



C A L I F O R N I A

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DEPARTMENT OF JUSTICE

**CLETS Policies, Practices and Procedures (PPP)  
Proposed Revisions/Updates (in green)**

**December 14, 2023**

## Summary

The following slides are necessary additions and revisions to the CLETS Policies, Practices, and Procedures. The changes are the result of updates to the FBI's CJIS Security Policy and/or the passing of California Assembly Bill 44.

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## PPP 1.5.1 (A) (Management Control Agreement)

### Current Text with Proposed Revisions:

- A. ....A signed Management Control Agreement must be received **and approved** by the CA DOJ prior to the CLETS subscribing agency permitting the non-CJ agency access to CLETS equipment or to information from the CLETS....
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## PPP 1.5.4 (Reciprocity Agreement)

### Current Text with Proposed Revisions:

Any agency that agrees to perform record entry/update and/or hit confirmation functions on behalf of another agency must enter into a Reciprocity Agreement (reference Exhibit G.) The Reciprocity Agreement must be signed by the head of each agency and a copy must be submitted to the CA DOJ for approval.

The Reciprocity Agreement shall be updated when the head of the agency changes or immediately upon request from the CA DOJ.

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### Current Text with Proposed Revisions:

1. Initially (~~within six months of employment or assignment~~) (prior to accessing CJI), train, functionally test and affirm the proficiency of all terminal (equipment) operators (full access/less than full access) to ensure compliance with the CLETS/NCIC policies and regulations. This is accomplished by completing the required training and the appropriate CLETS/NCIC Telecommunications Proficiency Examination published by the CA DOJ, or a facsimile thereof. An agency wishing to make additions or modifications to the Proficiency Examination must receive prior approval from the CA DOJ.

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### Current Text with Proposed Revisions:

2. ~~Biennially~~ **Annually** provide functional retesting and reaffirm the proficiency of all terminal (equipment) operators (full access/less than full access) to ensure compliance with the CLETS/NCIC policies and regulations. This is accomplished by the completion of the appropriate CLETS/NCIC Telecommunications Proficiency Examination published by the CA DOJ, or a facsimile thereof. An agency wishing to make additions or modifications to the Proficiency Examination must receive prior approval from the CA DOJ.

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### Current Text with Proposed Revisions:

3. Maintain records of all training, testing and proficiency affirmation. Training records, written or electronic, shall identify the ~~employee's~~ **individual's** CLETS category of Full Access operator, Less Than Full Access operator, Practitioner or Administrator. The records must record the date of initial CLETS training and, for operators, the date(s) the initial and subsequent ~~biennial~~ **annual** Telecommunications Proficiency Examination were completed, recording a passing score of 70 percent or better or a pass/fail notation. The Examinations may be discarded or returned to the operator upon entry of the required information in the appropriate log. ~~An individual's CLETS training record may be deleted one year after separating from the agency.~~ **Retain individual training records for a minimum of three years.**

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### Current Text with Proposed Revisions:

4. Initially (~~within six months of employment or assignment~~), (prior to accessing CJI), all sworn/non-sworn practitioner personnel must receive basic training in the CLETS/NCIC policies, liability issues and regulations. Practitioner is defined as any person who has ongoing access to information from the CLETS and is not a CLETS operator.

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## Current Text with Proposed Revisions:

Agencies shall immediately notify the CA DOJ of security incidents or data breaches. Such incidents shall be reported ~~via e-mail to CAS@doj.ca.gov or faxed to (916) 227-0696. This information will be reported to CA DOJ on the~~ **to the 24/7 DOJ Computer Operations Team at 916-210-3500. This information shall also be reported by email to the CLETS Administration Section at CAS@doj.ca.gov via the** CLETS IT Security Incident Response Form (reference Exhibit L). Security incidents identified as system misuse shall be reported on the annual CLETS Misuse Investigation Reporting form (reference Exhibit J.) **The Incident Response Plan for your agency must include these notification requirements.**

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## Current Text with Proposed Revisions:

A. All persons, including non-criminal justice, volunteer personnel, private vendor technical or maintenance personnel with physical or logical access to the CLETS equipment, information from the CLETS or to criminal offender record information, are required to undergo a background security clearance to determine their suitability for logical or physical access to CLETS. This includes, at a minimum, a state and federal fingerprint-based criminal offender record information search pursuant to the California Code of Regulations, Title 11, Division 1, Chapter 7, Article 1, § 703(d) and § 707(b). Unescorted access to a law enforcement or criminal justice agency's secure environment requires submission of a state and federal fingerprint-based background security check to the CA DOJ using the law enforcement agency ORI. All other fingerprint-based employment background checks are not valid for access to CLETS (i.e., if applicable personnel are fingerprinted under a non-law enforcement agency ORI for hiring purposes, they must also undergo a state and federal fingerprint-based background security check under a law enforcement ORI to determine their suitability for logical or physical access to CLETS.)

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## AB 44 CLETS: tribal police Addition of CA Gov Code 15168:

**15168.** (a) Notwithstanding Section 15153, the system may connect and exchange traffic with the compatible systems of a tribal government, as provided in this section.

(b) A law enforcement agency or court of a tribe may apply to the Attorney General for access to the system. The Attorney General shall provide system access to any law enforcement agency or court of a tribe that has made application and that meets all of the qualifications prescribed in subdivision (c), as determined by the Attorney General. System access provided to a tribe shall be at the sole expense of that tribe.

(c) The Attorney General shall deem a tribe that has applied for system access pursuant to subdivision (b) to be qualified only if the governing body of that tribe has enacted or adopted a law, resolution, or ordinance, which shall be maintained in continuous force, that provides for all of the following:

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## **Proposed Addition (1.01 cont.):**

(1) The tribe expressly waives its right to assert its sovereign immunity from suit, regulatory or administrative action, and enforcement of any ensuing judgment or arbitral award, for any and all claims arising from any actions or omissions of the tribe, including its officers, agents, and employees, when acting within the scope of their authority and duty, arising out of, connected with, or related to, the system.

(2) The tribe expressly agrees that the substantive and procedural laws of the State of California shall govern any claim, suit, or regulatory or administration action, that the obligations, rights, and remedies shall be determined in accordance with such laws, and that the courts of the State of California or of the federal government, as applicable, shall have exclusive jurisdiction.

(3) The tribe agrees to cooperate with any inspections, audits, and investigations by the Department of Justice for improper use or compliance with the operating policies, practices, and procedures, including any sanction or discipline imposed by the department, up to and including removal of system access.

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## **Proposed Addition (1.01 cont.):**

(4) The tribe and its agencies, entities, or arms, including any officers, agents, and employees of the tribe when acting within the scope of their authority and duty, shall comply with the laws of the State of California relating to the use of records and information from the system, including, without limitation, Section 6200 and this chapter, Sections 502, 11105, 11141, 11142, 11143, and 13300 to 13304, inclusive, of the Penal Code, and Section 1808.45 of the Vehicle Code.

(5) The tribe and its agencies, entities, or arms, including any officers, agents, and employees of the tribe when acting within the scope of their authority and duty, shall comply with the Department of Justice's regulations, agreements, and operating policies, practices, and procedures, relating to the security requirements, access to the records and information from the system, and use of records and information from the system.

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# Proposed Addition (1.01 cont.):

(d) The intent of the Legislature in enacting this section is to grant tribes access to, and use of, criminal justice databases, and the information in those databases, in a manner similar to the access granted under federal law codified in Section 534 of Title 28 of, and Section 41107 of Title 34 of, the United States Code.

(e) The Director of General Services shall determine the charges to be paid by a tribe to the department for system access, including any initial setup charges and any ongoing charges for access. These charges shall be reasonably similar to those imposed on other system subscribers.

(f) As used in this section, the following terms are defined as follows:

(1) “Tribe” means a federally recognized Indian Tribe whose territorial boundaries lie wholly or partially within the State of California, and any agencies, entities, or arms of the tribe, as applicable, either together or separately.

(2) “Sovereign immunity” means immunity from suit or action of the tribe and its agencies, entities, or arms, including the officers, agents, and employees of the tribe when acting within the scope of their authority and duty.

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### Current Text with Proposed Revisions:

- A. A Class I law enforcement subscriber is defined as a public **or tribal** agency or having statutory powers of arrest and whose primary function is that of apprehension and detection. Class I users include, but are not limited to, sheriffs, city police departments, **tribal police departments**, California Highway Patrol, Department of Justice, and the Federal Bureau of Investigation.
  - B. A Class II criminal justice agency is a public agency, **tribe, or any sub-unit thereof**, performing a criminal justice function other than apprehension. Class II subscribers include agencies devoted to the administration of criminal justice with personnel whose primary purpose is detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, rehabilitation of accused persons or criminal offenders, criminal identification activities, and the collection, storage and dissemination of criminal history record information. Agencies include, but are not limited to, district attorneys, courts, **tribal courts**, probation departments, and other miscellaneous local, state and federal agencies **or sub-units thereof** performing such functions.
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# Current Text with Proposed Revisions:

### A. Public Agency **or Tribe**

A Management Control Agreement is required when a public law enforcement agency, criminal justice agency, **or tribal law enforcement agency/court** (referred to as the *CLETS subscribing agency*) allows authorized access to CLETS equipment or information from the CLETS to a public **or tribal** agency that is neither a law enforcement agency nor a criminal justice agency (referred to as the *non-CJ agency*).

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### Current Text with Proposed Addition:

All persons who are not federal, state, or local governmental employees, who are exercising law enforcement powers as part of a Criminal Justice and/or Law Enforcement Agency, as defined in the PPP Glossary, shall meet all of the California Peace Officer Standards and Training (POST) mandated requirements to be a California peace officer, in addition to those requirements set forth in § 1.9.2 and § 1.9.3. Such law enforcement officers shall also be deputized by a federal, state or local law enforcement agency and provide copies of the relevant deputization agreements at the time of application for CLETS access to the CA DOJ systems.

Tribal law enforcement agencies shall submit applicable law enforcement certifications and/or deputization agreements at the time of application for CLETS access to the CA DOJ Systems.

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## Proposed Addition:

Tribe: a federally recognized Indian Tribe whose territorial boundaries lie wholly or partially within the State of California, and any agencies, entities, or arms of the tribe, as applicable, either together or separately.

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## Current Text with Proposed Revisions/Additions:

Section 3.1: Is the applicant a public agency or federally recognized Tribe?

- Yes
- No

Section 3.2: Identify which level:

- Federal
- State
- Local
- Tribe

Section 3.7: If the applicant is a federally recognized tribe, is documentation related to California Government Code 15168 subsection (c)(1)-(5) attached?

- Yes
  - No
  - N/A
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## Current Text with Proposed Revisions/Additions:

Section 3.8: If the applicant is a federally recognized tribe, is documentation related to the establishment and administration of a law enforcement agency or court attached?

- Yes
- No
- N/A

Section 4.4: How many sworn personnel does your agency/unit employ? \_\_\_\_\_

(Attach copies of POST certifications, **if required**)

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