

# 2011 Criminal Justice Realignment Frequently Asked Questions

(Revised January 3, 2012<sup>1</sup>)

This document provides the Ad Hoc Criminal Justice Realignment Steering Committee's responses to the most frequently asked questions (FAQ) relating to criminal justice realignment. The materials are for informational purposes only, and are not to be construed as legal advice. They will be revised and re-posted as additional information is available. In addition, specialized training materials are available on Serranus.

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## SENTENCING

### 1. How does criminal justice realignment change sentencing?

Criminal justice realignment divides felonies for the purpose of sentencing into three primary groups.

- a. Felonies sentenced to county jail:** Penal Code<sup>2</sup> section 1170, subdivision (h), provides that the following defendants must be sentenced to county jail if probation is denied:
  - Crimes where the punishment is imprisonment in accordance with subdivision (h) of section 1170 without delineation of a specific term; in which case the sentence is 16 months, two, or three years in county jail (section 1170(h)).
  - Crimes where the statute now specifically requires punishment in the county jail, either as a straight felony commitment or as an alternative sentence as a wobbler. The length of the term is not limited to 16 months, two, or three years, but will be whatever triad or punishment is specified by the statute (section 1170(h)(2)).
  
- b. Felonies excluded from county jail:** Notwithstanding that a crime usually is punished by commitment to the county jail, the following crimes and/or defendants, if denied probation, must be sentenced to state prison: (section 1170(h)(3))
  - Where the defendant has a prior or current serious or violent felony conviction under section 1192.7(c) or 667.5(c);
  - Where the defendant is required to register as a sex offender under section 290; or

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<sup>1</sup> Incorporates changes to criminal justice realignment that were enacted on September 21, 2011, by ABx1 17 (Blumenfeld), Stats. 2011, ch. 12. The provisions of the bill become operative on October 1, 2011.

<sup>2</sup> All references are to Penal Code unless otherwise specified.

- Where the defendant is convicted of a felony with an enhancement for aggravated theft under section 186.11.

**c. Felonies specifying punishment in state prison:** The Legislature carved out dozens of specific crimes where the sentence must be served in state prison. It will be incumbent on courts and counsel to verify the correct punishment for all crimes sentenced after the effective date of the realignment legislation. Appendix A, “Table of Crimes Requiring Commitment to State Prison” was compiled by Hon. J. Richard Couzens, Judge of the Superior Court of Placer County (Ret.) from many different source documents.

**2. When do the changes to sentencing laws apply?**

The changes in felony sentencing apply to any person sentenced on or after October 1.

**3. Is there a limit to the length of time a court may sentence a person to county jail under section 1170(h)?**

No. Nothing in criminal justice realignment limits the *length* of the county jail commitment. The only restrictions on eligibility for county jail commitment are based on the offense or the offender’s record. See Answer 1(b), above.

**4. How does criminal justice realignment change awarding of custody credits?**

Effective October 1, 2011, section 4019 has been amended to provide that most inmates committed to county jail are to receive two days of conduct credit for every two days served. The provisions apply to persons serving a sentence of four or more days, including misdemeanor sentences, a term in jail imposed as a condition of probation in a felony case, pre-sentence credit for some persons sentenced to state prison, persons serving jail custody for violation of state parole or postrelease community supervision, and persons serving a sentence imposed under section 1170(h).

**5. When do the changes to custody credits apply?**

The changes to custody credits apply to *offenses committed* on or after October 1, 2011.

**6. Is there any period of automatic parole or postrelease supervision for an inmate upon release from county jail on a felony conviction sentenced under section 1170(h)(1) and (2)?**

No. Persons sentenced under section 1170(h)(1) and (2) to county jail are not automatically released to parole or postrelease supervision upon serving their term – unlike those who serve time in state prison. A form of postrelease supervision can, however, be required in the judge’s discretion under section 1170(h)(5); see Question 7.

**7. What is the meaning of section 1170(h)(5)?**

Section 1170(h)(5) was added by AB 117<sup>3</sup> to give the sentencing judge discretion regarding how individuals convicted of felonies who are sentenced to county jail serve their term. The intent behind section 1170(h)(5) is to provide that, for any county jail-eligible felony conviction, the court may commit the defendant to county jail for the straight term allowed by law, or may suspend execution of a concluding portion of that term, during which time the defendant will be supervised by the county probation officer in accordance with the terms, conditions and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. This portion of supervision, if imposed by the court, will be mandatory.

**8. Is the supervision period of a split sentence imposed under section 1170(h)(5)(B) probation?**

No. ABx1 17 amended section 1170 to clarify that the mandatory period of supervision imposed under the so-called “split sentence” authorized under section 1170(h)(5)(B) is not probation.

**9. Do statutes that render certain offenses ineligible for probation—e.g., section 1203.07—prohibit courts from imposing “mandatory supervision” under section 1170(h)(5)??**

No. Because the mandatory supervision under 1170(h)(5)(B) is not probation, existing probation ineligibility provisions should not hinder a judge from imposing the split sentence .

**10. If a statute specifies that the crime is punishable in county jail under section 1170(h), is it still possible to send the defendant to state prison?**

Generally, crimes punishable in county jail may not be punished by a commitment to state prison; the court must sentence to county jail if probation is denied. If a defendant is sentenced to state prison for a qualified felony, however, other charges normally punished in county jail also will be punished in state prison (section 1170.1(a)).

**11. Is there a requirement that the People “plead and prove” any factor that disqualifies a defendant from a county jail commitment?**

The realignment legislation contains no express requirement that the People “plead and prove” any factor that would disqualify a defendant from being sentenced under section 1170(h). It is an open question whether the use of the term “allegation” in section 1170(f) suggests there is such an obligation. The “plead and prove” issue has been raised in the context of factors that disqualify a defendant from certain enhanced custody credit provisions. The credit issue is now before the California Supreme Court.

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<sup>3</sup> Assem. Bill 117 (Committee on Budget), Stats. 2011, ch. 39.

**12. Will a sentence imposed under section 1170(h) affect the ability of the court to grant a motion to specify a crime as a misdemeanor under section 17(b)?**

A sentence imposed under section 1170(h) will be treated the same as a state prison sentence. Accordingly, if the court imposes a sentence under section 1170(h) and either orders it into execution, or suspends its execution pending satisfactory completion of probation, the court will no longer have the ability to specify the offense as a misdemeanor under section 17(b).

**13. Where will a defendant serve a sentence if prior to October 1, the court imposed and suspended execution of a sentence to state prison for a crime now punishable under section 1170(h), and after October 1 does not reinstate the defendant on probation?**

There is no clear answer. Likely the defendant will serve the term in county jail. The traditional rule is that once imposed, a suspended sentence may not later be modified. (*People v. Howard* (1997) 16 Cal.4<sup>th</sup> 1081, 1095.) The realignment legislation, however, applies to all sentencing *proceedings* occurring on or after October 1, 2011. Certainly the decision not to reinstate a defendant on probation and order into execution a suspended state prison sentence is a “sentencing proceeding.” Furthermore, if the change from a state prison commitment to a county jail commitment is perceived as a less onerous sanction, a defendant may be entitled to the benefits of the change as a matter of equal protection.

**14. Will the provisions of section 1170(d) [recall of a sentence], and 1170(e) [compassionate release] apply to commitments under section 1170(h)?**

Neither subdivision (d) nor (e) of section 1170 mentions section 1170(h) commitments. Likely, however, defendants committed under section 1170(h) would have access to these procedures as a matter of equal protection of the law.

**15. When crimes are committed in county jail following a commitment under section 1170(h), must those crimes be run fully consecutive to the original commitment?**

Section 1170.1, subdivision (c), requires a full consecutive term for crimes committed in state prison, not simply a subordinate consecutive term limited to one-third the mid-base term. Commitments under section 1170(h) are not mentioned.

**16. What effect will section 17(b) have on “attempts” when committed to county jail under section 1170(h)?**

ABx1 17 eliminated an ambiguity regarding the treatment of “attempts” under section 664 by amending section 17(b) to include in the definition of felony a crime punishable in the county jail under section 1170(h) and to eliminate the requirement that the term exceed one year to constitute a felony.

**17. Can section 1385 be used to dismiss the disqualifying factors so as to permit the use of section 1170(h) to commit a defendant to county jail?**

No. Section 1170(f) provides: “Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because he or she is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.”

**18. Does the realignment legislation affect the court’s ability to consider probation or other alternative forms of punishment?**

No. Section 1170(h)(4) specifically provides that “[n]othing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.”

**19. Currently, the California Department of Corrections and Rehabilitation (CDCR) reviews felony sentences for accuracy. Will sheriffs do this for jail-only sentences? How? Will sheriffs review to ensure that court ordered the correct facility (i.e., prison or jail)?**

Nothing in criminal justice realignment appears to change any of these activities. CDCR will continue to review prison commitment papers for felons sentenced to state prison, and the prison packet remains the same. Courts should consult with their local sheriff to ascertain whether they will handle commitments to county jail any differently than prior to criminal justice realignment.

**20. Do felony sentences served in county jail under section 1170(h) constitute “prison priors” for purposes of sentence enhancements?**

Yes. ABx1 17 amended section 667.5 to clarify that felony sentences served in county jail under section 1170(h), including the custody portion of a so-called “split sentence” imposed under section 1170(h)(5)(B), are “prison priors” for purposes of sentence enhancements.

**REVOCAION OF SUPERVISION**

**21. Where will an inmate who is released from state prison to postrelease community supervision be supervised?**

An inmate released from state prison who is eligible for postrelease community supervision will be returned, like those released on parole, “to the county that was the last legal residence of the inmate prior to his or her incarceration,” under subdivision (a) of section 3003, except that under subdivision (b), “an inmate may be returned to another county if that would be in the best interests of the public.”

**22. When does criminal justice realignment require courts to begin hearing petitions for revocation of postrelease and parole supervision?**

*Postrelease community supervision:* Beginning **October 1, 2011**, petitions for revocation of postrelease community supervision may be filed in the superior court in the jurisdiction in which the violator is being supervised. These petitions will be filed by the local supervising agency, likely to be the probation department in most counties.

*Parole agency supervision:* Beginning **July 1, 2013**, petitions for revocation of parole supervision may be filed in the superior court in the county in which the violator is being supervised. These petitions will be filed by the state parole agency.

**23. When are courts likely to begin receiving petitions for revocation of postrelease supervision?**

With the exception of the largest counties, probably not right away. Criminal justice realignment applies to eligible inmates released from state prison on or after October 1, 2011. (Persons currently supervised by the state parole system will not be transferred to county supervision.) The legislation gives the supervising county agency (probation, in most counties) significant authority to respond to violations of supervision with a variety of intermediate sanctions, including but not limited to “flash incarceration” in a county jail for up to 10 days, without court involvement.

Before a petition for revocation of postrelease supervision may be filed with the court, section 3455(a) requires the supervising county agency to “determine, following application of its assessment processes, that intermediate sanctions are not appropriate...” Therefore, it is likely that many courts will not receive a petition for revocation for several weeks, or even months, following the October 1st effective date.

**24. Will any state parole revocation petitions be filed with the courts between October 1, 2011, and July 1, 2013?**

No. Until July 1, 2013, all state parole revocation proceedings will be carried out as they are under current law, under the jurisdiction of the Board of Parole Hearings. Petitions for parole revocation will not be eligible to be filed with a court until July 1, 2013.

**25. How many petitions for revocation of postrelease supervision is my court expected to receive?**

Because criminal justice realignment transfers an Executive Branch function to the Judicial Branch, and because it provides a great deal of implementation flexibility to counties, it is very difficult to predict petition caseload with precision. However, the state Department of Finance used CDCR’s caseload experience during 2010, broken down county-by-county, to provide a rough estimate of the number of petitions for revocation of supervision each court may receive. This information is available in Appendix B.

Courts should note that, while a variety of factors and local cultures will influence each court's experience, only seven courts are estimated to have more than 300 final petitions for revocation of supervision in a 12-month period. Under these estimates, most courts will receive fewer than six petitions for revocation each week.

**26. When do courts become involved in the proceedings when a person is alleged to have violated terms or conditions of postrelease community supervision?**

The court has no jurisdiction or required role until a petition for revocation of postrelease supervision has been filed by the supervising county agency. Prior to filing a petition, the supervising county agency has an affirmative duty under criminal justice realignment to assess and determine whether an intermediate sanction not requiring court involvement is appropriate.

**27. Are the proceedings on the petitions for revocation open to the public?**

Yes. Court proceedings are presumptively open to the public unless expressly held to be confidential. The criminal justice realignment legislation is silent on this issue, and therefore these proceedings are presumed open.

**28. Will the court be required to order an inter-county transfer when a person subject to postrelease community supervision is determined to live in another county?**

No. ABx1 17 added section 3460 to establish a process for transfer by the supervising agency upon the agency's determination that the person no longer permanently resides in that agency's county. The court is not involved in this process.

**29. If the court revokes supervision and imposes the maximum term of 180 days in county jail, may the court revoke supervision and impose another jail term for a later violation?**

Most likely. Upon a finding of a violation, the court has discretion to impose one of three options: (1) Return the person to postrelease supervision with modifications of conditions, *including jail time if appropriate*; (2) Revoke supervision and order confinement in the county jail; or (3) Refer the person to a reentry court or other evidence-based program. (Pen. Code, § 3455(a)(1)–(3); emphasis added.) Any confinement ordered under subdivision (1) or (2) must not exceed 180 days. (Pen. Code, § 3455(c).) In addition, ABx1 17 clarified that:

A person shall not remain under supervision *or in custody* pursuant to this title on or after three years from the date of the person's initial entry onto postrelease supervision, except when a bench or arrest warrant has been issued by a court or its designated hearing officer and the person has not appeared. During the time the warrant is outstanding the supervision period shall be tolled and when the person appears before the court or its designated hearing officer the supervision period may be extended for a period equivalent to the time tolled.

(Pen. Code, § 3455(d); emphasis added.) Thus, if a court imposes 180 days in the county jail but *returns the person to postrelease supervision* under paragraph (1) of subdivision (a), that person is presumably subject to additional custody time for later violations so long as supervision has not terminated.

**30. Under what authority will a supervised person be arrested or detained for a violation of terms or conditions of supervision?**

ABx1 17 revised criminal justice realignment to address arrest, warrant, and detention issues.<sup>4</sup>

*Before a Petition for Revocation has been filed with the court:*

- *Arrests* – A peace officer who has probable cause to believe that a person subject to the postrelease community supervision is violating any term or condition of release is authorized to arrest the person without a warrant and bring the person before the postrelease supervising county agency (Section 3455(a)(4)).
- *Warrants* – An officer employed by the supervising agency is authorized to seek a warrant from a court, and authorizes a court or its designated hearing officer to issue a warrant for that person’s arrest, regardless of whether a petition for revocation has been filed. (Section 3455(a)(4))

*After a Petition for Revocation has been filed with the court:*

- *Warrants* – The court or its designated hearing officer is authorized to issue a warrant for any person who is the subject of a petition for revocation of supervision who has failed to appear for a hearing on the petition, or for any reason in the interests of justice. (Section 3455(a)(5))
- *Detention* – The court or its designated hearing officer is authorized to remand to custody a person who does appear at a hearing on a petition for revocation of supervision for any reason in the interests of justice. (Section 3455(a)(5))
- *Detention* – A hearing on the petition for revocation shall be held within a reasonable time after the filing of the petition, and during that time, the supervising agency is authorized to determine that a person should remain in custody pending a revocation hearing, and may order the person confined, without court involvement, on a showing of a preponderance of the evidence that a person under supervision poses an unreasonable risk to public safety, or the person may not appear if released from custody, or for any reason in the interests of justice. (Section 3455(b))<sup>5</sup>

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<sup>4</sup>There is a drafting error in the numbering of the paragraphs added to subdivision (a) of section 3455 by ABx1 17. Neither paragraph (4) nor (5) are intended to be contingent on the court finding that the person has violated the conditions of postrelease supervision.

<sup>5</sup> There is an apparent conflict between the court’s authority granted in section 3455(a)(5) and the authority granted to the supervising agency in section 3455(b). The statute should be amended to clarify that in the event that a court’s order to remand a person to custody conflicts with a supervising agency’s determination that the court’s order will prevail.

## EDUCATION AND RESOURCES

### **31. When will training opportunities and materials be available for hearing officers and court staff?**

The AOC's CJER/Education Division is currently developing various written materials, broadcasts, webinars, and live programs regarding revocation hearing procedure, sentencing updates, and models of implementation. These are advertised in the weekly AOC Court News Update email. The soon to be launched 2011 Criminal Justice Realignment Education and Resource page on SERRANUS will provide a comprehensive list of all upcoming judicial education products and programs and a parallel resource page regarding court staff education will be available on COMET in the very near future. Please refer to those pages for more information.

### **32. Where can I find educational material and other information on this topic?**

Specialized training materials are available on Serranus. In addition, the AOC has launched an online Criminal Justice Realignment Resource Center at <http://www.courts.ca.gov/partners/realignment.htm>. The website contains information about criminal justice realignment funding, proposed rules of court and forms, pending and enacted legislation affecting realignment, and other resources.

### **33. Can the Administrative Office of the Courts provide assistance to courts who wish to recruit and hire individuals to serve as revocation hearing officers?**

Yes. The AOC Human Resources Division and Regional Office HR staff are available to help in recruitments for courts.

### **34. Will the Judicial Council develop rules and forms for revocation procedures?**

Yes. Criminal justice realignment legislation requires the Judicial Council to adopt forms and rules of court to establish uniform statewide procedures to implement the new revocation proceedings, including prescribing minimum contents of supervising agency reports. Proposed rules and a form have been developed by the Criminal Law Advisory Committee and were recently circulated for public comment. They are designed to prescribe basic procedural requirements to promote statewide uniformity while providing courts with sufficient flexibility to implement the new proceedings according to local needs and customs.

### **35. When will the rules and form be adopted by the Judicial Council?**

Due to the volume and complexity of the comments received, review by the council's Criminal Law Advisory Committee is ongoing. Although the committee hopes to present its recommendations to the Judicial Council at the earliest possible time, the precise date of adoption is unclear. Updates regarding the development of the rules and form will be posted to the criminal justice realignment resource center.

**36. Do the procedural requirements of the federal *Valdivia* consent decree apply to the courts' revocation procedures?**

Before the enactment of the criminal justice realignment legislation, parole revocation procedures conducted by the California Department of Corrections and Rehabilitation were subject to federal court injunction. (See *Valdivia v. Schwarzenegger* (ED Cal. Civ. S-94-0671).) That injunction was the product of a negotiated settlement of litigation between the parties to that civil lawsuit; its terms and procedures “were not necessary or required by the Constitution. There is no indication in the record that these particular procedures are necessary for the assurance of the due process rights of parolees.” (*Valdivia v. Schwarzenegger* (9<sup>th</sup> Cir. 2010) 599 F.3d 984, 995.) Accordingly, case law interpreting the Constitution, and not the stipulations of the parties in *Valdivia, supra*, establishes the due process standards applicable to community supervision revocation proceedings under the Act. (See e.g. *Morrissey v. Brewer* (1972) 408 U.S. 471, 489, and *People v. Vickers* (1972) 8 Cal.3d 451, 457-458.)

**CASE MANAGEMENT**

**37. Should courts create a new case file for petitions for revocation of supervision, even if the case that resulted in the underlying conviction originated in the same superior court?**

Yes. A petition for revocation of supervision will be a new case type and should be given a new file, regardless of where the commitment offense occurred. The petition is not associated with a previous case, and should be treated as a separate action. In addition, courts will be required to track this new caseload for budget purposes, so creating a new case file will facilitate this process.

**38. Will courts be required to count these matters as “new filings” for statistical purposes, particularly in light of the fact that the matters may not have originated in the same court? A new category for JBSIS?**

The Judicial Council adopted the Trial Court Budget Working Group’s budget allocation recommendations on August 26, 2011. Included was a recommendation that future allocation of funding for court revocation proceedings be based on actual court-specific caseload information, rather than the estimates used for Fiscal Year 2011-2012. Therefore, the number of petitions for revocation filed will need to be tracked by the court and reported to the Administrative Office of the Courts. Additional information regarding expenditure of these funds may be requested as well.

**39. What category will the related court records fit under for record retention purposes?**

The Judicial Council’s Court Executives Advisory Committee (CEAC) is currently conducting a comprehensive review of Government Code section 68152, which governs

retention of court records, and is developing recommendations for council-sponsored legislation in 2012 to update these provisions. CEAC will incorporate into this process recommendations regarding retention of records associated with petitions for revocation of supervision.

**40. Reporting to other agencies: Do courts have to report these matters to other agencies like DOJ? For L.E.A.D.S. purposes? C.L.E.T.S.?**

The Governor and the Legislature are reviewing these issues to determine whether clarifying legislation is necessary.

**41. Do courts have to prepare abstracts of judgments for county jail sentences under Penal Code sections 1170(h)(1) and (h)(2)?**

Yes. The realignment legislation amended Penal Code section 1213 to require courts to provide abstracts of judgments in all felony cases resulting in county jail commitments under newly added Penal Code section 1170(h). Specifically, section 1213(a) requires courts to send abstracts to “the officer whose duty it is to execute ... the judgment.” For jail commitments under sections 1170(h)(1) and (h)(2), the officer charged with executing the judgment is presumably the county sheriff. Courts should not send abstracts of judgments to the California Department of Corrections and Rehabilitation (CDCR) for commitments under sections 1170(h)(1) or (h)(2). Because sentences under those sections do not result in state prison commitments, CDCR will not retain abstracts for those commitments. Courts must, however, continue to send abstracts of judgments to CDCR for commitments to state prison under section 1170(h)(3).

**42. Do courts have to use Judicial Council abstract of judgment forms for county jail commitments under Penal Code sections 1170(h)(1) and (h)(2)?**

Yes. Generally, all felony abstracts of judgments must be “prescribed by the Judicial Council.” (Pen. Code, § 1213.5.) If a court uses a minute order in lieu of an abstract, “the first page or pages shall be identical in form and content to that prescribed by the Judicial Council for an abstract of judgment, and other matters as appropriate may be added thereafter.” (Pen. Code, § 1213(b).) On December 13, 2011, the Judicial Council approved revisions to the relevant abstract of judgment forms (CR-290, CR-290A, and CR-290.1) to include information regarding sentences under Penal Code section 1170(h), including county jail commitments and mandatory supervision. The revised forms, which became effective January 2, 2012, will also circulate for public comment until January 24, 2012. The invitation to comment may be viewed at the following link: <http://www.courts.ca.gov/documents/W12-05.pdf>.

## **TOPICS UNDER REVIEW**

Many additional questions regarding criminal justice realignment have been raised but require further review. Please note that the Steering Committee will provide additional information as soon as possible regarding several different topics, including appeals, role of defense counsel, court records, discovery, evidence, and the applicability of previous federal litigation affecting current parole proceedings. Updates to this memorandum will be posted at <http://www.courts.ca.gov/partners/realignment.htm>.

In the meantime, if courts have additional questions or concerns please feel free to submit them to the Steering Committee or to [crimjusticerealign@jud.ca.gov](mailto:crimjusticerealign@jud.ca.gov) for review and possible inclusion in the next FAQ memorandum.

## APPENDIX A: Table of Crimes Requiring Commitment to State Prison

**PLEASE NOTE: The following table represents the authors' best attempt at identifying the crimes that must be sentenced to state prison. The material has been prepared from several different sources. It is incumbent upon the court and counsel to verify where a sentence imposed after October 1, 2011, must be served.**

### Penal Code

67	Bribing an executive officer
68	Executive or ministerial officer accepting a bribe
85	Bribing a legislator
86	Legislator accepting a bribe
92/93	Judicial bribery
141(b)	Peace officer intentionally planting evidence
165	Local official accepting a bribe
186.11	Felony conviction with aggravated theft enhancement
186.22	Criminal street gangs
186.26	Street gang activity
186.33	Gang registration violation
191.5(c)(1)	Vehicular manslaughter while intoxicated
222	Administering stupefying drugs to assist in commission of a felony
243.7	Battery against a juror
243.9	Gassing a peace officer or local detention facility employee
245	Assault with a deadly weapon or force likely to inflict GBI
245(d)	Assault on peace officer
266a	Abduction or procurement by fraudulent inducement for prostitution
266e	Purchasing a person for the purpose of prostitution or placing a person for immoral purposes
266f	Sale of a person for immoral purposes
266h	Pimping and pimping a minor
266i	Pandering and pandering with a minor
266j	Procuring a child under 16 for lewd or lascivious acts
273a	Felony child abuse likely to cause GBI or death
273ab	Assault resulting in death of a child under age 8
273.4	Female genital mutilation
273.5	Felony domestic violence
290.018	Sex offender registration violations
298.2	Knowingly facilitating the collection of wrongfully attributed DNA specimens
299.5	Wrongful use of DNA specimens
347	Poisoning or adulterating food, medicine, drink, etc.

368b	Felony physical abuse of elder or dependent adult
417(c)	Brandishing firearm in presence of peace officer
417.8	Felony brandishing firearm or deadly weapon to avoid arrest
422	Criminal threats
424	Misappropriation of public funds
452	Arson of inhabited structure or property
455	Burning forest land or property
504/514	Embezzlement of public funds
598c	Possession or importation of horse meat
598d	Offering horse meat for human consumption
600(d)	Harming or interfering with police dog or horse causing GBI
646.9	Felony stalking
653f(b)	Solicitation for murder
666(b)	Petty theft with specified prior convictions
4501.1	Gassing
4530	Escape from prison facility
4532	Escape
11418	Use of weapon of mass destruction
12021/12021.1	Possession of a firearm by prohibited person
12021.5(b)(3),(4)	Carrying firearm with detachable magazine
12022(b)	Using a deadly weapon in commission of felony
12022.5	Using a firearm in commission of felony
12022.9	Infliction of injury causing termination of pregnancy
12025(b)(3)	Carrying concealed firearm by gang member
12303.1/12303.2	Possession of an explosive or destructive device

### **Elections Code**

18501	Public official who aids and abets voter fraud
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### **Government Code**

1090/1097	Conflict of interest by public officer or employee
1195	Taking subordinate pay
1855	Destruction of documents

### **Health and Safety Code**

11353	Employment of minor to sell controlled substance
11354	Employment of minor to sell controlled substance
11361(a) & (b)	Employment of minor to sell marijuana
11370.1	Possession of a controlled substance while armed with firearm
11380(a)	Use of minor to transport/possess/possess for sale

120291            Knowingly exposure of person to HIV

**Vehicle Code**

2800.2            Reckless evading a police officer  
2800.3            Evading a peace officer causing death or serious bodily injury  
20001             Hit and run driving causing death or injury  
23109(f)(3)      Causing serious bodily injury during speed contest  
23110(b)         Throwing object at motor vehicle with intent to cause GBI  
23153             Driving under the influence causing injury

**In addition to the forgoing specific crimes, a defendant convicted of any felony under any of the following circumstances must be sentenced to state prison: (P.C. § 1170(h)(3))**

1. Conviction of a current or prior serious or violent felony conviction listed in sections 667.5(c) or 1192.7(c), or
2. When the defendant is required to register as a sex offender under section 290; or
3. When the defendant is convicted and sentenced for aggravated theft under the provisions of section 186.11.

**Postrelease Community Supervision Revocation Hearing Caseload  
Criminal Justice Realignment Act of 2011  
Allocations for FY 2011-2012 Funding**

	Total Estimated Petitions to Revoke*	Percentage of Statewide Petitions to Revoke (A/7,003)	Allocation of Operations Funding (Bx\$17.689M)	Allocation of Security Funding (Bx\$1.149M)
	A	B	C	D
Alameda	388	5.54%	\$ 980,126	\$ 63,665
Alpine	1	0.01%	2,526	164
Amador	3	0.04%	6,315	410
Butte	58	0.83%	146,514	9,517
Calaveras	1	0.01%	2,526	164
Colusa	1	0.01%	2,526	164
Contra Costa	134	1.91%	337,234	21,905
Del Norte	3	0.04%	7,578	492
El Dorado	29	0.41%	73,257	4,758
Fresno	336	4.80%	848,769	55,132
Glenn	8	0.11%	18,946	1,231
Humboldt	60	0.86%	151,566	9,845
Imperial	31	0.44%	78,309	5,087
Inyo	3	0.04%	6,315	410
Kern	221	3.16%	558,268	36,263
Kings	28	0.39%	69,468	4,512
Lake	16	0.23%	40,418	2,625
Lassen	3	0.04%	7,578	492
Los Angeles	1,942	27.73%	4,904,419	318,570
Madera	40	0.56%	99,781	6,481
Marin	10	0.14%	25,261	1,641
Mariposa	-	0.00%	-	-
Mendocino	25	0.35%	61,889	4,020
Merced	66	0.94%	166,722	10,830
Modoc	1	0.01%	2,526	164
Mono	1	0.01%	2,526	164
Monterey	128	1.83%	323,341	21,003
Napa	11	0.16%	27,787	1,805
Nevada	4	0.06%	10,104	656
Orange	328	4.68%	827,297	53,738
Placer	41	0.59%	103,570	6,727
Plumas	2	0.02%	3,789	246

**Postrelease Community Supervision Revocation Hearing Caseload  
Criminal Justice Realignment Act of 2011  
Allocations for FY 2011-2012 Funding**

	<b>Total Estimated Petitions to Revoke*</b>	<b>Percentage of Statewide Petitions to Revoke (A/7,003)</b>	<b>Allocation of Operations Funding (Bx\$17.689M)</b>	<b>Allocation of Security Funding (Bx\$1.149M)</b>
Riverside	266	3.80%	671,942	43,646
Sacramento	479	6.83%	1,208,738	78,514
San Benito	6	0.09%	15,157	985
San Bernardino	415	5.92%	1,047,068	68,013
San Diego	354	5.06%	894,239	58,086
San Francisco	201	2.87%	507,746	32,981
San Joaquin	180	2.56%	453,435	29,453
San Luis Obispo	47	0.67%	118,727	7,712
San Mateo	69	0.99%	174,301	11,322
Santa Barbara	62	0.89%	156,618	10,173
Santa Clara	245	3.49%	617,631	40,119
Santa Cruz	45	0.64%	113,674	7,384
Shasta	62	0.88%	155,355	10,091
Sierra	-	0.00%	-	-
Siskiyou	7	0.10%	17,683	1,149
Solano	145	2.06%	365,021	23,710
Sonoma	68	0.96%	170,512	11,076
Stanislaus	113	1.61%	285,449	18,542
Sutter	21	0.29%	51,785	3,364
Tehama	21	0.29%	51,785	3,364
Trinity	-	0.00%	-	-
Tulare	47	0.66%	117,464	7,630
Tuolumne	6	0.08%	13,894	902
Ventura	151	2.15%	380,178	24,695
Yolo	46	0.65%	114,937	7,466
Yuba	35	0.50%	88,413	5,743
<b>TOTAL</b>	<b>7,003</b>	<b>100.00%</b>	<b>\$ 17,689,000</b>	<b>\$ 1,149,000</b>
<b>Total Operations Funding:</b>	<b>\$ 17,689,000</b>			
<b>Total Security Funding:</b>	<b>\$ 1,149,000</b>			

\* Source: California Department of Corrections and Rehabilitation