

**AB109 POSTRELEASE COMMUNITY SUPERVISION
CONTROLLING AND MANDATORY DISCHARGE DATES
AND RECALCULATIONS**

- AUTHORITY:** Administrative Directive
Sections 667.5, 1170.12, 1192.7, 1203.3, 2962, 3000, 3000.08, 3003,
3450-3465, and 3060.7, California Penal Code.
People vs. Johnson (California Appellate Court, First District, Filed 12/6/18)
- RESCINDS:** Procedural Manual Item 2-3-104, dated 10/31/19
- FORMS:** Release Program Study (611 Packet) (CDCR – Attachment A)
Postrelease Community Supervision Warrant (ICMS – Attachment B)
Reinstatement Notice
**AB109 Field Operations Advisory, PCS Tolling (Attachment C)
of Time**
- PURPOSE:** To establish accurate and correct discharge dates for offenders released under Postrelease Community Supervision (PCS). This includes Controlling and Mandatory Discharge Dates as well as recalculating supervision based on “tolling” of time due to absconding supervision.

I. GENERAL INFORMATION

- A. Under PCS supervision, offenders have a Controlling Discharge Date (CDD) and Mandatory Discharge Date (MDD).
1. Offenders released from prison are under supervision for a period of three years per Sections 3456 PC (unless otherwise specified by statute). This date is based upon the offender’s controlling commitment offense and is referred to as a CDD. The actual period of supervision may be less than three years based upon total custody credits as determined by California Department of Corrections and Rehabilitation (CDCR) and their Legal Processing Unit (LPU).
 2. Offenders under PCS supervision for six consecutive months with no violations resulting in a custodial sanction “may be considered for **immediate** discharge” pursuant to Section 3456(a)(2) PC. This is optional and may be enforced at officer discretion based upon overall progress and case dynamics with supervisor and Division Director approval.
 3. Offenders under PCS supervision for one year with no violations resulting in a custodial sanction “shall be **discharged**” pursuant to Section 3456(a)(3) PC. This is obligatory if the above criteria are met and is commonly referred to as an MDD.
 4. Both CDD and MDD dates are listed on the offender’s Profile screen within the departmental Integrated Case Management System (ICMS) and are shown in red font.

5. **An offender shall not remain under PCS supervision or in custody on a PCS commitment after the CDD, even if ordered by the Court, pursuant to 3455(e) PC.**

B. Term Recalculation and Updating MDDs

1. The CDD date must be recalculated whenever a warrant (for abscond violation) is issued by the Court and time “tolls” pursuant to Section 3456(b) PC. This is done via the CDD Chrono tab, which is located in the PCS drop down button. Once completed, a Warrant Reinstatement Notice can be auto generated.
2. The one-year MDD must be updated in ICMS after each PCS custodial sanction (flash or formal revocation). Flash only is based on the sentence ending date (S/E) and Formal Revocation is based on the reinstatement date. This specific custodial sentence may or may not be his or her date of release depending upon other open or pending cases. This date will be one year, minus a day from the release date (flash only) and one year minus a day from the reinstatement date (formal revocation), unless it exceeds the CDD.

II. PROCEDURE

A. Determining the CDD

1. The CDD is determined beginning with offender’s release from the current “prison commitment” which is referred to as the Controlling Release Date (CRD).

On occasion, an offender is subject to various “holds” from other agencies and jurisdictions such as Immigration and Custom Enforcement (ICE) and Law Enforcement Agencies (LEA). The offender’s release date (CRD) will stand and the supervision clock will begin even though the offender remains in custody (prison or elsewhere).

In addition, there are occasions when the offender may have over-served his or her commitment due to resentencing and receives additional “credit for time served” (CTS). The offender’s actual CRD may occur prior to the day he or she is physically released from custody and reports for supervision.

2. The PCS Intake Clerk will update the ICMS Profile and enter the CRD located in the Release Program Study (RPS) (611 packet) from CDCR. This is located in the AB109 Release Date field in the ICMS Profile.

The PCS Intake Clerk will also determine and enter the CDD that is equal to (3) years minus one day.

Both the CRD and the CDD are based upon CDCR documentation at the time it is received: RPS Form, Notice to Supervising County, Chronological History, Legal Status Summary (LSS), and/or Sentence Data Sheet.

If we receive a Change in Status form indicating a change in release date from CDCR at any time prior to the case being assigned, the PCS Intake Clerk will update the AB109 Release Date and CDD in the ICMS Profile based on those documents.

3. After the case is assigned, the assigned DPO will confirm the CRD and CDD when the offender is released. Sometimes, the dates coincide and no change is needed. However, if the CRD has changed, this will affect the CDD. The assigned DPO will verify the CRD upon receipt of the Post Release Packet (PRP), which contains the Warden's Checkout Order (WCO) documentation. If the PRP and WCO are missing, the DPO will contact the appropriate prison, speak with the County Liaison, confirm the CRD, and request a copy of the PRP and WCO. Notify PCS Intake Clerk so he or she can monitor the CDCR Secure Automated File Exchange (SAFE).
4. The DPO will coordinate with their respective unit clerk. It is the unit clerk's responsibility to update the initial CRD (AB109 Release Date) and CDD in the ICMS Profile.
5. Once confirmed and the original CRD is finalized, that date remains static and will no longer need to be changed for that particular grant of PCS.

B. Re-Calculating a CDD

1. The period of time when time "tolls" (offender will not receive credit for supervision) is after a warrant (abscond only) has been both signed and issued. The restore date for the period of tolling for an abscond violation will be the date PCS is reinstated by the Court. 3456(b)PC
2. 
3. 
 - a. CDD Chrono: Complete the recalculation using the date the warrant (abscond only) was signed and issued and the restore date when reinstated by the court. That period of time will be added to the existing CDD and a new CDD will be calculated. Forward the recalculation letter to the unit clerk.
4. The assigned DPO will coordinate and ensure the offender receives his or her Recalculation Letter either by mail or in person.
5. The DPO will forward the Recalculation Letter to his or her unit clerk for final processing.
6. The unit clerk will update ICMS by selecting the "Court Orders/Probation

Action” tab and will complete a Chronological History entry of the action taken.

7. If an error has occurred at any point reference a recalculation, the assigned DPO will coordinate with the unit supervisor and clerk. The DPO shall correct any and all subsequent recalculations in order to bring the case into compliance.

C. Re-Calculating an MDD

1. The period of time following each Flash release from custody on the current PCS grant determines the one year MDD pursuant to Section 3456(a)(3) PC (again, one year minus a day).

It is important to document each Flash release or “Sentence Ending” (S/E) date, beginning with the initial release from prison and after each subsequent PCS custodial commitment for Flash.

The 1-year MDD will also reset on the date that PCS is reinstated by the Court for both abscond and non-abscond violations. No violation found by the Court or revocation petition is dismissed = no MDD reset.

Note: an offender may be held on multiple cases. The offender receives credit for his or her period of supervision beginning with the Flash S/E specific to his or her grant of PCS. Reminder: the specific S/E may occur prior to the actual release from custody due to other sentences being served.

2. It is the assigned DPO’s responsibility to update the MDD, which may change often during a period of supervision.
3. Click on the PCS drop down button in the Profile screen. A drop down list of PCS forms will show. There is one option: MDD Chrono. A text box will open. Select the appropriate option (reason) for the MDD update (Flash or Reinstatement) and the date that coincides with the flash or reinstatement. This is an integrated ICMS function and will perform the calculations and auto populate a new MDD.
4. If the MDD happens to exceed the CDD, then set the MDD the same as the CDD.
5. If an error has occurred at any point reference a recalculation, the assigned DPO will coordinate with the unit supervisor and clerk. The DPO shall correct any and all subsequent recalculations in order to bring the case into compliance.

D. Normal Discharge (MDD or CDD)

Ninety days prior to discharge:

1. Review 1515 and any additional terms and conditions and verify the offender has fulfilled all requirements. If all conditions have not been met or complied with, consult with your immediate supervisor for further direction.
2. Obtain record check (DOJ and DMV), and verify that there are no active warrants requiring law enforcement action, additional arrests, or violations of the law that constitute a violation of supervision.
3. Notify offender of expiration date.
4. Notify any victim(s) as appropriate of the expiration/discharge date and that we will no longer be providing supervision of the offender (this also includes Court ordered "termination" that is other than a discharge/expiration).
5. Upon final discharge, complete and send a copy of Notice of Discharge (NOD) to the agency who has jurisdiction over the offender's place of residence, even if homeless. A copy of the NOD should also be provided to the offender, upon request.

REFERENCES:

Procedures:	2-3-016	Warrants of Arrest for Adults
	2-3-023	Terminating Probation-Adult
	2-3-101	AB109 Postrelease Community Supervision (PCS) Intake
	2-3-102	AB109 Postrelease Community Supervision Flash Incarceration
	2-3-103	AB109 Postrelease Community Supervision Warrants of Arrest
Policies:	A-1	Policy, Procedure and the Law
	A-2	Upholding Departmental Philosophy and Principles
	B-2	Inter and Intra Agency Confidentiality
	C-6	Case Assignments

Attachments

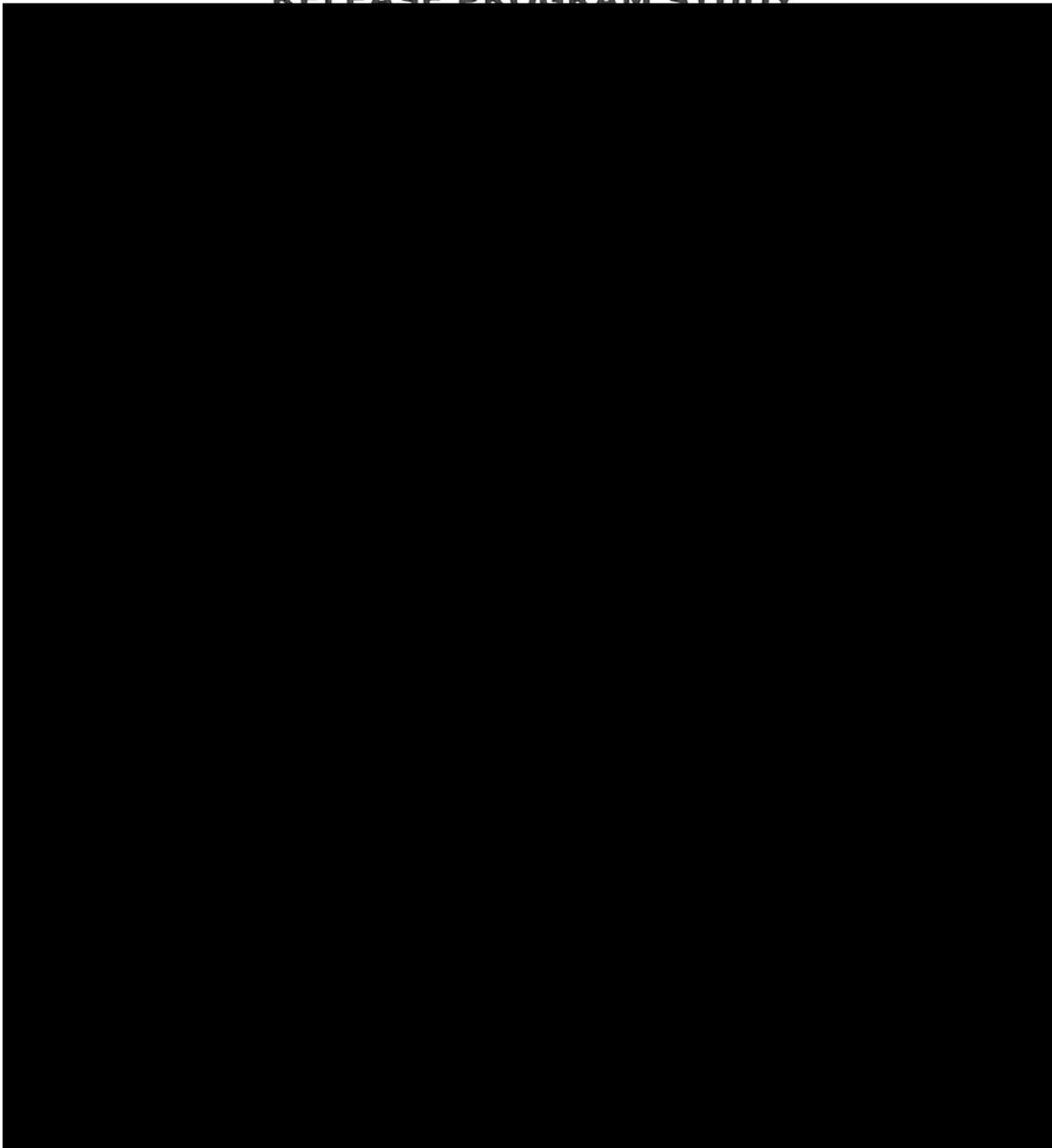
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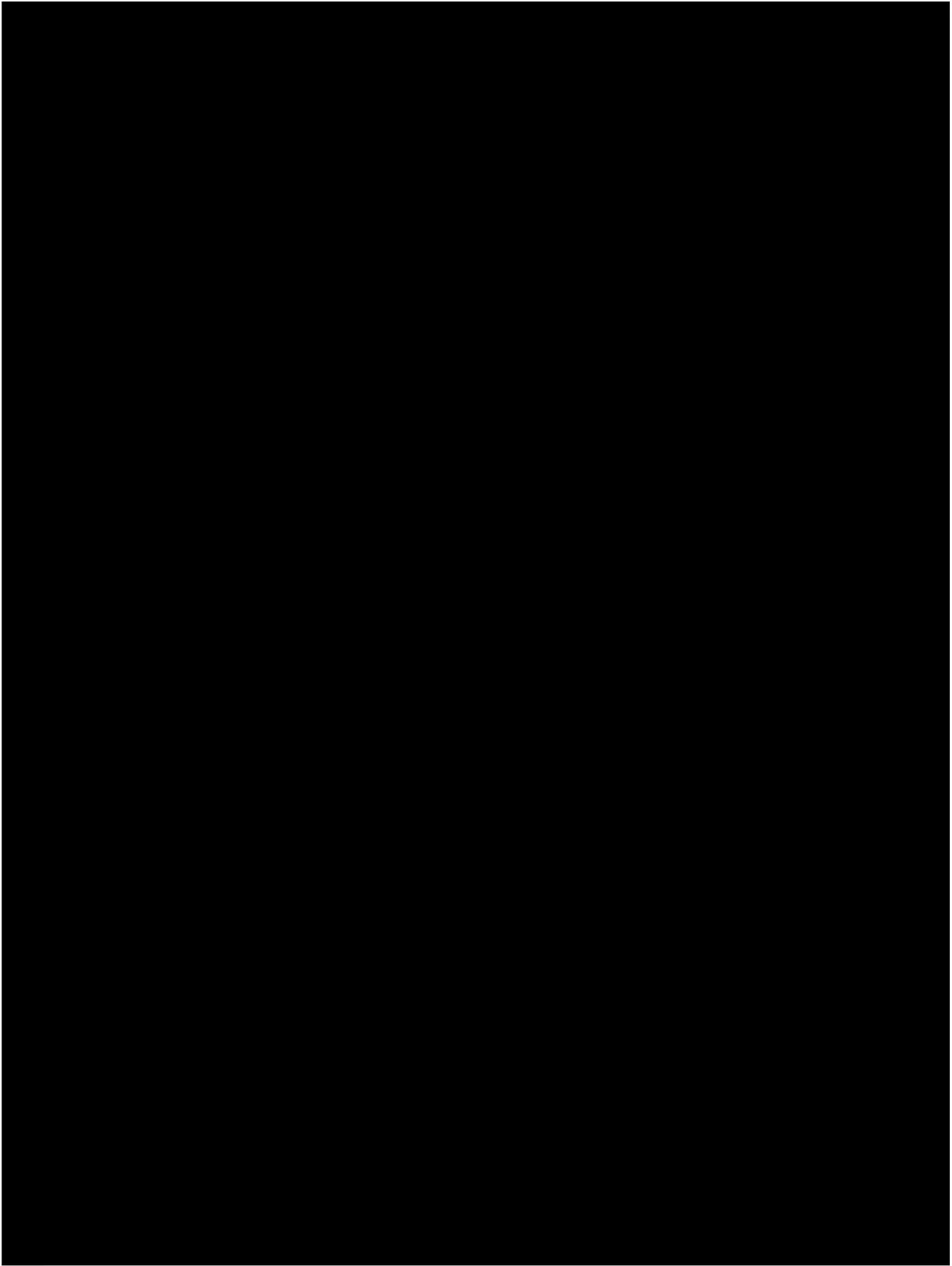
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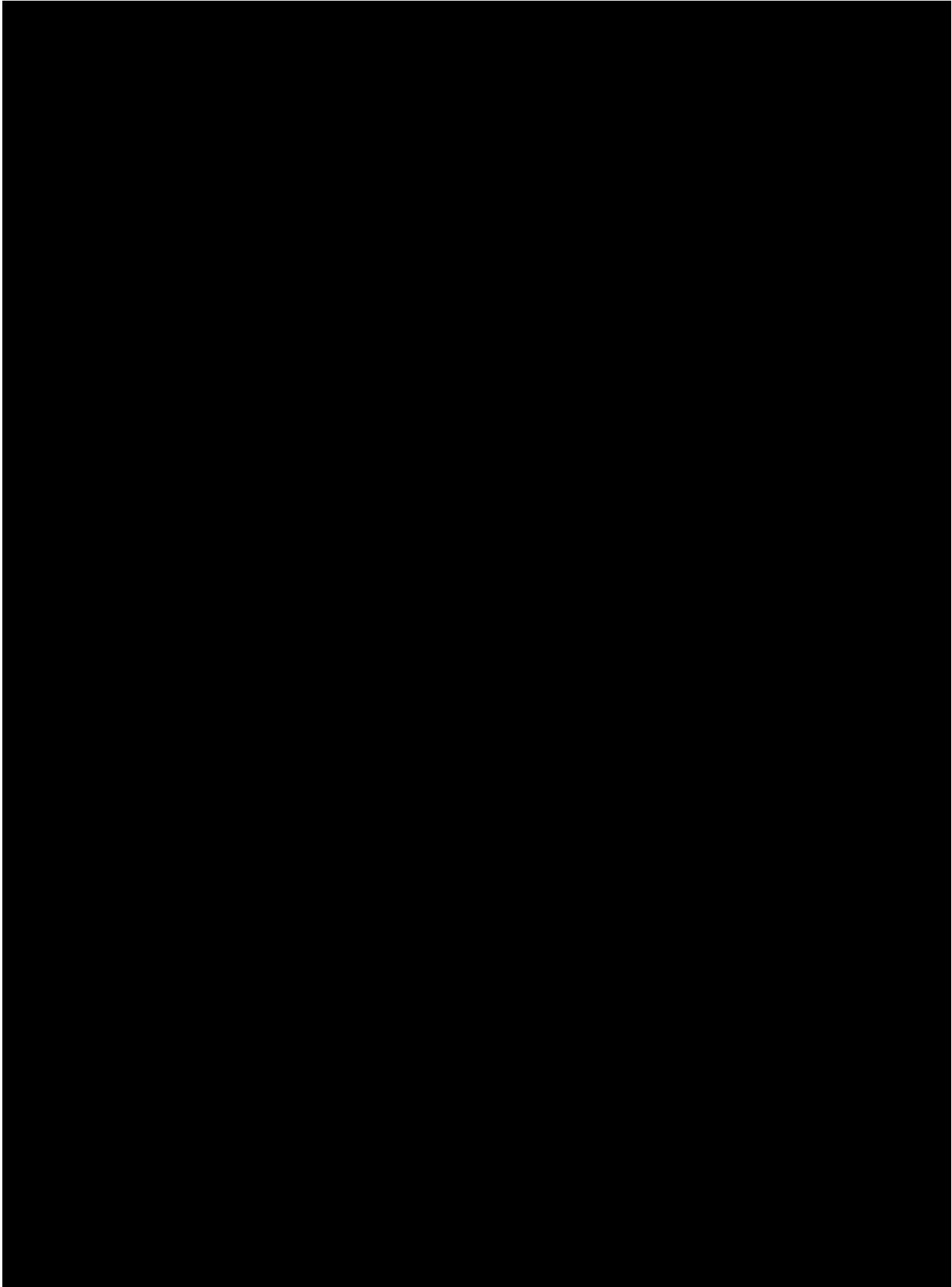


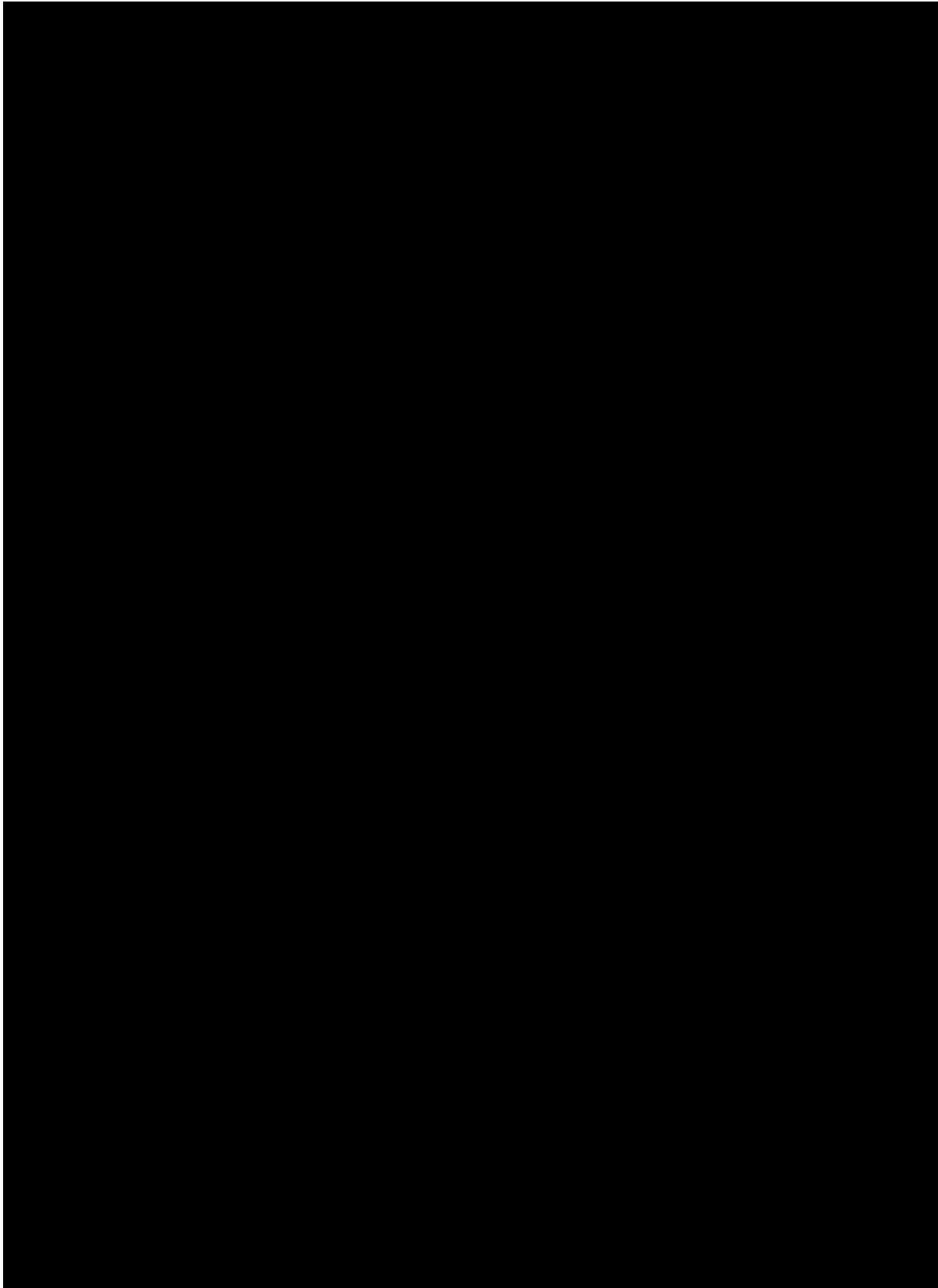
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Corrections and Rehabilitation

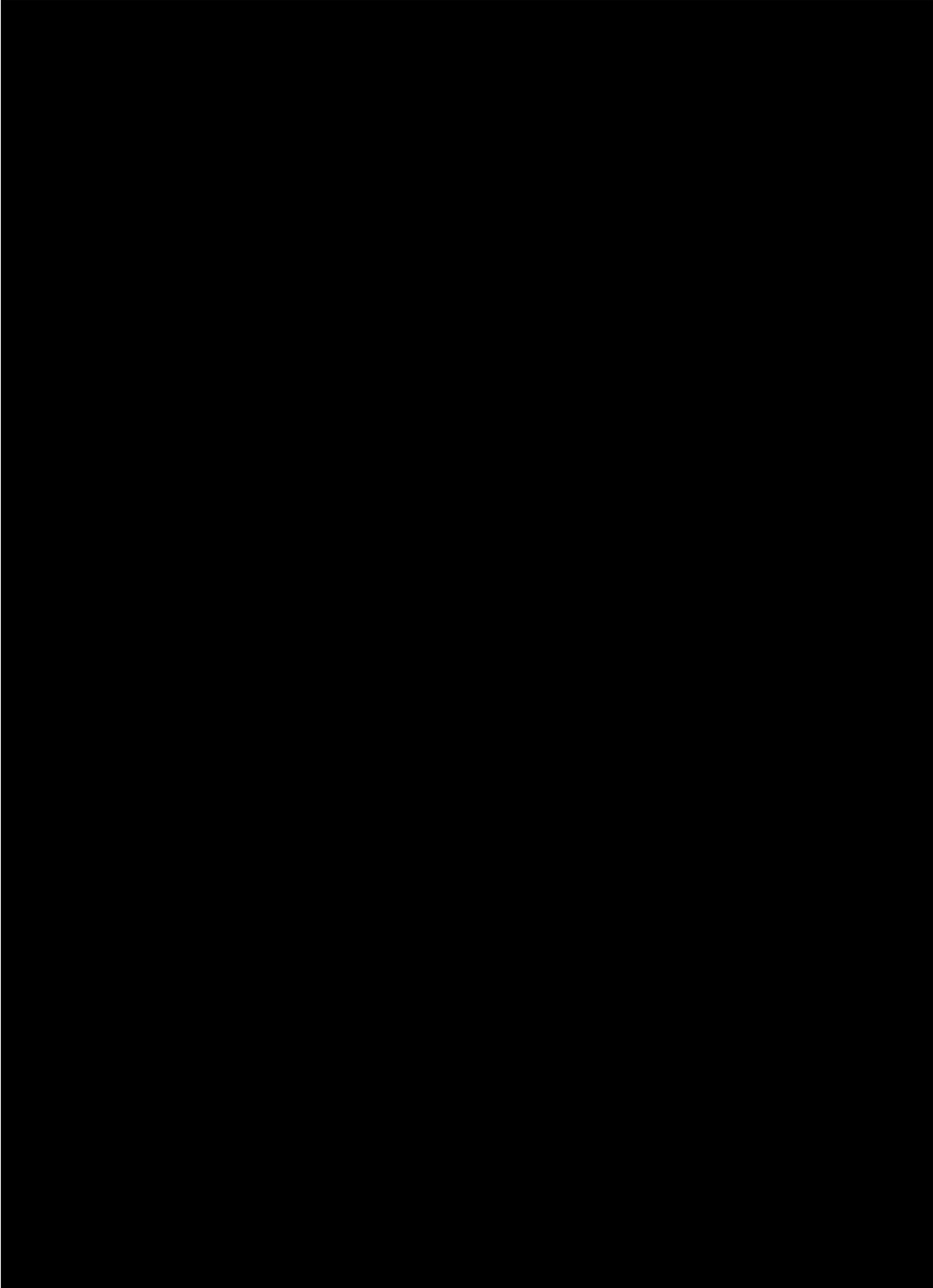
RELEASE PROGRAM STUDY

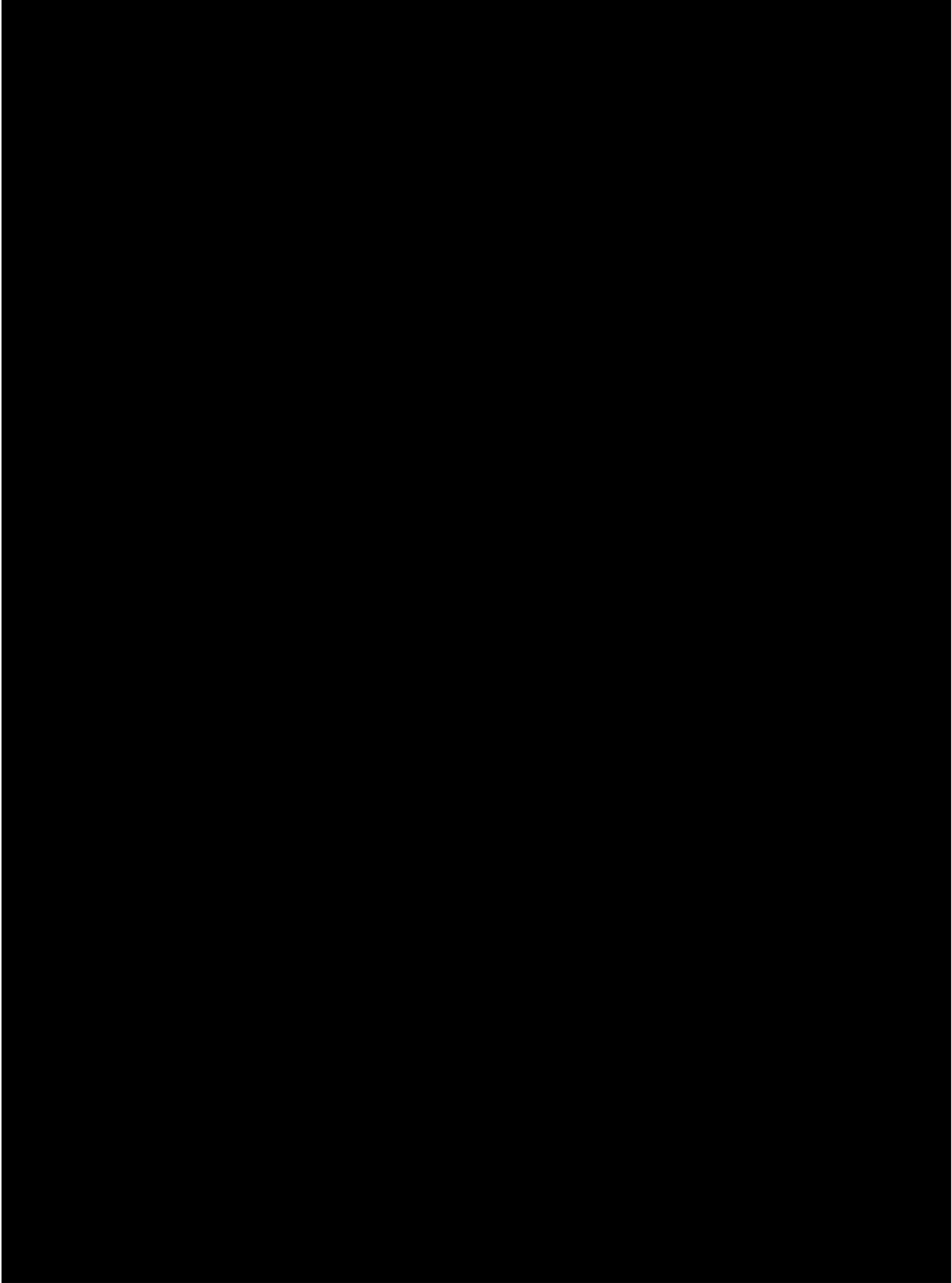












**POSTRELEASE COMMUNITY SUPERVISION
WARRANT
REINSTATEMENT NOTICE**

TO:

A
Court Case #

DATE 03/22/2018

This notice is to advise you that since a warrant was issued on your Postrelease Community Supervision case on [redacted] and the warrant was served on [redacted] th
period of time your supervision was suspended due to abscond will be tolled resulting in the scheduled controlling discharge date of your Postrelease Community Supervision now being [redacted]

In view of the above, you will be required to abide by all terms and conditions of Postrelease Community Supervision until [redacted] Any violation of said terms and conditions may result in
further appearance before the Court. Should you have any questions regarding this matter, feel free to contact me. [redacted]

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Orange County Probation Department

AB109 FIELD OPERATIONS ADVISORY

PCS – Tolling of Time

There has been a recent ruling in the California Appellate Court (People vs. Johnson, 12-8-18) that changes the way we toll our PCS cases. The new ruling indicates that the tolling provision of 1203.02(a) does not authorize the automatic extension of PCS. The purpose of the tolling provision is to preserve jurisdiction until a formal violation hearing can be held, not to extend terms and conditions of supervision.

We now only have the authority to extend the Controlling Discharge Date (CDD) beyond three years if the basis for the violation is that the person absconded, in which case, the time during which the person has absconded "shall not be credited toward any period" (PC 3456(b), see also, PC 3455) of PCS. We will not toll time on the CDD for non-abscond violations and when no violation is found by the Court. When tolling or re-tolling an abscond violation case that was found in violation and reinstated upon completion of custody time, we will use the date PCS was reinstated by the Court for the purposes of tolling time.

New Tolling Abscond Violation only

CDD: Time tolls when supervision revoked due to an abscond violation <u>only</u> .	The restore date for the period of tolling for an abscond violation will be the date PCS is reinstated by the Court.	Non Abscond Violation – no tolling No violation found by the Court – no tolling
MDD: One year clock reset for abscond and non-abscond violations	The 1-year MDD will reset on the date PCS is reinstated by the Court for both abscond and non-abscond violations.	No violation found by court or petition dismissed = no reset
Flash Incarceration	CDD: No Tolling.	MDD: 1-year reset will be date of release.

Please be advised that if there are active PCS cases that have been extended beyond the original 3-year CDD, that case will need to be recalculated. This is retroactive to the beginning of the grant on all active PCS supervision cases and warrants. Attached you will find a list from research of active PCS cases that have been supervised beyond the 3 year CDD. These cases will need to be re-calculated immediately so please review the attached list.

We have set aside a training class to address this new case law, how to handle cases moving forward and to answer any questions you may have. Training has been scheduled for Tuesday, July 9, 2019 at GAO Classroom #3 and there will be three sessions held – 8am, 9:30am and 11am. It is mandatory that all AB109 and Interstate Compact DPO's, SPO's and Professional Staff attend one of the training sessions.

Effective immediately, ensure that prior to issuing a custodial sanction, the case is reviewed under the new tolling guidelines to ensure jurisdiction.

Please feel free to contact Stacey McCoy or Steve Sandoval with any questions or any need for assistance with tolling.

Updated 7/2/19