

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
Arturo Castro, Committee Counsel, 415-865-7702,
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DATE: August 11, 2008

SUBJECT: Criminal Law: Criminal Protective Orders (revise Judicial Council forms CR-160, CR-161, and CR-165) (Action Required)

Issue Statement

Recently enacted legislation extending protections to specified animals and authorizing courts to issue protective orders for up to ten years against certain convicted defendants requires various amendments to Judicial Council forms CR-160, *Criminal Protective Order—Domestic Violence*, CR-161, *Criminal Protective Order—Other Than Domestic Violence*, and CR-165, *Notice of Termination of Protective Order in Criminal Proceedings (CLETS)*. The proposed amendments are designed to conform the criminal protective order forms to the new laws.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2009, revise the following Judicial Council forms to comply with recently enacted legislation by revising the form headings and by adding new statutorily mandated orders, instructions, and advisements:

1. CR-160, *Criminal Protective Order—Domestic Violence*;
2. CR-161, *Criminal Protective Order—Other Than Domestic Violence*, and
3. CR-165, *Notice of Termination of Protective Order in Criminal Proceedings (CLETS)*.

The text of the proposed revisions to the forms is attached at pages 5–9.

Rationale for Recommendation

This recommendation was initiated by the Protective Order Working Group¹—which is currently undertaking a comprehensive review of *all* Judicial Council protective order forms for other potential revisions during the 2009 public comment cycle—and subsequently referred to the Criminal Law Advisory Committee. The proposal is in direct response to two recent legislative bills, Assembly Bill 289² and Senate Bill 353,³ which require various amendments to the Judicial Council criminal protective order forms.

First, SB 353 amends Family Code section 6320 to authorize courts to issue orders protecting specified animals, including orders that (a) grant the petitioner the exclusive care, possession, or control of the animals; (b) require the defendant to stay away from the animals; and (c) forbid the defendant from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animals.⁴ As amended, Family Code section 6320(c) requires the Judicial Council to modify its forms by July 1, 2009. The proposed amendments would add specific provisions to form CR-160, *Criminal Protective Order—Domestic Violence*, to incorporate all the additional protections afforded to animals under amended Family Code section 6320.

Second, under existing law, a court may issue a restraining order valid for up to 10 years against a defendant convicted of stalking under Penal Code section 646.9.⁵ AB 289 amends Penal Code section 273.5 to authorize courts to issue an identical order against defendants convicted of domestic violence under that section.⁶ AB 289 also clarifies that courts may issue protective orders under Penal Code sections 273.5 and 646.9 “whether the defendant is sentenced to state prison, county jail, or if imposition of sentence is suspended and the defendant is placed on probation.”⁷

This proposal would add orders issued under Penal Code sections 273.5 and 646.9 to the headings of all three forms and would provide additional instructions and warnings on the forms consistent with the new laws. Further, because orders under Penal Code section 136.2 are also enforceable *after* a trial—i.e., during the period between conviction and sentencing—this proposal would also change the

¹ The Protective Order Working Group was formed by the Judicial Council’s Rules and Projects Committee to bring together members of the council’s Family and Juvenile, Civil and Small Claims, Criminal, and Probate and Mental Health Advisory Committees, as well as the Domestic Violence Practice and Procedures Task Force, to jointly address issues relating to all protective order forms.

² Stats. 2007, ch. 582 (Spitzer).

³ Stats. 2007, ch. 205 (Kuehl).

⁴ Fam. Code, § 6320(b).

⁵ Pen. Code, § 646.9(k)(1).

⁶ Pen. Code, § 273.5(i).

⁷ Pen. Code, §§ 273.5(i), 646.9(k)(2).

description of the orders under Penal Code section 136.2 in the headings of the forms from “Order Pending Trial” to “Order Under Penal Code, § 136.2” to avoid confusion about enforceability.

Alternative Actions Considered

Aside from the particular considerations described below, the committee did not consider alternatives to amending the criminal protective order forms because of the clear legislative mandate of the new laws.

Comments From Interested Parties

This proposal was circulated during the spring 2008 circulation cycle. A total of 11 comments were received. Of those, 6 agreed with the proposal and the remaining 5 agreed with the proposal if modified. No disagreements were received.

In addition to the general invitation to comment, the committee sought specific comments (a) on whether the headings of the forms—which were modified in the proposal to “Order Under Penal Code, § 136.2” as described above—should instead be changed to “Order Pending Sentencing” or “Order Before Sentencing,” and (b) addressing the committee’s conclusion that the protections afforded to animals under Family Code section 6320 may not properly be included in the nondomestic violence protective order form CR-161, *Criminal Protective Order—Other Than Domestic Violence*.

As to the former, only two comments were received, one in favor of leaving the headings as proposed and the other in favor of changing the heading to “Order Before Sentencing.” However, because the heading “Order Before Sentencing” may actually cause confusion during pretrial proceedings because it implies that there has already been a conviction, the committee prefers and recommends the heading “Order Under Penal Code, § 136.2” as the more technically accurate and least misleading of the two options.

As to the latter, two commentators requested that the protections for animals be added to the nondomestic violence form but provided no legal justification for doing so, confirming the committee’s conclusion that because Family Code section 6320 is set forth under the Domestic Violence Protection Act⁸—whose provisions govern acts and relationships that qualify as domestic violence—the protections under that section may properly be included *only* in the domestic violence form.

⁸ Fam. Code, § 6200 et seq.

The remaining comments generally exceed the scope of this proposal by addressing unrelated substantive and formatting aspects of the criminal protective order forms. Because the Protective Order Working Group is currently undertaking a comprehensive review of *all* protective order forms, however, the committee has decided to forward the remaining comments to that group for further consideration.

Implementation Requirements and Costs

Expected costs would be limited to making revised forms available for use by the courts and any associated judicial officer and court staff training.

Attachments

SUPERIOR COURT OF CALIFORNIA, COUNTY OF — STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> <div style="font-size: 24pt; font-weight: bold; text-align: center;">DRAFT ONLY</div>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
CRIMINAL PROTECTIVE ORDER—DOMESTIC VIOLENCE (CLETS - CPO) (Pen. Code, §§ 136.2, 1203.097(a)(2), 273.5(i), and 646.9(k)) <input type="checkbox"/> ORDER UNDER PENAL CODE, § 136.2 <input type="checkbox"/> MODIFICATION <input type="checkbox"/> PROBATION CONDITION ORDER (Pen. Code, § 1203.097) ORDER UNDER: <input type="checkbox"/> PENAL CODE, § 273.5(i) <input type="checkbox"/> PENAL CODE, § 646.9(k)	CASE NUMBER: <hr/> CLETS ENTRY BY:

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: _____
5. For good cause shown, the court grants the protected persons named above the exclusive care, possession, and control of the following animals: _____

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

6. 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.
7. **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.**
8. 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.
9. 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 9.
10. must have no personal, electronic, telephonic, or written contact with the protected persons named above.
11. must have no contact with the protected persons named above through a third party, except an attorney of record.
12. must not come within _____ yards of the protected persons and animals named above.
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 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 10, 11, or 12 of this order.
14. 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 10, 11, or 12 of this order.
15. must not take, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the animals described in paragraph 5.
16. The protected persons may record any prohibited communications made by the restrained person.
17. 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 13 or 14 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 must 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 must be enforced in California by any law enforcement agency that has received the order or is shown a copy of the order or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).
 - Law enforcement must determine whether the restrained person had notice of the order. If notice cannot be verified, law enforcement must advise the restrained person of the terms of the order and, if the restrained person fails to comply, must enforce it. (Fam. Code, § 6383.)
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).)
 - Orders under Penal Code sections 273.5 and 646.9 are valid for up to 10 years and may be issued by the court whether the defendant is sentenced to state prison or county jail or if imposition of sentence is suspended and the defendant is placed on probation. (Pen. Code, §§ 273.5(i) and 646.9(k).)
 - 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 14 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 13 or 14 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> <div style="font-size: 24pt; font-weight: bold; text-align: center;">DRAFT ONLY</div>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE (CLETS - CPO) (Pen. Code, §§ 136.2 and 646.9(k)) <input type="checkbox"/> ORDER UNDER PENAL CODE, § 136.2 <input type="checkbox"/> MODIFICATION <input type="checkbox"/> PROBATION CONDITION ORDER (Pen. Code, § 136.2) <input type="checkbox"/> ORDER UNDER PENAL CODE, § 646.9(k)	CASE NUMBER: <hr/> CLETS ENTRY BY:

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.
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: _____

(Distribution: original to file; 1 copy to each protected person; 1 copy to defendant; 1 copy to prosecutor; 1 copy to law enforcement)

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 must 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 must be enforced in California by any law enforcement agency that has received the order or is shown a copy of the order or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).
 - Law enforcement must determine whether the restrained person had notice of the order. If notice cannot be verified, law enforcement must advise the restrained person of the terms of the order and, if the restrained person fails to comply, must enforce it. (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.)
 - Orders under Penal Code section 646.9 are valid for up to 10 years and may be issued by the court whether the defendant is sentenced to state prison or county jail or if imposition of sentence is suspended and the defendant is placed on probation. (Pen. Code, § 646.9(k).)
 - 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.

NAME OF COURT AND DISTRICT, BRANCH, OR DIVISION, IF ANY:	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT ONLY</p> <p style="text-align: center;">NOT FOR USE</p>
<p style="text-align: center;">PEOPLE OF THE STATE OF CALIFORNIA</p> <p style="text-align: center;">vs</p> <p>DEFENDANT:</p>	
<p style="text-align: center;">NOTICE OF TERMINATION OF PROTECTIVE ORDER IN CRIMINAL PROCEEDING (CLETS)</p> <p style="text-align: center;">(Penal Code, §§ 136.2, 1203.097(a)(2), 273.5(i), and 646.9(k))</p> <p><input type="checkbox"/> ORDER UNDER PENAL CODE, § 136.2</p> <p><input type="checkbox"/> PROBATION CONDITION ORDER (Pen. Code, §§ 136.2, 1203.097(a)(2))</p> <p>ORDER UNDER: <input type="checkbox"/> PENAL CODE, § 273.5(i) <input type="checkbox"/> PENAL CODE, § 646.9(k)</p>	ARRESTING AGENCY:
	CASE NUMBER:

THIS ORDER DOES NOT SUPERSEDE EXISTING FAMILY, JUVENILE, OR PROBATE COURT ORDERS

ORDER

1. THE COURT ORDERS:

Effective *(date)*: _____, the Protective Order issued on *(date)*: _____,

restraining *{name}*: _____,

listing as protected person(s): _____,

is terminated forthwith.

2. This supersedes all prior protective orders in the above-entitled case.

3. a. The clerk shall notify the arresting agency or local law enforcement of this order by facsimile transmission.

b. The arresting agency or local law enforcement agency is responsible for entry of this order into the Domestic Violence Registry.

4. The prosecuting agency is ordered to notify the protected person(s) of this order.

Dated:

JUDICIAL OFFICER

SPR08-36**Criminal Law: Criminal Protective Orders** (revise Judicial Council forms CR-160, CR-161, and CR-165)

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

	Commentator	Position	Comment	Criminal Law Advisory Committee Response
1.	Lynn Ervin Court Clerk V Superior Court of El Dorado County	A	Wouldn't the family law domestic violence restraining orders need to be modified as well as the criminal protective orders?	The domestic violence protective order forms are under separate consideration by the Family and Juvenile Law Advisory Committee.
2.	Hon. Suzanne N. Kingsbury Presiding Judge Superior Court of El Dorado County	AM	<p>My comment is directed at Form CR-165. It is not uncommon for a defendant to have more than one CPO issued against him or her because there are multiple pending cases between the defendant and the victim. In most of these cases, a defendant will enter a plea to one or more cases in exchange for the dismissal of others. The CPOs are dissolved in the dismissed cases, but remain in place as probation conditions, or follow the defendant to prison in the cases resulting in a conviction. I think that this form might unintentionally create an impression on the part of the defendant or the victim (and perhaps even law enforcement) that NO protective orders are in place. This is particularly true in the case of "civilians," who do not necessarily identify a case by its court case number.</p> <p>I would like to suggest amending this form to include a section where the court can reference CPOs that are still in place between the defendant and the victim.</p>	This comment does not address the proposed revisions, which were developed in direct response to two recent legislative bills mandating specific amendments to the forms. This comment is much appreciated, however, and will be forwarded to the Protective Order Working Group, which is currently undertaking a comprehensive evaluation of all protective order forms.
3.	Los Angeles County District Attorney's Office Jennifer C. McDonald Deputy District Attorney	AM	Form CR-161 should include the provision for protection of animals contained in form CR-160, paragraphs 12 and 15. For many, threats to or assaults on a family pet can be as frightening and emotionally disturbing as if that behavior	Because Family Code section 6320 is set forth under the Domestic Violence Protection Act (Fam. Code, § 6200 et seq.)—whose provisions govern acts and relationships that qualify as domestic violence—the protections extended to

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SPR08-36**Criminal Law: Criminal Protective Orders** (revise Judicial Council forms CR-160, CR-161, and CR-165)

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			had been targeted at a human. Duplicating the language from form CR-160 in form CR-161 will facilitate the protection of animal companions in appropriate cases.	animals under that section may be included only in the domestic violence protective order form (CR-160).
4.	Orange County Bar Association Cathrine Castaldi President	A	No specific comment.	No response required.
5.	State Bar Standing Committee on the Delivery of Legal Services Sharon Ngim Staff Liaison	A	SCDLS generally supports this proposal.	No response required.
6.	Superior Court of El Dorado County Hon. James R. Wagoner Assistant Presiding Judge	AM	Under the recent cases of <i>People v. Selga</i> [162 Cal.App.4th 113] decided April 22, 2008, and <i>People v. Stone</i> (2004) 123 Cal.App.4th 153, there are certain orders that can be issued as a term of probation under Penal Code, § 1203.1. This section is not listed on any of the current forms or proposed revisions. These orders are not issued pursuant to Penal Code, §§ 136.2, 1203.097, 273.5 or 646.9. There does not seem to be a form or mechanism for entering the orders into the CLETS system without including them on the Criminal Protective Order—Other Than Domestic Violence form. Without this addition to the forms, a certain category of orders is not entered into the system so that law enforcement can enforce the courts' orders in the field.	This comment does not address the proposed revisions, which were developed in direct response to two recent legislative bills mandating specific amendments to the forms. This comment is much appreciated, however, and will be forwarded to the Protective Order Working Group, which is currently undertaking a comprehensive evaluation of all protective order forms.
7.	Superior Court of Los Angeles County	A	No specific comment.	No response required.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SPR08-36

Criminal Law: Criminal Protective Orders (revise Judicial Council forms CR-160, CR-161, and CR-165)

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	Commentator	Position	Comment	Criminal Law Advisory Committee Response
8.	Superior Court of Monterey County Le Mans Nichols Family and Domestic Violence Court Coordinator	AM	<p>* The commentator provides no specific comments regarding the proposed modifications, but offers the following additional suggestions:</p> <ul style="list-style-type: none"> (1) Replace “CLETS entry by” with “Arresting Agency” in the caption. (2) Add “Report No.” in the caption in the same box as “Arresting Agency” as it assists in entry of the CPO. (3) On Line 4 insert boxes stating sex, F and M, as sometimes it is not clear from the name whether the Protected Party is male or female. (4) Sentences 3 & 14: Wrap to be left justified in order to provide more space on the form. (5) Add a line that “The Court allows contact through a neutral 3rd party for the purpose of child visitation.” 	Response to comments (1) through (5): These comments do not address the proposed revisions, which were developed in direct response to two recent legislative bills mandating specific amendments to the forms. These comments are much appreciated, however, and will be forwarded to the Protective Order Working Group, which is currently undertaking a comprehensive evaluation of all protective order forms.
9.	Superior Court of Orange County Erin Rigby Staff Analyst, Rules and Forms Committee	AM	<p><u>Question from AOC:</u> Instead of heading having “Order Under Penal Code section 136.2” should it be changed to “Order pending Sentencing” or “Order before Sentencing”?</p> <p><u>Answer:</u> No, leave as “Order Under Penal Code section 136.2.”</p>	Agree. The heading will remain as proposed.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SPR08-36

Criminal Law: Criminal Protective Orders (revise Judicial Council forms CR-160, CR-161, and CR-165)

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

	Commentator	Position	Comment	Criminal Law Advisory Committee Response
			<p><u>Question from AOC</u>: Should the orders related to animals also be included on nondomestic violence form (CR-161)?</p> <p><u>Answer</u>: Yes, as animals can also be considered and addressed in a nondomestic relationship, such as neighbor, former friends issues, etc., and having an area on this form would be very helpful to courtroom and CLETS entry personnel.</p> <p>* The commentator indicates agreement with the proposed changes to forms CR-160 and CR-165, but offers the following suggestions to form CR-161 (Criminal Protective Order—Other than Domestic Violence):</p> <p>(1) #6 is missing the bolding of the text after “24.”</p> <p>(2) #13 is missing the words “court ordered” visitation which was on previous versions. If intended, what is the reasoning for removing that language?</p> <p>* The commentator also suggests providing space to indicate the protected person’s age and asks if age should simply be included on the line provided for the protected person’s name.</p>	<p>Because Family Code section 6320 is set forth under the Domestic Violence Protection Act (Fam. Code, § 6200 et seq.)—whose provisions govern acts and relationships that qualify as domestic violence—the protections extended to animals under that section may be included only in the domestic violence protective order form (CR-160).</p> <p>The remaining comments do not address the proposed revisions, which were developed in direct response to two recent legislative bills mandating specific amendments to the forms. These comments are much appreciated, however, and will be forwarded to the Protective Order Working Group, which is currently undertaking a comprehensive evaluation of all protective order forms.</p>
10.	Superior Court of Riverside County David Gutknecht Supervising Management Analyst	A	The proposed amendments to the Criminal Protective Order—Domestic Violence form (CR-160) are appropriate in light of the provisions in AB 289 and SB 353.	

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

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

	Commentator	Position	Comment	Criminal Law Advisory Committee Response
			As to . . . the wording of the description, “Order Before Sentencing” provides greater clarity.	Because the heading “Order Before Sentencing” may actually cause confusion during pretrial proceedings because it implies that there has already been a conviction, the committee prefers and recommends the heading “Order Under Penal Code, § 136.2” as the more technically accurate and least misleading of the two options.
11.	Superior Court of San Diego County Michael M. Roddy Executive Officer	A	No specific comment.	No response required.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.