

*Editor's Note—Some of these issues affect data in CLETS, so you may want to include dispatchers when disseminating the updates. Please discard and replace the September Update.*

The AB 109 "Public Safety Realignment" legislation took effect October 1, 2011. The provisions change who supervises qualifying felony offenders and where felony offenders are incarcerated.

## 1. AB 109 Terminology

PRCS. Penal Code section 3450 creates the new category of Postrelease Community Supervision (PRCS), referring to supervision of released state prison inmates by local probation departments instead of CDCR parole.

Mandatory Supervision. A felony sentence to county jail under new Penal Code § 1170 (h)(5)(B) includes a period of mandatory supervision by county probation.

"Community-Based Punishment." Penal Code § 17.5 identifies alternative custody options, including electronic or GPS monitoring, work furlough, work release, and day reporting.

## 2. Postrelease Community Supervision

Parolees are felony offenders serving the remainder of their terms on parole. Probationers are felony or misdemeanor offenders who are granted probation by the court and may or may not serve a portion of their term in county jail and may be subject to formal or informal probation supervision.

PRCS refers only to those offenders released from prison. They will be supervised by the county probation department for a period between six months and three years. PRCS offenders who "violate" the terms of their release will be housed in local jails--not returned to state prison. At the end of their period of PRCS supervision, they will be released as having served their full term.

To qualify for PRCS, the offender must be classified as N<sup>3</sup> or "Non/Non/Non"--prisoners whose current offenses are non-violent, non-serious, and non-PC § 290. Inmates who do not qualify for PRCS will be released as parolees.

## 3. All PRCS Offenders Are Searchable

"Every person placed on postrelease community supervision, and his or her residence and possessions, shall be subject to search or seizure at any time of the day or night, with or without a warrant, by an agent of the supervising county agency or by a peace officer." (Pen. Code, § 3465.)

PRCS offenders are, therefore, subject to the same mandatory search and seizure clause as parolees. Just as with parolees, PRCS status informs officers that the person is searchable.

#### 4. CLETS--PRCS

CDCR must submit information regarding each offender's PRCS release to the California Department of Justice for inclusion in the Supervised Release File in CLETS. (Pen. Code, § 3003, subd. (L).)

Starting in November 2011, a new record type for PRCS releases was created for CLETS. CDCR does not have a prospective date for when it will begin using the new record types. Until that occurs, the following MISC message will appear for CDCR PRCS entries:

**MISC/PRCS SUBJECT-DISREGARD BEGIN AND DISCHARGE PAROLE DATES-CONTACT COUNTY PROBATION TO VERIFY CURRENT STATUS-SUBJECT NO LONGER UNDER CDCR JURISDICTION-SUBJECT WILL NOT BE RETURNED TO CDCR CUSTODY FOR VIOLATIONS OF PRCS CONDITIONS-CDCR WARR UNIT CANNOT PLACE HOLD ON SUBJECT.**

Although the PRCS subject is not on parole, you can rely on the "BEGIN DATE" in the CDCR entry as the date the offender was released from state prison and began PRCS. Because the "Discharge Date" cannot be predetermined at the time of release to PRCS, it will be coded as either "99999999" or another placeholder.

County probation departments can also use the new PRCS record type. After a PRCS offender reports (within 48 hours) to the supervising county probation department, county probation can then enter the offender's PRCS status into SRF, including updated contact information. NOTE: Not all county probation departments submit data to SRF, so the lack of a county probation department entry does not mean that the subject is released from PRCS supervision.

#### 5. Penal Code §1170(h) Supervision

AB 109 also requires that sentences for felony offenders who do not qualify for state prison are served in the county jail. Felony jail terms are no longer limited to 365 days. Penal Code §1170(h)(5) offenders will be sentenced to county jail to either:

- a straight term of jail "custody" (§ 1170(h)(5)(A)) or
- a "split term" that begins with jail "custody" followed by **mandatory supervision** by the probation department (§ 1170(h)(5)(B)).

For either type of sentence, the sheriff may have the ability to release the offenders to alternative forms of custody. Penal Code § 1203.016 specifically authorizes electronic monitoring, although other forms of "custody" are being discussed. **This means that you may encounter offenders whose criminal history or local record shows that they should be serving a term of custody.**

#### 6. CLETS---Penal Code §1170(h) Supervision

County probation departments can enter information into SRF for all persons subject to mandatory supervision that is part of a § 1170(h)(5)(B) "split term."

Sheriff departments can also enter information into SRF for inmates who are out of jail custody and subject to sheriff supervision under section 1170(h)(5).

Refer to CLEW (<http://clew.doj.ca.gov>) to access full instructions for these SRF entries.