

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT SPR19-17

Title Criminal Procedure: Interpreter's Statements on Judicial Council Criminal Forms	Action Requested Review and submit comments by June 10, 2019
Proposed Rules, Forms, Standards, or Statutes Revise forms CR-101, CR-102, CR-115, and CR-170	Proposed Effective Date January 1, 2020
Proposed by Criminal Law Advisory Committee Hon. Tricia A. Bigelow, Chair	Contact Eve Hershcopf, 415-865-7961 Eve.Hershcopf@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee recommends removing a portion of the Interpreter's Statement on three Judicial Council criminal forms to ensure that the statement accurately describes the role and responsibilities of interpreters. The committee also recommends adding the proposed Interpreter's Statement to the form used by mentally disordered defendants to indicate whether the defendant is challenging the Penal Code section 1606 report recommending confinement or continued outpatient treatment, or is waiving that right.

Background

The Judicial Council approved form CR-101, first effective on January 1, 2007, to provide increased uniformity in felony plea waiver forms used throughout the state. Form CR-101 includes an Interpreter's Statement section on the final page, which is designed to be signed by the person who interpreted the form to the defendant. The statement currently reads:

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below. The defendant stated that he or she understood the contents of the form and then initialed and signed the form.

Form CR-102, first effective on July 1, 2011, and form CR-115, first effective on January 1, 2003, each have a nearly identical statement. The statement was included on forms CR-101, CR-

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

102, and CR-115 without any explanation or comment when each of the forms was first adopted and those statements have not been revised in the intervening years.

The Proposal

The Interpreter’s Statement on the following three Judicial Council forms would be revised to remove a portion of the statement that requires the interpreter to certify to the defendant’s actions rather than to the interpreter’s own actions to ensure that the statement is consistent with the limited role and responsibilities of the interpreter: *Plea Form, With Explanations and Waiver of Rights—Felony* (form [CR-101](#)), *Domestic Violence Plea Form with Waiver of Rights (Misdemeanor)* (form [CR-102](#)),¹ and *Defendant’s Statement of Assets* (form [CR-115](#)).

The Criminal Law Advisory Committee, in response to concerns raised by a certified court interpreter, considered whether to recommend removing the second sentence of the Interpreter’s Statement (“The defendant stated that he or she understood the contents of the form and then initialed and signed the form”) from the forms on which it currently appears. The committee considered the following reasons why it may be inappropriate to include this portion of the statement on the forms:

- ***Exceeds the role of the interpreter:*** The oath of the certified or registered court interpreter limits the interpreter’s role to translating or interpreting statements, proceedings, or forms from and into English and a second language. The interpreter is neither authorized nor qualified to speak for the defendant; only the defendant’s attorney is authorized to speak on the defendant’s behalf.
- ***May violate the interpreter’s code of ethics and is a breach of confidentiality:*** The translation of a waiver form is an extension of an attorney-client conference. The defendant’s attorney explains the contents of the form and answers any questions the defendant may have. If, by signing the current Interpreter’s Statement, the interpreter certifies what the defendant “stated,” the interpreter may be in violation of the interpreter’s code of ethics by disclosing privileged information.
- ***Requires an inquiry and assessment that the interpreter is not qualified to make:*** An interpreter cannot independently inquire and determine whether the defendant understood the contents of the form. At the time of sentencing, the bench officer asks the defendant directly and on the record whether he or she understood the contents of the form. The defendant—not the interpreter—answers the question. The interpreter solely interprets the responses of the defendant.
- ***Requires information that the interpreter may not have:*** An interpreter may not know whether a person other than the defendant, such as the defendant’s attorney or a family member, initialed or signed the form on the defendant’s behalf.

¹ The Criminal Law Advisory Committee is also circulating an Invitation to Comment recommending revisions to the immigration consequences provisions on forms CR-101 and CR-102 to conform with the plain language of Penal Code section 1016.5.

- ***Is unnecessarily duplicative:*** The Interpreter’s Statement appears to be unnecessarily duplicative of the Defendant’s Statement and the Court’s Findings and Order included on forms CR-101 and CR-102.

Retaining the Interpreter’s Statement in its current form may place court interpreters in an untenable position by requiring interpreters, in signing the statement to certify to knowledge that may exceed their role, to violate their code of ethics by revealing information that may be privileged or constitute a breach of confidentiality, and may require an assessment that the interpreter is not qualified to make; alternatively, some interpreters may refuse to sign the statement to avoid these conflicts.

The committee recommends adding the revised version of the Interpreter’s Statement to *Notification of Decision Whether to Challenge Recommendation* (form CR-170), an optional form used to confirm whether a mentally disordered defendant has elected to challenge at a jury trial the Penal Code section 1606 report recommending confinement or continued outpatient treatment, or to waive that right. The committee believes that it is appropriate to add the revised Interpreter’s Statement to form CR-170 to ensure that certification by an interpreter is included on the form for instances where a defendant requires interpretation in order to understand the form’s contents and make an informed decision whether to challenge the report.

The proposal would revise the forms as follows:

Forms CR-101, CR-102, and CR-115:

- Remove the second sentence from the Interpreter’s Statement on page 7 of form CR-101, page 3 of form CR-102, and page 2 of form CR-115, which reads, “The defendant stated that he or she understood the contents of the form and then initialed and signed the form.”

Form CR-102:

- Modify the first sentence of the Interpreter’s Statement on page 3 to make the language consistent with the Interpreter’s Statement on form CR-101, by replacing the word “interpreted” with the word “translated.”

Form CR-115:

- Modify the first sentence of the Interpreter’s Statement on page 2 to make the language consistent with the Interpreter’s Statement on form CR-101, which reads, “I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.”
- Modify the Interpreter’s Statement to include boxes for the interpreter to indicate the language into which he or she interpreted the form and add a line for the date the interpreter signed the statement.
- Make other nonsubstantive technical changes to format.

Form CR-170:

- Add an Interpreter’s Statement identical to the proposed revised statement on forms CR-101, CR-102, and CR-115 to read:

INTERPRETER’S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (specify): _____

Interpreter’s Signature

Date

Interpreter’s Name (Type or Print)

Alternatives Considered

The committee considered not revising the Interpreter’s Statement on forms CR-101, CR-102, and CR-115 or adding an Interpreter’s Statement to form CR-170 but determined that the suggestion was meritorious and that it was important not to place interpreters in a position that raised potential conflicts.

Fiscal and Operational Impacts

Expected costs include training, possible case management system updates, and the production of new forms. No other implementation requirements or operational impacts are expected.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Are the proposed revisions an effective way to address the concerns raised regarding the Interpreter's Statement?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms CR-101, CR-102, CR-115, and CR-170, at pages 6–18

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	
PLEA FORM, WITH EXPLANATIONS AND WAIVER OF RIGHTS—FELONY	CASE NUMBER:

- INSTRUCTIONS:**
- (1) Fill out this form only if you want to plead guilty or no contest.
 - (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
 - (3) On page 6, sign and date the form under "DEFENDANT'S STATEMENT."
 - (4) Keep in mind that the court cannot give legal advice. If you have any questions about anything in this form, ask your attorney.

1. **CHARGES AND MAXIMUM TERM.** I want to plead guilty or no contest ("nolo contendere") to the charges and allegations listed below. I understand that the minimum and maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

INITIALS

COUNT	CHARGES (SECTION & DESCRIPTION)	YEARS / MONTHS		PRIOR CONVICTIONS, ENHANCEMENTS, & SPECIAL ALLEGATIONS (SECTION & DESCRIPTION)	YEARS / MONTHS		TOTAL MAXIMUM TIME
		MINIMUM	MAXIMUM		MINIMUM	MAXIMUM	
AGGREGATE MAXIMUM TIME OF IMPRISONMENT							

2. **PLEA AGREEMENT.** I understand that I must tell the court on this form about any promises anyone has made to me about the sentence I will receive or the sentence recommendations that will be made to the court. My attorney, the court, or the prosecutor has explained to me that if I plead guilty or no contest to the charges and admit the allegations listed above, the court will sentence me as follows:

- a. Check one: **State Prison** (or the Division of Juvenile Justice) **County Jail** for
- (1) years and months or
- (2) Not less than years and months and/or not more than years and months.
- (3) Other (*specify*):
- b. **Probation** for years under conditions to be set by the court, including:
- days in the **county jail** or
- up to days in the **county jail**.

INITIALS

I understand that a violation of any of the conditions of probation, including failure to complete a drug education or treatment program, if ordered by the court, may cause the court to send me to **county jail or state prison** for up to the "**Aggregate Maximum Time of Imprisonment**" specified in item 1, which may include a period of mandatory supervision under Penal Code section 1170(h)(5)(B) if the court sends me to county jail.

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INITIALS

2. c. **Split Sentence (1170(h)(5)(B)):** years and days in the county jail and years and days on mandatory supervision under conditions set by the court. I understand that if I violate any of the terms or conditions of mandatory supervision, I may be remanded into custody for the entire unserved portion of the sentence.

d. Narcotics Addiction Confinement

I understand that if the court finds that I am addicted to narcotics or in immediate danger of becoming a narcotics addict, the court may send me to a narcotics detention, treatment, and rehabilitation facility for up to the amount of time I would otherwise have served in prison.

e. Open Plea

1. I understand the maximum and minimum sentences for the charges and allegations stated on page 1. No one has made any other promises to me about what sentence the court may order.

2. I understand that I am not eligible for probation.

3. I understand that I will not be granted probation unless the court finds at the time of sentencing that this is an unusual case where the interests of justice would be best served by granting probation.

f. Restitution, Statutory Fees, and Assessments

I understand that the court will order me to pay the following amounts (if an amount is not yet known, "TBD" for "to be determined" is entered next to the \$); I must prepare financial disclosure statements to assist the court in determining my ability to pay; and refusal or failure to prepare the required financial disclosure statements may be used against me at sentencing:

1. \$ **to the Victim Restitution Fund**

2. \$ **restitution to actual victims**

3. \$ **restitution to the State of California, Victims of Crime Fund**

4. \$ **court operations assessment**

5. \$ **court facilities assessment**

6. \$ **base fine plus any applicable penalties, assessments, and surcharges**

7. \$ **other (specify):**

8. \$ **other (specify):**

9. An (additional) amount to be determined by the court at sentencing or such other hearing as the court may set.

g. Parole Revocation or Probation Revocation Fine

I understand that if I am sentenced to **state prison**, the court **will** impose a parole revocation fine, which will be collected only if my parole is later revoked. I also understand that if I am granted probation, the court **will** impose a probation revocation fine, which will be collected only if my probation is later revoked.

h. Dismissal of Other Counts

I understand that as part of the plea agreement bargain, the following counts will be dismissed after sentencing:

I understand and agree that the sentencing judge may consider facts underlying dismissed counts to determine restitution and to sentence me on the counts to which I am entering a plea.

i. Other Terms (specify):

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3. CONSEQUENCES OF MY PLEA

INITIALS

a. No Contest ("Nolo Contendere") Plea

I understand that a no contest plea is the same as pleading guilty and that if I plead no contest, I will be convicted and my no contest plea could be used against me in a civil case.

b. Parole and Postrelease Community Supervision

I understand that if I am sentenced to state prison or a narcotics treatment facility

(1) I will be placed on parole or postrelease community supervision for up to _____ years after my release.

(2) If I abscond or the court tolls my supervision, the total time of parole or postrelease community supervision can be extended.

(3) If I violate any of the terms or conditions of my parole, I can be sentenced to county jail for up to 180 days for each violation, or returned to state prison for up to one year, up to a maximum of _____ years. If I violate any of the terms or conditions of postrelease community supervision, I can be sentenced to county jail for up to 180 days for each violation, for up to a maximum of 3 years.

c. Effect of Conviction on Other Cases

I understand that a conviction in this case may constitute a violation of any other current grant of parole, mandatory supervision, postrelease community supervision, or probation in any other case and that I may receive additional punishment as a result of that violation.

d. Registration

I understand that I will be required to register with the local police agency or sheriff's department in the city or county in which I reside as

- (1) an arson offender
- (2) a gang member
- (3) a narcotics offender
- (4) a sex offender (this registration is a lifelong requirement)
- (5) other (specify):

and that if I fail to register or to keep my registration current for any reason, new felony criminal charges may be filed against me.

e. Prints and DNA Samples

I understand that I must provide biological samples and prints for identification purposes—including buccal (mouth) swab samples, right thumb prints, palm prints of each hand, and blood specimens or other biological samples required by law—and that failure to do so constitutes a new criminal offense.

f. Serious or Violent Felony

(1) I understand that by pleading guilty or no contest to a serious or violent felony ("strike"), the penalty for any future felony conviction will be increased as a result of my conviction in this case, depending on the number of strikes I have, up to a mandatory prison sentence of double the term otherwise provided or a term of at least 25 years to life.

(2) I understand that if I am convicted of a violent felony, jail or prison conduct/work-time credit I may accrue will not exceed 15%.

(3) I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20% of the total term of imprisonment.

(4) I understand that if I am convicted of murder or a third felony conviction of certain offenses, I am ineligible to receive work-time credits. Count _____ is such an offense.

g. Prior Prison Term or County Jail Sentence Under Penal Code Section 1170(h)(5)

I understand that if I am sentenced to prison or county jail under Penal Code section 1170(h)(5), the penalty for any future felony conviction may be increased as a result of my incarceration in this case.

h. Driver's License and Vehicle Forfeiture

I understand that my privilege to drive a motor vehicle may be revoked or suspended by the court or the California Department of Motor Vehicles, and my vehicle may be ordered forfeited if it was involved in the offense.

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3. i. **Immigration Consequences** INITIALS

I understand that if I am not a citizen of the United States, my plea of guilty or no contest may or, with certain offenses, **will** result in my deportation, exclusion from reentry to the United States, and denial of naturalization and amnesty, and that the appropriate consulate may be informed of my conviction. The offenses that **will** result in such immigration action include, but are not limited to, an aggravated felony, conspiracy, a controlled substance offense, a firearm offense, and, under certain circumstances, a moral turpitude offense.

j. **Firearms**

I understand that federal and state laws prohibit a convicted felon from possessing firearms or ammunition for life.

k. **Other Consequences** (*specify*):

4. **RIGHT TO AN ATTORNEY**

I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me.

I hereby give up my right to be represented by an attorney.

5. **OTHER CONSTITUTIONAL RIGHTS**

I understand that I am entitled to each of the following rights as to the charges listed in item 1 (on page 1):

a. **Right to a Jury Trial**

I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were unanimously convinced beyond a reasonable doubt that I am guilty. I have a right, through my counsel, to participate in jury selection.

b. **Right to a Court Trial**

I understand that, as an alternative to a jury trial, if the prosecutor agrees, I may give up a jury trial and have a court trial in which the judge alone, without a jury, hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge was convinced beyond a reasonable doubt that I am guilty.

c. **Right to Confront and Cross-Examine Witnesses**

I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney may question them.

d. **Right to Remain Silent and Not to Incriminate Myself**

I understand that I have the right to remain silent, and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself, and I cannot be forced to testify.

e. **Right to Produce Evidence and to Present a Defense**

I understand that I have a right to present evidence and to have the court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.

6. **BEFORE THE PLEA**

a. **Discussion With My Attorney**

Before entering this plea, I have had a full opportunity to discuss the following with my attorney:

- (1) The facts of my case;
- (2) The elements of the charged offenses, prior convictions, enhancements, and special allegations;
- (3) Any defenses that I may have;
- (4) My constitutional and statutory rights and waiver of those rights;
- (5) The consequences of this plea, including the immigration consequences; and
- (6) Anything else I think is important to my case.

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6. **b. Questions** INITIALS
 I have no further questions of the court or of my attorney with regard to my plea and admissions in this case, any of the rights, or anything else on this form.
- c. Stipulation to Commissioner**
 I understand that I have the right to have a judge take my plea and sentence me. I give up this right and agree to have a commissioner, sitting as a temporary judge, take my plea and sentence me.
- d. Medications or Controlled Substances**
 I am not taking any medication that affects my ability to understand this form and the consequences of my plea, have not recently consumed any alcohol or drugs, and am not suffering from any medical condition, except for the following:
- e. Court Approval of Plea Agreement**
 I understand that the plea agreement in item 2 (on pages 1 and 2) is based on the facts before the court. I understand that if the court approves this plea agreement the approval of the court is not binding, and that the court may withdraw its approval of the plea agreement upon further consideration of the matter. I understand that if the court withdraws its approval of this plea agreement I will be allowed to withdraw my plea. (Pen. Code, § 1192.5.)
7. **STATUTORY RIGHT TO A PRELIMINARY HEARING**
 I understand that before I have a trial, the law gives me the right to a speedy preliminary hearing at which the prosecution would produce evidence and the court must find reasonable cause to believe I committed the crimes with which I have been charged. I understand that I have all of the above constitutional rights at the preliminary hearing, except for the right to a jury trial.
- I give up my right to a preliminary hearing and the constitutional rights listed in item 5 (on page 4).**
8. **WAIVER OF CONSTITUTIONAL RIGHTS**
I give up, for each of the charges and allegations listed in item 1 (on page 1), my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right to remain silent and not to incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf. I understand that I am, in fact, incriminating myself with my plea.
9. **THE PLEA**
 I freely and voluntarily plead GUILTY NO CONTEST to the charges listed in item 1 (on page 1) and admit the allegations listed in item 1 (on page 1), understanding that this plea and admission will lead to the penalties listed in item 2 (on pages 1 and 2).
- a. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or my loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.
- b. **I understand that the court is required to find a factual basis for my plea to make sure that I am entering a plea to the proper offenses under the facts of the case.**
- I offer to the court the following as the basis for my plea of guilty or no contest and any admissions:**
- (1) **I understand that the court may consider the following as proof of the factual basis for my plea:**
- (a) Preliminary hearing transcript
 - (b) Police report
 - (c) Probation report
 - (d) Welfare investigator's declaration
 - (e) Court documents regarding any alleged prior offenses
 - (f) Other (*specify*):
 - (g) (Specify facts):

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9. b. (2) **I am pleading guilty or no contest to take advantage of a plea agreement (my attorney will stipulate to a factual basis for the plea).** (*People v. West* (1970) 3 Cal.3d 595.) INITIALS

10. AFTER THE PLEA

a. Surrender

I understand that the court is allowing me to surrender at a later date to begin serving time in custody.

I agree that if I fail to appear on the date set for surrender or sentencing without a legal excuse, my plea will become an "open plea" to the court, I will not be allowed to withdraw my plea, and I may be sentenced up to the maximum allowed by law.

b. Sentencing Court

I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea. I give up that right and agree that any judge or commissioner may sentence me.

c. Sentencing Date

I understand that I have the right to be sentenced within 20 court days. I give up that right and agree to be sentenced at a later date.

11. MANDATORY WARNING

I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, or Vehicle Code sections 23152 or 23153, the following warning applies:

You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving someone is killed, you can be charged with murder.

DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and effects of any prior convictions, enhancements, and special allegations have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

DEFENDANT'S SIGNATURE

DATE

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his or her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge; any possible defenses to the charges; the effect of any prior convictions, enhancements, and special allegations; and the consequences of the plea.

I concur in the plea and admissions and join in the waiver of the defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea and refer the court to the police report preliminary hearing transcript probation report other (*specify*): (*People v. West* (1970) 3 Cal.3d 595.)

ATTORNEY'S SIGNATURE

DATE

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INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (*specify*):

_____ INTERPRETER'S SIGNATURE	_____ DATE
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INTERPRETER'S NAME (TYPE OR PRINT)

DISTRICT ATTORNEY'S STATEMENT

I have read this form and understand the terms of the plea agreement.
I agree do not agree with the terms of the plea agreement and the indicated sentence.

_____ ATTORNEY'S SIGNATURE	_____ DATE
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COURT'S FINDINGS AND ORDER

The court, having reviewed this form (and any addenda), and having orally examined the defendant, finds as follows:

1. The defendant has read or has had read to him or her and understands each of the initialed items in this form.
2. The defendant understands the nature of the crimes and allegations listed in item 1 (on page 1) and the consequences of the plea and any admissions.
3. The defendant expressly, knowingly, understandingly, and intelligently waives his or her constitutional and statutory rights.
4. The defendant's plea, admissions, and waiver of rights are made freely and voluntarily.
5. A factual basis exists for the plea and admissions, or the defendant is pleading pursuant to a plea bargain under *People v. West*.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

_____ JUDGE'S SIGNATURE	_____ DATE
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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 v. Defendant(s):	
DOMESTIC VIOLENCE PLEA FORM WITH WAIVER OF RIGHTS (Misdemeanor)	CASE NUMBER:

Instructions:

- Fill out this form only if you want to plead guilty or no contest.
- Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- Sign and date the form under "DEFENDANT'S STATEMENT" on page 3.
- Keep in mind that the court cannot give legal advice. If you have an attorney and have questions about anything in this form, ask your attorney.

INITIALS

1. **Charges and Maximum Penalties.** I want to plead guilty or no contest to the charges listed below. I understand that the maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

COUNT	CHARGES (SECTION & DESCRIPTION)	MAXIMUM PENALTY (FINE & JAIL)

2. **Prior Convictions.** I understand that I am also charged with a prior conviction in case number(s):

3. **Probation Violations.** I understand that I am also charged with a violation of probation in case number(s):

4. **Right to an Attorney** (*Leave this box blank if you have an attorney*). I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me. **I hereby give up my right to be represented by an attorney.**

5. **Other Constitutional Rights.** I understand that I am entitled to each of the following rights concerning the charges and prior convictions (if any) listed in items 1 and 2 (above):

- a. **Right to a jury trial.** I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were convinced beyond a reasonable doubt that I am guilty.
- b. **Right to confront and cross-examine witnesses.** I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court to testify under oath in my presence and I or my attorney may question them.
- c. **Right to remain silent and not incriminate myself.** I understand that I have the right to remain silent and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself and I cannot be forced to testify.

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INITIALS

6. **Rights for Probation Violations** (*Leave this box blank if you are not charged with a probation violation*). I understand that I have all the constitutional rights listed above for all probation violations charged against me, except that I do not have a right to a jury trial, only a court hearing before a judge.
7. **Consequences of My Plea**
- a. **No contest plea.** I understand that a no contest plea has the same effect as a guilty plea except that it cannot be used against me in a civil case that derives from an act on which this prosecution is based unless the offense is punishable as a felony.
- b. **Effect of conviction on other cases.** I understand that a conviction in this case may be used to increase my punishment for future domestic violence convictions and may constitute a violation of any other current grant of parole or probation, which may result in additional punishment.
- c. **Mandatory minimum conditions of probation.** I understand that if I am granted probation, the terms and conditions will include *at least* all of the following (see Pen. Code, § 1203.097):
- (1) A minimum of either 36 months (3 years) or 48 months (4 years) of probation;
 - (2) A criminal court protective order that may include residence exclusion or stay-away conditions;
 - (3) Booking within one week of sentencing if I have not already been booked;
 - (4) Several statutory fines, fees, and assessments, including a domestic violence fee, restitution fine, probation revocation fine (stayed), criminal conviction assessment, and court security fee;
 - (5) Successful completion of an appropriate batterer's treatment program lasting at least 52 weeks;
 - (6) Community service;
 - (7) Restitution to the victim (if applicable);
 - (8) An order to not own, possess, purchase, or receive any firearms;
 - (9) An order to relinquish any firearms in my possession or control; and
 - (10) Other:
- d. **Effect of future probation violation.** I understand that if I violate any of the terms or conditions of probation, I may be returned to court and sentenced up to the maximum punishment on each charge as indicated in item 1.
- e. **Immigration consequences.** I understand that if I am not a citizen of the United States, my plea of guilty or no contest may or, with certain offenses, **will** result in my deportation, exclusion from admission and reentry to the United States, and denial of naturalization and amnesty, and that the appropriate consulate may be informed of my conviction.
- f. **Firearm prohibition.** I understand that a conviction in this case may prohibit me from owning, using, or possessing firearms and ammunition within 10 years under Penal Code sections 29805 and 30305.
- g. **Child custody consequences.** I understand that a conviction in this case may result in a rebuttable presumption that an award of sole or joint physical or legal custody of a child is detrimental to the best interest of the child under Family Code section 3044.
- h. **Other consequences** (*specify*):
8. **Before the Plea**
- a. **Discussion with my attorney** (*Leave this box blank if you are not represented by an attorney*). Before entering this plea, I have had a full opportunity to discuss with my attorney the facts of the case, the elements of the charged offenses and prior convictions (if any), any defenses that I may have, my constitutional and statutory rights and waiver of those rights, the consequences of this plea, and anything else I think is important to my case.
- b. **Questions.** I have no further questions for the court or for my attorney with regard to my plea and admissions in this case or any of my rights or anything else on this form.
9. **Waiver of Constitutional Rights.** For each of the charges, prior convictions (if any), and probation violations (if any) listed in items 1, 2, and 3, I give up my right to a jury trial, my right to a court hearing, my right to confront and cross-examine witnesses, and my right to remain silent and not to incriminate myself. I understand that I am, in fact, incriminating myself with my plea.
10. **The Plea** (*check one*). I freely and voluntarily plead GUILTY NO CONTEST to the charges listed in item 1. I offer my plea with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

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11. **Prior Convictions.** I freely and voluntarily admit the prior convictions (if any) listed in item 2, and I understand that this admission may increase the penalties that are imposed on me.
12. **Probation Violations.** I freely and voluntarily admit the probation violations (if any) listed in item 3.
13. **Sentencing.** I understand that I have a right to delay my sentencing at least 6 hours and as long as 5 days after my plea. I give up this right and agree to be sentenced at this time.

INITIALS

DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and the effects of any prior convictions and probation violations have been explained to me. I understand each of the rights outlined above and I give up each of them to enter my plea.

Defendant's Signature

Date

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his or her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge, any possible defenses to the charges, the effect of any prior convictions and probation violations, and the consequences of the plea.

Attorney's Signature

Date

INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (specify):

Interpreter's Signature

Date

Interpreter's Name (Type or Print)

COURT'S FINDINGS AND ORDER

The court, having reviewed this form and having orally examined the defendant, finds that (a) the defendant has read or been read and understands each of the initialed items on this form; (b) the defendant understands the nature of the crimes and allegations listed in items 1, 2, and 3 and the consequences of the plea and any admissions; (c) the defendant expressly, knowingly, understandingly, and intelligently waives his or her constitutional and statutory rights; and (d) the defendant's plea, admissions, and waiver of rights are made freely and voluntarily.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Signature of the Court

Date

NAME OF VICTIM ON WHOSE BEHALF RESTITUTION IS ORDERED:	<i>FOR COURT USE ONLY</i>
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
DEFENDANT'S STATEMENT OF ASSETS	CASE NUMBER:

It is a misdemeanor to make any willful misstatement of material fact in completing this form (Pen. Code, § 1202.4(f)(4).)

(Attach additional sheets if the space provided below for any item is not sufficient.)

PERSONAL INFORMATION

- | | |
|---|--|
| 1. a. Name:
b. AKA:
c. Date of birth:
d. Social security number:
e. Marital status: | f. Driver license number:
State of issuance:
g. Home address <i>(incl. city/zip)</i> :
h. Home telephone no.:
i. Employer's telephone no.: |
|---|--|

EMPLOYMENT

2. What are your sources of income and occupation? *(Provide job title and name of division or office in which you work.)*
3. a. Name and address of your business or employer *(include address of your payroll or human resources department, if different)*:
- b. If not employed, names and addresses of all sources of income *(specify)*:
4. How often are you paid (for example, daily, weekly, biweekly, monthly)? *(specify)*:
5. What is your gross pay each pay period? \$
6. What is your take-home pay each pay period? \$
7. If your spouse earns any income, give the name of your spouse, the name and address of the business or employer, job title, and division or office *(specify)*:
8. Other sources of income *(specify)*:

CASH, BANK DEPOSITS

9. How much money do you have in cash? \$
10. How much other money do you have in banks, savings and loans, credit unions, and other financial institutions either in your own name or jointly *(list)*:

	<u>Name and address of financial institution</u>	<u>Account number</u>	<u>Individual or joint?</u>	<u>Balance</u>
a.				\$
b.				\$
c.				\$

PROPERTY

11. List all automobiles, other vehicles, and boats owned in your name or jointly.

	<u>Make and year</u>	<u>Value</u>	<u>Legal owner if different from registered owner</u>	<u>Amount owed</u>
a.		\$		\$
b.		\$		\$
c.		\$		\$

(Continued on reverse)

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	CASE NUMBER:
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12. List all real estate owned in your name or jointly:

	<u>Address of real estate</u>	<u>Fair market value</u>	<u>Amount owed</u>
a.		\$	\$
b.		\$	\$

OTHER PERSONAL PROPERTY (Do not list household furniture and furnishings, appliances, or clothing.)

13. List anything of value not listed above owned in your name or jointly *(continue on attached sheet if necessary)*:

	<u>Description</u>	<u>Value</u>	<u>Address where property is located</u>
a.		\$	
b.		\$	
c.		\$	

ASSETS

14. List all other assets, including stocks, bonds, mutual funds, and other securities *(specify)*:

15. Is anyone holding assets for you? Yes. No. If yes, describe the assets and give the name and address of the person or entity holding each asset *(specify)*:

16. Except for attorney fees in this matter and ordinary and routine household expenses, have you disposed of or transferred any assets since your arrest on this matter? Yes. No.

If yes, give the name and address of each person or entity who received any asset and describe each asset *(specify)*:

DEBTS

17. Loans *(give details)*:

18. Taxes *(give details)*:

19. Support arrearages *(attach copies of orders and statements)*:

20. Credit cards *(give creditor's name and address and the account number)*:

21. Other debts *(specify)*:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other *(specify)*

INTERPRETER'S SIGNATURE

DATE

INTERPRETER'S NAME (TYPE OR PRINT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY CASE NUMBER: _____
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____	
PEOPLE OF THE STATE OF CALIFORNIA VS. DEFENDANT: _____	
Date of birth: _____ California Dept. of Corrections No. (if applicable): _____	
NOTIFICATION OF DECISION WHETHER TO CHALLENGE RECOMMENDATION (Pen. Code, § 2972.1)	

1. Defendant (name): _____ has met and conferred with counsel regarding the Penal Code section 1606 report recommending confinement or continued outpatient treatment.

Check a. or b.:

- a. I do not believe that I need further treatment, and I demand a jury trial to decide this question.
- b. I accept the recommendation that I continue treatment.

Date: _____

_____ (TYPE OR PRINT NAME)  _____ (SIGNATURE OF DEFENDANT)

2. I am counsel for the above-named defendant. I certify that I have explained the report and recommendation to the defendant.
 Defendant:

- a. signed this form as indicated above.
- b. refused or is unable to sign this form.

Date: _____

_____ (TYPE OR PRINT NAME)  _____ (SIGNATURE OF ATTORNEY)

INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (specify) _____

_____ INTERPRETER'S SIGNATURE _____ DATE

_____ INTERPRETER'S NAME (TYPE OR PRINT)