



**ELECTRONIC FRONTIER FOUNDATION**

Protecting Rights and Promoting Freedom on the Electronic Frontier

June 21, 2018

**SENT VIA EMAIL**

CLETS Advisory Committee  
California Department of Justice  
4949 Broadway Room J231  
Sacramento, California 95820  
c/o CLETS Administration Section  
Maria Cranston, CLETS Executive Secretary  
Email: [maria.cranston@doj.ca.gov](mailto:maria.cranston@doj.ca.gov)

Members of the CLETS Advisory Committee:

The Electronic Frontier Foundation (EFF) writes today to applaud the California Attorney General's Office (AG) for compiling for the first time a near-comprehensive dataset on misuse of the California Law Enforcement Telecommunications System (CLETS) and for promulgating new policies for ensuring compliance with misuse enforcement measures. We believe that this is an important first step, however we strongly urge California Department of Justice staff and the CLETS Advisory Committee (CAC) to scrutinize misuse data and take further enforcement steps to protect the privacy of millions of California residents.

State law requires CAC and the AG cooperate to ensure CLETS subscribers comply with the official Policies, Procedures and Practices (PPP). For the last three years, EFF has come before CAC to demand action on what we believed to be the tip of the iceberg of widespread misuse of CLETS. Time and time again, CAC failed to probe deeper into these matters. Now, new data affirms our worst suspicions: in 2017, agencies reported 143 violations of CLETS policies, 22 of which rose to the level where the employee resigned or was terminated.

EFF is encouraged by the April 17, 2018 bulletin that Criminal Justice Information Services Division Chief Joe Dominic distributed to all CLETS subscribers, warning that failure to submit misuse reports will result in sanctions, including removal of CLETS service. The new PPP further declares that the AG and CAC will take misuse "very seriously" and that those who violate the policies will be subject to disciplinary action, including potential termination and criminal prosecution. We also approve of the AG's requirements that CLETS subscribers provide an update when an investigation previously listed as "pending" has been concluded.

This vigilance must not be constrained to whether an agency reports aggregate misuse data or not. The AG and CAC must investigate agencies with large numbers of violations, repeated violations year-to-year, or violations in which "no action" was taken to curb the

815 Eddy Street • San Francisco, CA 94109 USA

*voice* +1 415 436 9333

*fax* +1 415 436 9993

*web* [www.eff.org](http://www.eff.org)

*email* [information@eff.org](mailto:information@eff.org)

behavior. In addition, EFF is skeptical of the large number of agencies that reported they conducted no misuse investigations at all, since this may indicate a deficient internal affairs process.

We further urge the AG and CAC to examine federal agency access to CLETS. The California legislature recently passed, and Gov. Jerry Brown signed, S.B. 54, which limits how information may be used for immigration enforcement. While the U.S. Department of Homeland Security and its components, such as Immigration & Customs Enforcement, may still access criminal histories, other data on Californians accessible through CLETS must not be provided for immigration enforcement. Any such access should be classified as misuse, and CADOJ and CAC should take proactive measures to curb these activities and not simply allow these agencies to oversee themselves.

Should you have any questions or comments about this letter, please contact either of us via phone or email below.

Sincerely,

Dave Maass  
Senior Investigative Researcher  
(415) 436-9333, ext. 151  
[dm@eff.org](mailto:dm@eff.org)

Aaron Mackey  
Staff Attorney  
(415) 436-9333, ext. 167  
[amackey@eff.org](mailto:amackey@eff.org)