requires such an order. However, it has been reworded to assist in clarification.

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				<p>requirement. To the contrary, that statute requires the court make a good cause finding that harm to, intimidation or dissuasion of a victim or witness has occurred or is reasonably likely to occur prior to the issuance of a protective order and does not require a court to make a good cause finding not to make such an order. And for good reason – a statute that required good cause to do something, but also good cause to not do that thing would be a contradiction in terms. What does a court do if neither side can show good cause? The statute is clear, with good cause the protective order issues and without it the order does not issue. <i>People v. Stone</i> (2004) 123 Cal.App.4th 153, which interpreted certain relevant provisions of Penal Code section 136.2 holds that the purpose of section 136.2 is to “protect victims and witnesses in connection with the criminal proceeding in which the restraining order is issued in order to allow participation without fear of reprisal.” In light of this “the required good cause must show a threat or likely threat to criminal proceedings or participation in them.” (<i>Id.</i> at p. 160.) Thus the finding required by box 5(d) is contrary to both the statute and case law. A good cause requirement places a burden on the party seeking the relief to meet that burden. If the burden is not met, the request is not granted – the status quo remains. But there must be a “status quo” that only changes when the</p>	

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				<p>defined burden is met, and there cannot be a status quo when each side has a burden because it is possible that neither party can meet the burden. This section of the proposed form also invites the court to issue a protective order when good cause to do so has not been shown; if the court believes there is no good cause not to issue it. This is contrary to the law.</p> <p>Draft 9 (CR-161) at box 2 contains a provision that if no expiration date is provided for the protective order then it expires three years from the date of issuance. Penal Code section 136.2 is limited to the issuance of protective orders of victims or witnesses when the required good cause finding is made. <i>People v. Stone, supra</i>, 123 Cal.App.4th 153, 160 provides that section 136.2 orders must be “limited to the pendency of the criminal proceeding” unless imposed as a probation condition upon sentencing. They remain in effect during the pendency of the criminal proceeding as a prejudgment order. (<i>Id.</i>) Therefore, the court has no authority to issue a protective order pursuant to section 136.2 for three years. If a court wants to issue an order such as this as a term and condition of probation it cannot be done when no sentencing is or has taken place.</p> <p>Draft 11 (CR-160) also contains box 2 and the comments with respect to box 2 made</p>	<p>Disagree. The form is for orders under Penal Section sections 136.2 and 1203.097. While <i>Stone</i> does limit duration of order under Penal Code section 136.2, it does not apply to orders under Penal Code section 1203.097. Under section 1203.097, the order may in effect as long as the defendant is on probation, which can be longer than three years.</p>

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				<p>concerning Draft 9 would apply to any pre-conviction orders made pursuant to section 136.2. Additionally Draft 11 purports to cover post-conviction orders pursuant to Penal Code section 1203.097(a)(2). Section 1203.097(a)(2) does allow a criminal court to issue a protective order as a term and condition of probation if the defendant suffers a domestic violence conviction. However, section 1203.097(a)(2) makes no reference to section 136.2 nor does section 136.2 reference section 1203.097(a)(2). All section 1203.097(a)(2) provides is that a protective order should be a term and condition of probation and as such the order is properly made by the court as a term and condition of probation not as a separate form referencing section 136.2.</p> <p>Both Draft 9 (CR-161) and Draft 11 (CR-160) contain box 5(b) that require the restrained individual to surrender to local law enforcement or sell to a licensed gun dealer any firearm owned or in his immediate possession or control within 24 hours of the service of the order and to file a receipt with the court showing compliance within 72 hours of receipt of the order. Penal Code section 136.2(B)(i)(II)(ii) provides that the court when issuing a protective order pursuant to section 136.2 can order that the restrained individual surrender any firearms pursuant to Code of Civil Procedure section</p>	<p>Disagree. Law requires filing of receipt. (See Code of Civ. Proc., § 527.9(b).) If there are fifth amendment problems in individual cases they can be addressed through litigation.</p>

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				<p>527.9. Code of Civil Procedure section 527.9 contains language similar to that of box 5(b). This box implicates the defendant’s 5th Amendment privilege against self-incrimination. For example, if the defendant is statutorily prohibited by Penal Code section 12021 from possessing firearms, any affirmative response could result in additional charges or penalties. If the same defendant chooses to invoke his right to remain silent he risks violating the court order and the potential penalties for such a violation. This problem was dealt with in <i>United States v. Saechao</i> (2005) 418 F.3d 1073 where the defendant plead guilty to a domestic violence offense and a condition of probation was that he truthfully answer all inquiries made of him by his probation officer. Saechao met with his probation officer and was asked whether he possessed a firearm. Saechao acknowledged that he had a hunting rifle in his residence which was illegal for him to possess based upon his domestic violence conviction. Relying upon the holding in <i>Minnesota v. Murphy</i> (1984) 465 U.S. 420 the court in Saechao held that if a state attaches “the threat of punishment for reliance on the privilege” against self-incrimination by asserting either “expressly or by implication...that invocation of the privilege would lead to revocation of probation...the probationer’s answers would be deemed compelled and inadmissible in a</p>	

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				<p>criminal prosecution.” (<i>Id.</i> at 435.) Because the terms of Saechao’s probation required him to answer all reasonable inquiries put to him by his probation officer or face the threat of jail, he was “compelled” to give incriminating evidence within the meaning of the 5th Amendment. The court concluded that the state took the impermissible step of requiring a defendant to choose between making an incriminating statement and jeopardizing his conditional liberty by remaining silent. The requirements in box 5(b) place a defendant in a situation analogous to Saechao, by requiring a defendant to divulge information which could implicate him in criminal conduct or face jail for non-compliance with the court’s order.</p> <p>Draft 8 (CR-162) appears to be a separate order to surrender a firearm when a protective order is issued pursuant to section 136.2. The concerns raised with respect to box 5(b) and an individual’s 5th Amendment rights expressed in reference to Drafts 9 and 11 are equally applicable to Draft 8, as are the concerns raised with respect to box 2 and the three year duration of the order expressed in reference to Drafts 9 and 11. Additionally Draft 8 appears to be unnecessary as its orders are contained in Drafts 9 and 11, and only empowered by the issuance of an order under section 136.2.</p>	

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				Thank you for considering our input which reflects some of the concerns we have about the proposed forms. Please let me know if we can provide any further information, or if you would like further discussion of these issues.	
14.	Ms. Sylvia Lautech Judicial Aministrator Marin County Superior Court	N	Y	The firearms clause is already included in other forms and any modifications or clarifications can be made on those forms (CR-160 and CR-161)	Disagree. Statute provides for firearms relinquishment order without other terms of CPO, so separate form appropriate.
15.	Hon. Sandra L. McLean Judge Butte County Superior Court Oroville, California 95965	A	N	Attached are the proposed changes to the Criminal Protective Order-Domestic Violence form. The surrender order needs to be modified to address two areas of concern: 1. The expiration date is often not able to be determined at date of issuance-if they are subject to 10 yr restrictions or if on parole. I would suggest not putting an expiration date at all. 2. Add a provision to allow another named person to transport the guns. We don't want defendants going back to the victim's home to retrieve guns. The victim or any other person cannot legally transport without a court order.	Disagree. Expiration date needed (see comments above regarding expiration of order). Disagree. Do not need to be in the order, given that it would only apply in a few cases and is confusing.
16.	Mr. Nelson Lu Deputy Public Defender San Joaquin County Public Defender's	A	N	Agree with proposed changes.	

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	Office Stockton				
17.	Ms. Amanda Noble Research Progam Specialist Attorney General's Office Sacramento, California	A	Y	The new order for the surrender of firearms should have the words "Domestic Violence" in its title. We would suggest that the new title read: "Order to Surrender Firearms in Criminal Domestic Violence Case."	Agree. Language added to form.