

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

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Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Lee Smalley Edmon, Chair
Case Management Subcommittee
Hon. Robert B. Freedman, Chair
Patrick O'Donnell, Committee Counsel, 415-865-7665,
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DATE: October 9, 2007

SUBJECT: Protecting Private Information in Public Court Documents (amend California Rules of Court, rule 1.20, and adopt *Confidential Reference List of Identifiers* (form MC-120)) (Action Required)

Issue Statement

Protecting the privacy rights of individuals is important. When private information is included in public records, including court records, there is a risk that the information may be misused. This risk is increased as public records are being made more easily available on the Internet. Therefore, to the extent that it is feasible, sensitive information—specifically, social security numbers and financial account numbers—should generally not be included in publicly filed court documents. This proposal seeks to balance the competing values of protecting individual privacy rights and providing public access to court records by requiring parties or their attorneys to eliminate or redact social security numbers and financial account numbers from documents to be filed in the courts, unless the information is needed for the case.¹

¹ The term “identifier” is used in this report to describe the social security and financial account numbers that must be eliminated or redacted from documents filed with the court under the proposed rule amendments. In contemporary terminology, “personal data identifier” or “personal identifier” are used to describe information such as social security numbers, dates of birth, driver’s license numbers, and home addresses that identify particular individuals. The more general term “identifier” is used in this report because this term would include financial account numbers, which do not identify a particular individual but rather accounts in which an individual may have a financial interest. Financial account numbers may be found not only in personal papers filed with the courts, but also in documents filed with the courts by businesses or financial entities.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2008:

1. Amend rule 1.20 of the California Rules of Court to require parties and their attorneys to exclude or redact certain identifying information—social security and financial account numbers—from documents presented for public filing; and
2. Adopt *Confidential Reference List of Identifiers* (form MC-120)), a new form that may be filed confidentially, if the court orders. The form would contain a confidential list of the redacted identifiers and corresponding references to be used to refer to those identifiers in publicly filed documents.

The text of amended rule 1.20 is attached at pages 7–8. A copy of form MC-120 is attached at page 9.

Rationale for Recommendation

Public attention has recently been drawn to the issues of privacy protection generally and identity theft in particular, especially in light of the increased availability of sensitive private information on the Internet. As court records are increasingly made available online, the availability of sensitive information in these records has become a significant public concern.

In response to the Judicial Conference Policy on Privacy and Electronic Access to Case Files and the E-Government Act of 2002, federal courts have adopted local rules to protect privacy in court records. For example, the U.S. District Court for the Northern District of California has adopted a local rule² to “provide electronic access to case files while also protecting personal privacy and other legitimate interests.” The rule provides that parties must refrain from including, or must redact where inclusion is necessary, certain personal data identifiers from all pleadings and other papers in the public file, whether filed electronically or on paper, unless otherwise ordered by the court.

Similarly, the U.S. District Court for the Eastern District of California has adopted a local rule³ that requires counsel, when filing documents, to omit, or where reference is necessary, to partially redact certain personal data identifiers from all pleadings, documents, and exhibits, whether filed electronically or on paper, unless the court orders otherwise.

² Civil Local Rules, Rule 3–17 (Privacy), effective January 1, 2005.

³ General Rules, Rule 39–140 (Privacy Concerns and Redaction), effective January 3, 2005.

California also has an interest in protecting the privacy rights of individuals. This year, the Legislature enacted Senate Bill 644 which changes the law to require that only the last four digits of a person’s social security number appear on abstracts of judgment. The California Office of Privacy Protection has characterized “[t]he balancing of competing values of public access to government records with individual privacy rights” as “one of the most significant public policy issues Americans face today.”⁴ To accomplish this balance, especially as more court records are being made publicly available online, the Civil and Small Claims Advisory Committee recommends:

- An amendment to rule 1.20 on the filing of papers to prevent the unnecessary inclusion of certain sensitive private information—specifically, social security numbers and financial account numbers—in publicly filed court documents; and
- The adoption of a new confidential reference form to be used if it is necessary to present information about identifiers to the court.

The rule and forms proposals are described below.

Rule on Exclusion or Redaction

Rule 1.20 on the filing of documents is in title 1 of the California Rules of Court. The rules in this title apply to all courts. The Civil and Small Claims Advisory Committee proposes that rule 1.20 be amended to add new subdivision (b) requiring parties and their attorneys filing documents that contain certain identifying information—specifically, social security numbers and financial account numbers—to not include the identifiers or, where the inclusion is necessary in the case, to redact the identifiers from the documents that are to be publicly filed with the court. (See amended rule 1.20(b)(2).)

The new subdivision would place the burden on the parties and their attorneys, rather than on court employees, to eliminate or redact the identifiers. (See rule 1.20(b)(3).) Parties and their attorneys would be responsible for removing all the identifiers from the documents before the documents are filed. The rule states that the court clerk will not review each pleading or other paper for compliance with the rule.

⁴ See “Comments of the California Office of Privacy Protection on the *Model Policy of Public Access to Court Records*,” draft dated Feb. 22, 2002, prepared on behalf of the Conference of Chief Justices and the Conference of State Court Administrators by the National Center for State Courts and the Justice Management Institute, www.privacy.ca.gov/recommendations/courtrecords.pdf.

Confidential List of Identifiers

There sometimes may be situations when it is necessary in the course of litigation to refer to identifying information in pleadings or other filed documents. In these situations (for example, in a case involving identity theft or financial abuse), the court, parties, and witnesses may need to refer to particular social security numbers or financial accounts, without at the same time publicly disclosing the particular identifiers. To deal with these situations, rule 1.20 would include a new provision that allows a party, if the court orders based on a showing of good cause, to file a confidential list containing the identifiers that have been redacted along with a corresponding set of references to be used for those identifiers in the public file. (See amended rule 1.20(b)(4).) The requirement that the court must order the filing of a list, instead of the parties being given a choice to do so, ensures that confidential lists will be filed with the court only in appropriate circumstances when the court has determined that good cause exists for filing the information confidentially.

To implement subdivision (b)(4), the committee recommends that a new form, *Confidential Reference List of Identifiers* (form MC-120), be adopted along with the proposed amendments to rule 1.20. This form would be used by a party seeking to provide the confidential list of identifiers and corresponding references as authorized by subdivision (b)(4). The form is designed to ensure that it will be filed confidentially and will contain only appropriate types of information.

New subdivision (b)(4) and the form together will permit the confidential filing of specific information about identifiers by court order in the unusual circumstances that such information needs to be filed at all. It is anticipated that courts will not use this procedure very often. The rule and form are narrowly drawn to preclude the filing of unnecessary or inappropriate information as confidential.

Alternative Actions Considered

The rules on the filing of documents could remain unchanged. But for the reasons described above, the advisory committee believes that it is desirable not to have social security and financial account numbers filed in public documents, especially as court records are increasingly becoming available on the Internet.

In developing this rules proposal on the list of identifiers that must be excluded or redacted, the advisory committee considered including on the list not only social security and financial account numbers, but also other identifying information such as drivers' license numbers, dates of birth, and names of minor children. The federal local rules mentioned above include some of these additional identifiers. But the advisory committee concluded that the proposed rule should require the exclusion or redaction of only two types of identifiers—social security and financial account numbers. Most of the commentators on the rule proposal agreed.

Other information about parties besides their social security and financial account numbers is useful and sometimes necessary in various types of cases including traffic, family law, probate, or personal injury. The benefits of continuing to include such additional information in court documents relied on for adjudication and administration of cases outweigh the possible additional privacy protection that excluding or redacting the information might afford.

Comments From Interested Parties

The proposed amended rule and new form were circulated for public comment in spring 2007. Thirteen comments were received on the proposal. The commentators included judges, court administrators, attorneys, and the State Bar's Committee on Administration of Justice. A chart summarizing the public comments and the committee's responses is attached at pages 10–21.

Most of the commentators supported the proposal. However, several were critical of a proposed provision in rule 1.20(b) that would have provided that the confidential reference list “must not be kept in the public file.” They believed the phrase was overly restrictive and were concerned that it might be construed as preventing the list from being placed in a closed envelope in a court's files or in the court's electronic document record system even if that system provides for a high degree of security protection. The committee agreed with this concern and eliminated the phrase “must not be kept in the public file,” but retained the first part of the sentence, “The reference list is confidential.” Hence, it would be left to the discretion of the courts to determine what means to use to protect the confidentiality of the reference list.

Regarding the confidential reference list, the committee agreed with a suggestion to refer in column one to social security and financial account numbers rather than just to “identifiers.” This language is clearer. The committee, however, disagreed with a suggestion to rotate the columns. It thought that the column with the complete identifiers should go first and the corresponding reference list second. The form was also revised to eliminate language referring to the list not being in the court file.

Finally, in discussing the rules proposal, the committee determined that the redaction provision in rule 1.20(b) needed some further clarification. There are certain documents and records filed entirely under seal or confidentially (for example, the *Confidential CLETS Information* form) that should not be redacted. These documents and records may contain social security or financial account numbers that are necessary for the courts or law enforcement to correctly identify

individual parties or documents.⁵ To address these situations, a new subpart (b)(1) has been added to rule 1.20 on the scope of the redaction provisions. It states that the redaction provisions do not apply to documents or records that by court order or operation of law are in their entirety filed confidentially or under seal.

Implementation Requirements and Costs

Amended rule 1.20 will require attorneys and self-represented parties to eliminate or redact social security and financial account numbers from documents filed publicly with the courts. The proposed rule explicitly states that court clerks will not review each pleading or other paper for compliance with this provision. Courts may incur some expenses in handling requests to file confidential reference lists; however, it is not anticipated that courts will order these lists to be filed in very many cases, so the burden of processing the requests should not be substantial.

Attachments

⁵ For instance, Family Code section 6380(b)(1) requires that the Department of Justice be immediately notified of the contents of protective orders and be provided with information including the “name, race, date of birth, and other descriptive personal information of the respondent.” This information is presently provided on confidential form DV-260/CH-102/EA-102.

Rule 1.20 of the California Rules of Court is amended, effective January 1, 2008, to read as follows:

1 **Rule 1.20. Filing**

2
3 **(a) Effective date of filing**

4
5 Unless otherwise provided, a document is deemed filed on the date it is
6 received by the court clerk.

7
8 **(b) Protection of privacy**

9
10 **(1) Scope**

11
12 The requirements of this subdivision that parties or their attorneys must
13 not include, or must redact, certain identifiers from documents or
14 records filed with the court do not apply to documents or records that by
15 court order or operation of law are filed in their entirety either
16 confidentially or under seal.

17
18 **(2) Exclusion or redaction of identifiers**

19
20 To protect personal privacy and other legitimate interests, parties and
21 their attorneys must not include, or must redact where inclusion is
22 necessary, the following identifiers from all pleadings and other papers
23 filed in the court's public file, whether filed in paper or electronic form,
24 unless otherwise provided by law or ordered by the court:

25
26 **(A) Social security numbers.** If an individual's social security number
27 is required in a pleading or other paper filed in the public file, only
28 the last four digits of that number may be used.

29
30 **(B) Financial account numbers.** If financial account numbers are
31 required in a pleading or other paper filed in the public file, only
32 the last four digits of these numbers may be used.

33
34 **(3) Responsibility of the filer**

35
36 The responsibility for excluding or redacting identifiers identified in
37 (b)(2) from all documents filed with the court rests solely with the
38 parties and their attorneys. The court clerk will not review each pleading
39 or other paper for compliance with this provision.

1 (4) Confidential reference list

2
3 If the court orders on a showing of good cause, a party filing a
4 document containing identifiers listed in (b)(2) may file, along with the
5 redacted document that will be placed in the public file, a reference list.
6 The reference list is confidential. A party filing a confidential reference
7 list must use *Confidential Reference List of Identifiers* (form MC-120)
8 for that purpose. The confidential list must identify each item of
9 redacted information and specify an appropriate reference that uniquely
10 corresponds to each item of redacted information listed. All references
11 in the case to the redacted identifiers included in the confidential
12 reference list will be understood to refer to the corresponding complete
13 identifier. A party may amend its reference list as of right.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		<i>FOR COURT USE ONLY</i>
TELEPHONE NO.:	FAX NO.:	
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		CASE NUMBER:
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
SHORT TITLE:		
CONFIDENTIAL REFERENCE LIST OF IDENTIFIERS <input type="checkbox"/> _____ AMENDED		
TO COURT CLERK: THIS LIST IS CONFIDENTIAL.		

INSTRUCTIONS FOR FILER

To protect personal privacy and other legitimate interests, parties and their attorneys must not include, or must redact where inclusion is necessary, social security numbers and financial account numbers from all pleadings and other papers filed in the court's public file, whether filed in paper or electronic form, unless otherwise provided by law or ordered by the court. (Cal. Rules of Court, rule 1.20(b).)

If the court orders on a showing of good cause, a party may file, along with the redacted pleading or paper that will be placed in the public file, this *Confidential Reference List of Identifiers*. The list must identify each identifier that has been redacted from the pleading or paper in the public file and specify an appropriate reference that uniquely corresponds to each item of redacted information listed. All references included in the list will be understood to refer to the corresponding complete identifier. Additional pages may be attached to this form as necessary.

REFERENCE LIST

	COMPLETE IDENTIFIER <i>Use this column to list the social security and financial account numbers that have been redacted from the document that is to be placed in the public file.</i>	CORRESPONDING REFERENCE <i>Use this column to list the reference or abbreviation that will refer to the corresponding complete identifier.</i>	LOCATION <i>Use this column to identify the document or documents where the reference appears in place of the identifier.</i>
1.			
2.			
3.			
4.			
5.			
6.			

Additional pages are attached. Number of pages attached:

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Protecting Private Information in Public Court Documents (amend California Rules of Court, rule 1.20 and approve *Confidential Reference List of Identifiers* (form MC-120))

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Saul Bercovitch, Staff Attorney On behalf of: Committee on Administration of Justice State Bar of California San Francisco, CA	A	Y	The Committee on Administration of Justice (CAJ) supports this proposal. In response to the specific request for comments, CAJ does not favor requiring redaction of any additional categories of personal identifying information, such as dates of birth, names of minor children, driver’s license numbers, or home addresses.	The CAJ’s support is noted. The committee agreed that the rule should not be extended to require redaction of additional identifiers.
2.	Joseph L. Chairez President Orange County Bar Association Irvine, CA	AM	N	<p>This proposal addresses the threat of identity theft or privacy violations if confidential information is included in public court filings. It creates a requirement that in any pleading filed with the court, the litigants exclude or redact certain personal identifying information from documents viewable by the public, specifically social security numbers and financial account numbers, but allows the court to order/allow the parties to file a confidential list with the personal identification information that has been redacted, with a corresponding set of references (i.e., it would allow the court and attorneys, but not the public, to know the information).</p> <p>This is a good idea, and comments are being solicited, so here are a couple of thoughts:</p> <p>1. The burden of protecting the confidential information is placed on the litigants, not the court or clerk, but there is no sanction or penalty for violation. To avoid some “unintentional” disclosures, there should be a penalty for violation.</p>	<p>1. No special sanctions are needed. The sanctions generally available for violations of the Rules of Court apply to this rule.</p>

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				<p>2. The type of confidential information should be expanded, to include drivers' licenses, and perhaps home addresses or dates of birth.</p> <p>3. It is not clear how this would be handled with e-filing, which is going to be the norm in the near future. There would have to be a way to confidentially file the corresponding set of references "under seal."</p>	<p>2. The committee disagreed. As explained in the report, these additional types of identifying information are useful and sometimes necessary for certain types of cases. The benefits of having the information available outweigh the possible additional privacy protection that excluding or redacting the information might afford.</p> <p>3. The systems that are being developed for e-filing and electronic document maintenance will include the means to keep particular documents, including the list of references, confidential.</p>
3.	Hon. James C. Chalfant Judge of the Superior Court of California, County of Los Angeles Los Angeles, CA	N	N	This is a proposed change to rule 1.20 concerning redaction of social security and bank account numbers. I understand the motivation is to protect privacy, but I think the proposal lacks any real basis for implementation. There is no evidentiary support for the idea that identity thieves use court records to gain information. Goodness knows they have many other means of obtaining this information than scouring court files. Moreover, by definition the records proposed for redaction may or may not involve a privacy interest of someone who cares. To	The committee disagreed. As court records become more easily available by remote access, the risk will grow that persons may obtain identifiers located in court records and misuse them. It is therefore important to ensure that the records do not unnecessarily include private identifiers that may be used for identity theft or other improper purposes.

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Protecting Private Information in Public Court Documents (amend California Rules of Court, rule 1.20 and approve *Confidential Reference List of Identifiers* (form MC-120))

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				<p>delete all such information as a matter of course seems silly.</p> <p>The redaction of such records also imposes a burden on counsel, and one that is unlikely to be honored except when the issue is raised by opposing counsel. None of this places a burden on the court, however, until you get to the top secret list of personal information which the court may order, and then piece together with the redacted document at hearing or at trial. All of this seems unwieldy and silly in light of the lack of any evidence of misuse. Bank account numbers and social security numbers are not trade secrets, and this protection is unnecessary.</p>	<p>The proposed redaction rule is not unduly burdensome on attorneys and protects their clients. Social security and financial account numbers can and are used for identity theft. The proposed provisions in rule 1.20 on redaction of social security and financial account numbers is a reasonable measure to protect members of the public. The further provision allowing the filing of a confidential list of identifiers, if the court orders, would be available in the unusual case where such a list needs to be filed.</p>
4.	Deena Fawcett President California Appellate Court Clerks Association	A	Y	<p>The drafters propose adding subdivision (b) to deal with the potential for identity theft, based on public court documents. This is usually not an issue for an appellate court. The primary place such information is found is in the application for waiver of costs and fees or possibly in juvenile filings, both of which are in and of themselves confidential. The one type of case where an appellate court might occasionally see this rule invoked would be a family law matter where a document is attached to a brief and includes social security or family bank account numbers.</p>	<p>The commentator’s observations and support are noted.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
5.	Dennis B. Jones Executive Officer Superior Court of California, County of Sacramento Sacramento, CA	AM	Y	<p>1. Redacting personal information should apply also to criminal cases.</p> <p>2. An additional category of personal identifying information that should be redacted is <i>names of minor victims</i>.</p> <p>3. The recommendation that the list (MC-120) must not be kept in the public file presents difficulties. The need for redacted information will become necessary as appeals are filed and the reviewing court requests information that was redacted. It is recommended that the list be retained but “sealed” in the court file and not open to the public without a court order.</p>	<p>1. The proposed amendments to rule 1.20 apply to all types of cases, including criminal cases.</p> <p>2. This suggestion is beyond the scope of the current rules proposal that focuses on the redaction or elimination of identifiers. However, the suggestion will be referred to the Criminal Law Advisory Committee for its consideration.</p> <p>3. The committee recognized that maintaining the list as confidential may pose difficulties. To provide more flexibility, it has revised the statement (“The reference list is confidential and must not be kept in the public files.”) to simply state: “The reference list is confidential.” Thus, it will be left to the discretion of the courts how best to preserve the confidentiality of the list.</p>
6.	Hon. Carolyn B. Kuhl Managing Judge, Complex Litigation Program Superior Court of California, County of Los Angeles Los Angeles, CA	AM	N	Proposed rule 1.20(b)(3) provides for the filing of a confidential reference list that “must not be kept in the public file.” Clerks should be given clear direction on what should be done with the confidential reference list. If the document is to be filed under seal, the rule should clearly state this.	The committee has eliminated the phrase “and must not be kept in the public file.” Thus, it will be left to the court to determine the best means to preserve the confidentiality of the list. Courts have extensive experience in handling confidential files. The rule recognizes that social security and

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
					financial account numbers warrant confidential treatment. So the reference list would be “confidential” rather than “sealed,” although a court order would be required for the reference list to be filed.
7.	Superior Court of California, County of Los Angeles Los Angeles, CA	AM	N	<p>1. It is unclear what the obligations of the court and clerk’s office will be if nonconforming documents are filed. If pleadings are filed that contain social security numbers or financial account numbers are not redacted, the rule does not specify what rights the party whose information has been revealed has to eliminate the disclosure.</p> <p>2. The rule contains no procedure for the objecting party to have the personal information removed from the court files, which is likely to lead to many varying approaches and ultimately disputes that will have to be resolved by the courts.</p>	<p>1. The rule expressly states that the court clerk will not review each pleading or other paper for compliance. (See amended rule 1.20(b)(3).) The comment is correct that rule 1.20(b) does not specify the rights of parties whose information has been revealed to eliminate the disclosure. However, the general rules relating to sanctions for violating court rules would apply to rule 1.20.</p> <p>2. It is correct that the amended rule does not contain a procedure for having personal information removed from court files. The focus of the rule amendments is on preventing the information from being filed at all. The removal of identifiers from court files after filing raises many additional issues. The committee will consider looking into these separate issues in the future.</p>

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8.	Adrienne McMillan Staff Attorney Access Center Superior Court of California, County of San Francisco San Francisco, CA	AM	N	On page 1, “Confidential Reference List of Personal Identifiers” should be changed to “Personal Information.” Column 2 should be called, “Short Descriptive Title of Personal Information.”	The committee generally disagreed; it believes that the proposed terminology is clearer. However, it has eliminated the word “Personal” on the form and throughout the rule. The general term “identifiers” is more accurate, particularly as relating to financial account numbers.
9.	Pam Moraida Program Manager Superior Court of California, County of Solano Fairfield, CA	A	N	No specific comments.	No response required.
10.	Andrea Nelson Director of Operations Superior Court of California, County of Butte Oroville, CA	AM	N	It is fine for civil and family law, but it could be problematic in criminal/traffic [if] you are extending it to other identifiers such as the date of birth and California driver’s license numbers.	The committee does not recommend extending the rule to cover other identifiers.
11.	Operation’s Analysts and Operation’s Managers Criminal, Family, Juvenile, Civil and Small Claims Operations Superior Court of California, County of Orange Santa Ana, CA	AM	Y	The comments sought in the Invitation to Comment and the responses are as follows: 1. Whether subdivision (b)(4) [circulated as (b)(3)] authorizing the court to order the filing of confidential lists and the proposed form are needed? Yes, in the best interest of the parties by concealing the full personal identifiers in the court documents, but providing a list in which the litigants can obtain the full identifying	1. The committee agreed that the court should have the authority to order the filing of confidential reference lists, if appropriate.

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				<p>information.</p> <p>2. Should proposed rule 1.20(b) and form MC-120 apply to filings in all types of civil and criminal cases?</p> <p>Yes, however, implementation of this rule can have a high impact on operations; therefore, modifications as contained within this response form will assist the courts in minimizing some of the impact operationally.</p> <p>3. Should rule 1.20(b) require redaction of any additional categories of personal identifying information, such as dates of birth, names of minor children, driver's license numbers, and home addresses?</p> <p>From a criminal perspective, personal identifiers such as driver's license numbers and dates of birth are necessary for the court in our daily practices. Additionally, this information is needed in court case management systems in order to accurately identify and cross-reference cases for the same person, in addition to reporting dispositions to the Department of Motor Vehicles, Department of Justice, and the Department of Corrections.</p> <p>Home addresses may and can be disclosed in any type of correspondence between the court and the accused or parties in a civil or small</p>	<p>2. The committee agreed. To facilitate implementation, the committee has eliminated the requirement that the list "must not be kept in the public file."</p> <p>3. The committee agreed that the rule should require the elimination or redaction of only social security and financial account numbers, and not of other types of identifying information.</p>

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				<p>claims action, which technically according to the rule isn't a document filed by a party; however, it does compromise the confidentiality of their home address being open to the public.</p> <p>In summary, redacting of these additional categories, with the exception of names of minor children, will highly impact court operations and the accuracy and timeliness of processing these matters.</p> <p>4. Whether the rule and form may be unnecessarily challenging to self-represented litigants?</p> <p>It may, but from a civil perspective the litigants may feel safer going through the courts in filtering out this information.</p> <p>5. Whether the rule may have unintended consequences on other governmental agencies, organizations, and employees, such as sheriff's offices and court clerks?</p> <p>Not as indicated in the proposed rule.</p> <p>6. Whether the rule is compatible with currently operative electronic filing systems?</p> <p>Civil/Small Claims: Currently, the California Court Case Management System (CCMS) (V3) may contain personal identifiers, producing an</p>	<p>4. The committee agreed with the comment.</p> <p>5. The committee agreed with the comment.</p> <p>6. The committee agreed that the current systems have the capability of providing a higher security level on documents. Thus, the committee believes that courts will be able to retain the confidential list in</p>

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				<p>imaged record containing the same and is open to the public; however, V3 has the capability of tagging a higher security level on documents if needed.</p> <p><u>Modification requested:</u> If the proposal is modified providing the court with the flexibility of retaining the image electronically in the CCMS (V3), where it can be labeled with a higher security level, making it invisible to the public.</p> <p><u>Additional modification requested:</u> Flexibility in allowing the courts to either maintain the same physical document in a clearly marked confidential envelope in the public court file or retaining it outside the public court file. Requiring that reference list to be retained outside of the public court file as indicated on the proposed form MC-120 is a workload issue and would require a separate filing system to accommodate the form.</p> <p>Criminal: Currently, the Criminal CCMS does not have the ability to place security levels on particular documents, as they are not imaged nor retained in the CCMS.</p> <p><u>Modification requested:</u> Flexibility in allowing the courts to either maintain the same physical document in a clearly marked confidential envelope in the public court file or retaining</p>	<p>electronic form in a secure manner.</p> <p>The committee has modified the rule to be more flexible. It has eliminated the requirement that the list “must not be kept in the court file.” Thus, the rule simply states that the “reference list is confidential.”</p> <p>The committee has modified the rule to be more flexible. It eliminated the requirement that the list “must not be kept in the court</p>

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Protecting Private Information in Public Court Documents (amend California Rules of Court, rule 1.20 and approve *Confidential Reference List of Identifiers* (form MC-120))

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				<p>outside the public court file. Requiring that reference list to be retained outside of the public court file as indicated on the proposed form MC-120 is a workload issue and would require a separate filing system to accommodate the form.</p> <p><u>Comments on form and rule proposals:</u></p> <p><u>Form MC-120:</u></p> <p>Recommend <u>renaming title to read:</u> “Confidential Reference Key of Personal Identifiers” replacing “List” with “Key.”</p> <p><u>Remove the wording</u> of “Do not file this confidential reference list in a public court file” in its entirety.</p> <p><u>Replace wording</u> in header of “Confidential” to read: “THIS FORM IS CONFIDENTIAL”, in keeping with wording of other noted confidential forms (i.e., <i>Application for Waiver of Court Fees and Costs</i> FW-001).</p> <p><u>Rotate columns</u>, “Complete Personal Identifier” and “Corresponding Reference,” having the references as the first column.</p> <p><u>Remove column titled “Location”:</u> Having this column necessitates that each instance in which</p>	<p>file.” Thus, the rule simply states that the “reference list is confidential.”</p> <p><u>Responses on form and rule proposals:</u></p> <p><u>Form MC-120:</u></p> <p>The committee disagreed. The existing title is clearer; however, it has eliminated the word “Personal.”</p> <p>The committee agreed with this suggestion. It has deleted this sentence.</p> <p>The committee disagreed. The word “Confidential” is clear and simple. Other Judicial Council forms use it.</p> <p>The committee disagreed. The complete identifier column should go first.</p> <p>The committee disagreed. It is useful to know the location of the</p>

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				<p>the same personal identifier reference is used in a document a new list will need to be prepared to indicate the new location, even though the reference is identical to previously submitted documents.</p> <p><u>Reword information</u> noted in column titled “Complete Personal Identifiers” to read: “Use this column to list social security numbers, financial information and other personal identifiers that have been redacted from the document being placed in the public file.”</p> <p><u>Rule</u> Eliminate the need to file this listing outside the public court file. It can be included in the court file, but in a separate confidential envelope clearly marked as “Confidential.” Otherwise, the courts will have to consider the storage location of all the lists that may be filed in one case and accessing them in a timely manner for the court as needed.</p> <p>Remove: “The reference list is confidential and must not be kept in the public file” and replace with “The reference list is confidential and must be retained in a separate confidential envelope, clearly marked accordingly by the court as not open to the public.”</p>	<p>identifier, especially in cases involving voluminous documents.</p> <p>The committee agreed in part. It has revised the language to specifically refer to social security and financial account numbers. It has also eliminated the word “Personal.”</p> <p><u>Rule</u> The committee agreed in part. As indicated above, it has eliminated the phrase “and must not be kept in the public file,” but retained the “reference list is confidential.” It does not recommend adding the provision about a separate envelope. Rather, it would be left to the discretion of each court as to the best means to use to preserve the confidentiality of the list.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
12.	Michael M. Roddy Executive Officer Superior Court of California, County of San Diego San Diego, CA	A	Y	No specific comments.	No response required.
13.	Dominique Sanz-David LRA Access Center Superior Court of California, County of San Francisco San Francisco, CA	A	N	No specific comments.	No response required.