

Invitation to Comment

Title	Protective Orders: Confidentiality of Information on the California Law Enforcement Telecommunications System (CLETS) Information Form (adopt Cal. Rules of Court, rule 1.51)
Summary	This is a proposal for a new rule of court that would expressly provide that the information on the <i>CLETS Information</i> form that is used in protective order proceedings is confidential. The rule would specify who has access to the information on that form.
Source	Civil and Small Claims Advisory Committee, Hon. Dennis M. Perluss, Chair Family and Juvenile Law Advisory Committee, Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Co-chairs
Staff	Patrick O'Donnell, Supervising Attorney patrick.o'donnell@jud.ca.gov, 415-865-76651

When individuals file requests for protective orders, they also submit to the court information about themselves and the person against whom the protective orders are sought. This information is provided for the benefit of law enforcement. It is put into the California Law Enforcement Telecommunications System (CLETS).

The information is submitted on a form titled *CLETS Information*. The form asks for personal information—including physical descriptions, addresses, vehicle license numbers, and dates of birth—of both the person seeking protective orders and the person to be restrained. The form is designated as “**CONFIDENTIAL**” at the top. It contains a notice stating: “**This form MUST NOT become part of the public file. It is confidential and private.** If the court issues a restraining order, this form will provide law enforcement with information that will assist them in enforcing a restraining order.”

This proposal would add new rule 1.51 to the California Rules of Court to provide direction to the public and the courts on how the *CLETS Information* form is to be used and who has access to the information on it.

Subdivision (a) of the rule would provide that any person requesting protective orders under Code of Civil Procedure section 527.6, 527.8, or 527.85, Family Code section 6320, or Welfare and Institutions Code section 213.5 or 15657.03 must submit to the court with the request a completed copy of the *CLETS Information* form.

Subdivision (b) would state that the *CLETS Information* form is confidential and access to the information on the form is limited to the persons listed in (c). Subdivision (c) would state that the form must not be included in the public case file and that only the following persons may have access to the information on the form after it is submitted:

- (1) Judicial officers and authorized court personnel;
- (2) Law enforcement and other personnel authorized by the California Department of Justice to transmit or receive CLETS information;
- (3) The person requesting protective orders, that person's attorney of record, and the attorney's designated employees or agents; and
- (4) Other persons permitted access to the information by court order.

Comments are invited on the list in subdivision (c). Does it properly limit access? Also, does the rule need to state explicitly that persons or organizations that help individuals in preparing the *CLETS Information* form do not run afoul of the confidentiality provisions in the rule by providing such assistance? (The the language in (c) about access "[a]fter the form is submitted to the court" may make it sufficiently clear that the restricted access does not apply to persons or entities assisting preparing the form.)

Subdivision (d) would provide that a person requesting protective orders or the person's attorney may submit an amended *CLETS Information* form as a matter of right to provide updated or more complete and accurate information.

Finally, subdivision (e) would provide that in a case in which a confidential *CLETS Information* form has been submitted to the court, the court may destroy or delete the form anytime after (1) 30 days after a request for restraining orders has been denied in its entirety or (2) 30 days after all orders have expired.

Rule 1.51 of the California Rules of Court would be adopted, effective January 1, 2011, to read as follows:

1 **Rule 1.51. California Law Enforcement Telecommunications System (CLETS)**
2 **Information form**

3
4 **(a) CLETS Information form to be submitted to the court**

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6 A person requesting protective orders under Code of Civil Procedure section 527.6,
7 527.8, or 527.85, Family Code section 6320, or Welfare and Institutions Code
8 section 213.5 or 15657.03 must submit to the court with the request a completed
9 copy of the *CLETS Information form*.

10
11 **(b) Confidentiality of the form**

12
13 The *CLETS Information form* is confidential, and access to the information on the
14 form is limited to the persons listed in (c).

15
16 **(c) Access to information on the form**

17
18 The *CLETS Information form* must not be included in the public case file. After the
19 form is submitted to the court, only the following persons may have access to the
20 information on the form:

21
22 (1) Judicial officers and authorized court personnel;

23
24 (2) Law enforcement and other personnel authorized by the California Department
25 of Justice to transmit or receive CLETS information;

26
27 (3) The person requesting protective orders, that person's attorney of record, and
28 the attorney's designated employees or agents; and

29
30 (4) Other persons permitted access to the information by court order.

31
32 **(d) Amendment of the form**

33
34 A person requesting protective orders or the person's attorney may submit an
35 amended *CLETS Information form* as a matter of right to provide updated or more
36 complete and accurate information.

37

1 **(e) Retention and destruction of the form**

2

3 In a case in which a confidential *CLETS Information* form has been submitted to the
4 court, the court may destroy or delete the form anytime after (1) 30 days after a
5 request for restraining orders has been denied in its entirety or (2) 30 days after all
6 orders have expired.

Item SPR10-42 Response Form

Title: **Protective Orders: Confidentiality of Information on California Law Enforcement Telecommunications System (CLETS) Information Form**
(adopt Cal. Rules of Court, rule 1.51)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

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DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 18, 2010

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.