



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: April 2, 2015 REPORT NO. 15-042  
ATTENTION: Public Safety and Livable Neighborhoods Committee  
Agenda of:  
SUBJECT: City of San Diego 2015 AB109 and Proposition 47 Update

SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL.

BACKGROUND

In March 2011, Assembly Bill 109 – the Public Safety Realignment Act – was signed by California Governor Jerry Brown. The law, which took effect October 1, 2011, was influenced by a mandate to reduce the overcrowding population in the California prison system. Under this realignment, individuals sentenced for non-serious, non-violent and non-sex offenses must serve their sentences in county jails instead of state prison. Once released, responsibility for the supervision of those released was transferred to the probation department of their respective counties. These subjects are considered Post Release Community Supervision Probationers (PRCS) or Post Release Offenders (PRO's). Additionally, since October 2011, subjects convicted of non-violent felony crimes, who would have previously been sent to prison, are now sentenced to county jail. Upon release from jail, these subjects are categorized as Mandatory Supervision Offenders (MSO's).

To assist counties with the management of both PRO's and MSO's under the AB109 umbrella, a series of "Trailer Bills" were passed. Essentially, the program is funded with a dedicated portion of the sales tax revenue and the Vehicle License Fees (VLF) outlined in trailer bills AB118 and SB89.

In 2015, the City of San Diego's share of funds was determined to be \$1.139 million. Of this \$1.139 million, \$900 thousand was initially designated to patrol divisions to manage their PRO population, \$57,500 was designated for the crime lab for equipment and overtime associated with AB 109 related cases, and the remaining \$181,500 will fund AB109 related training programs and additional operations at the patrol divisions.

On November 4, 2014, the voters of California passed Proposition 47, a law that reduces some felonies to misdemeanors, including shoplifting; forgery; fraud/bad checks; grand theft; petty theft; possession of methamphetamine, cocaine, heroin, or concentrated cannabis; and receiving stolen property. The law went into effect immediately and is also retroactive giving convicted persons an opportunity to have prior felony convictions reduced to misdemeanors. Over the last five months, the Public Defender's Office has filed approximately 18,000 petitions requesting cases be reclassified as misdemeanors in San Diego County.

**SDPD/Probation AB109 Management Program (C3 Project)**

Together with the County of San Diego Probation Department, the Department designed a program to manage over eight hundred AB109 probationers residing within the City. The program, although not limited to compliances checks, is primarily focused on random visitations of AB109 probationers by SDPD and probation officers, to ensure adherence to their respective probation conditions.

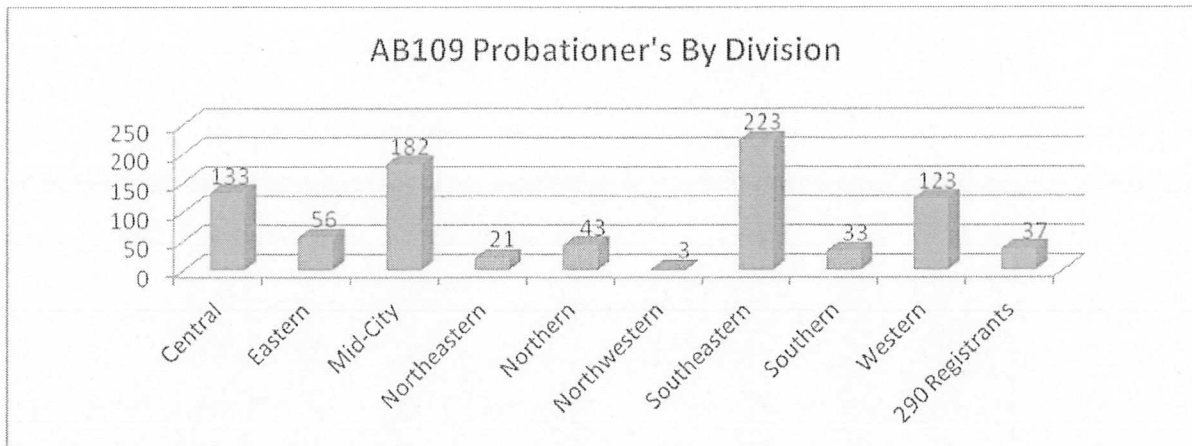
Utilizing analysts from the Department, Probation Department and Sheriff's Department, a list of AB109 probationers, including their address of record, if known, was compiled. All nine San Diego Police Divisions, and the 290 Unit (Sex Registrant Unit), selected a representative to manage their PRO population and corresponding funds. This year's AB 109 compliance program was implemented in January 2015.

**SDPD Divisional Allocation of AB109 Funds**

According to the San Diego County Post Release Offender (PRO) division fact sheet, 817 of the over 2,300 AB109 subjects in the county reside in the City of San Diego. This number fluctuates slightly on a monthly basis as probationers' status and location changes.

Each division's allocation of the total grant funds is based on the percent of AB109 subjects residing within that command. The allocation of funds is periodically revised to ensure all SDPD divisions maintain their compliance check schedules throughout the duration of the program.

<b>Divison</b>	<b>Subjects</b>	<b>% of Total</b>	<b>Grant Funds</b>
Central Division	133	16.28%	\$145,000
Eastern Division	56	6.85%	\$60,000
Mid-City Division	182	22.85%	\$203,000
Northeastern Division	21	2.57%	\$25,000
Northern Division	43	5.36%	\$50,000
Northwestern Division	3	.37	\$12,000
Southeastern Division	223	27.29%	\$200,000
Southern Division	33	4.04%	\$40,000
Western Division	123	15.06%	\$125,000
290 Unit (not deducted from total)	37	4.53%	\$40,000



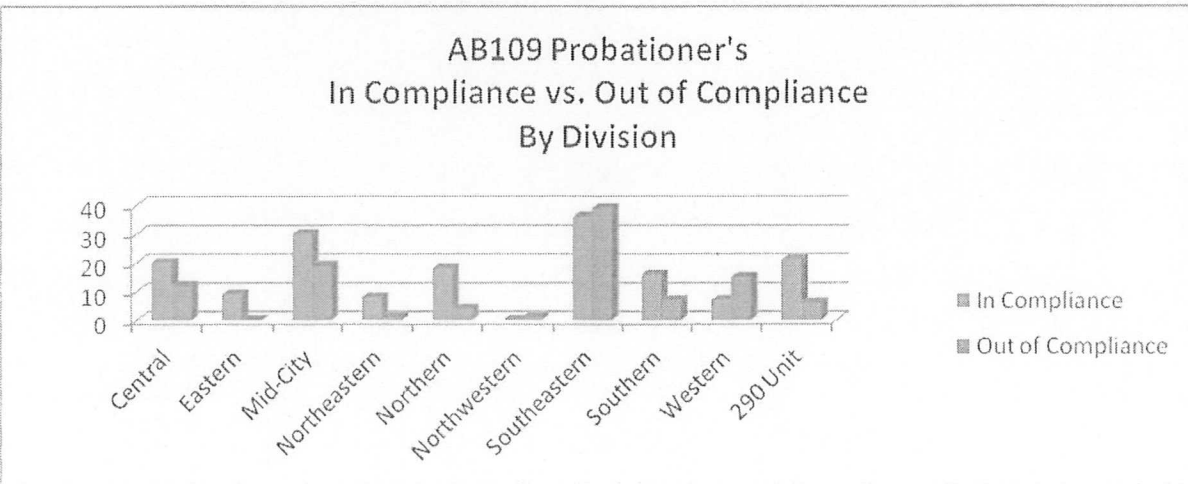
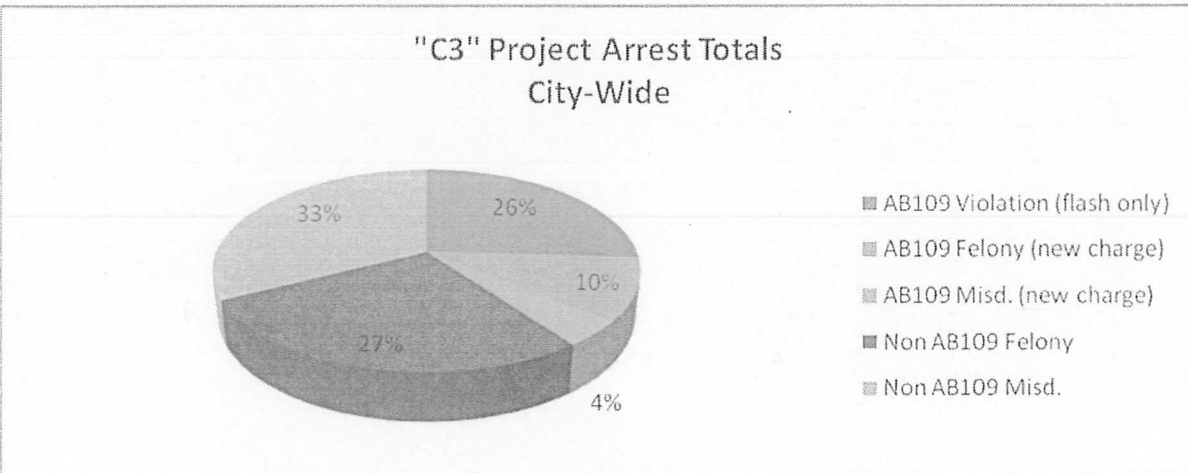
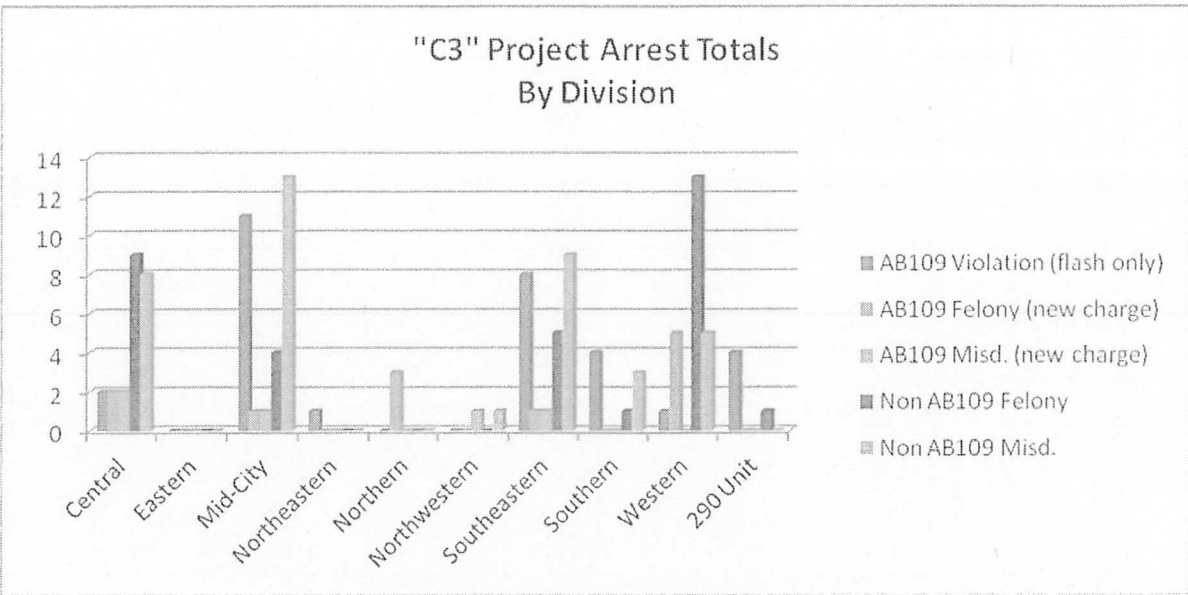
### Compliance Inspection Results

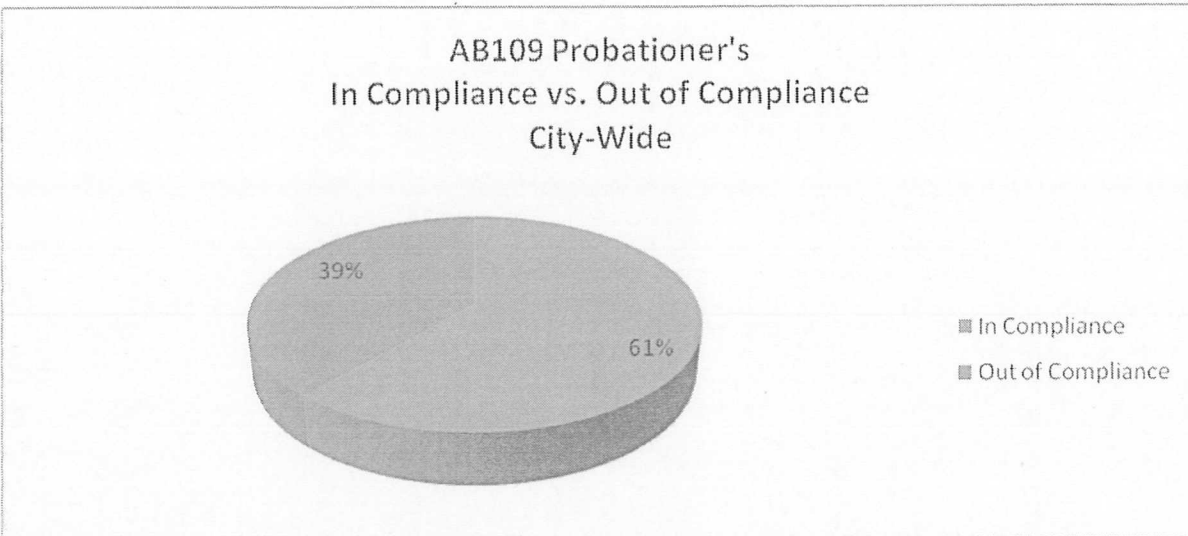
From January 2015 through March 2015, the San Diego Police Department, with the assistance of other county law enforcement agencies, including the San Diego County Probation Department, conducted 270 AB109 compliance inspections. The majority of these contacts were residential visits while some subjects were contacted in public.

104 AB109 probationers were found to be out of compliance. Of those 104 probationers, 48 were arrested for either a technical violation (flash) or a new criminal charge (this represents a 12.73% out of compliance ratio). In addition, 72 non-AB109 subjects were arrested for a variety of felony and misdemeanor charges during the compliance inspections.

As a result of a ruling by the courts in *People vs. Armogeda*, California Penal Code (PC) section 3063.1 was enacted and went into effect on February 20, 2015. PC 3063.1 essentially mandates "Proposition 36 like" treatment for parole and PRCS offenders that do not have a serious or violent felony prior (strike). There are some caveats to the law, but generally those without serious or violent felony priors, who are found to be in violation of non-violent drug related offense, must be offered the option of participating in a drug treatment program in lieu of incarceration. This is the case for the first three violations. Examples of non-violent drug related offenses are as follows: Under the influence of a controlled substance, mere possession of a controlled substance, and/or possession of narcotics paraphernalia.

Due to PC 3063.1 and the recent passing of Proposition 47, which reclassified and downgraded a large quantity of prior felony narcotic related offenses to misdemeanor offenses, the total number of arrests, custodial and non custodial, resulting from this program is likely to decline.





**Significant Arrests Related to the AB109 Population**

Over the course of the “C3” Project, several AB109 probationers have been arrested on new cases, with varying charges, confirming the importance of conducting compliance checks on these individuals for the purposes of holding them accountable to their conditions of release.

Listed below are a few cases demonstrating the propensity of some of these probationers to re-offend:

1. Mid-City Division Officers responded to a residential burglary in progress in North Park. The resident returned home to find the suspect, an AB109 probationer, inside her home. After being confronted by the resident, the suspect fled on foot with stolen property from the residence. Mid-City Officers subsequently located and detained the suspect who was positively identified. The suspect was arrested and booked on the charges of residential burglary and probation violation.
2. Western Division Officers discovered a honey oil lab within the residence of an AB109 probationer in Ocean Beach during a 4<sup>th</sup> waiver probation compliance check. The compliance check/4th waiver search resulted in three (3) felony arrests for charges including manufacturing a controlled substance, possession of marijuana for sales, and child endangerment. One child was taken into protective custody by CPS. Over 1 pound of marijuana was seized along with equipment utilized for honey oil extraction.
3. During an AB109 operation in Western Division an AB109 probationer was arrested after being identified as a suspect in a residential burglary series (multiple cases - Western Division & Escondido areas). The suspect was booked on the charges of first degree burglary, possession of stolen property, and probation violation.

4. Central Division Officers received information from the Probation Department that a probationer was wanted for an AB109 violation. Gang Suppression Team Officers observed the probationer driving a vehicle with expired registration and attempted to stop him for the violation. The probationer failed to yield and a pursuit ensued. At some point during the pursuit, the probationer abandoned the vehicle and fled on foot, escaping. Approximately 3 grams of methamphetamine was located within the vehicle. The probationer was arrested and booked on the charges of felony evading, possession of a controlled substance, possession of a controlled substance for sales, possession of narcotics paraphernalia, and probation violation.
5. Northern Division Officers conducted a 4<sup>th</sup> waiver search of an AB109 probationer in Clairemont. During the search, officers located a .44 caliber revolver, a stun gun, fifteen (15) knives, three (3) swords, and two (2) billy clubs. The suspect was arrested on the charges of multiple weapons offenses and a probation violation.

### **Crime Lab Case Summary**

Of the 1.139 million received by the department for this project, the Crime Laboratory was allocated \$57,500. Of the \$57,500, \$28,000 was allocated to the Latent Print Unit to be utilized for case analysis, and the remaining \$29,500 was allocated for the purchase of new laboratory equipment.

From January 2015 through March 2015, the Latent Print Unit has processed 238 cases involving latent prints. Based on the total cases processed, 27 hits/suspect identifications have been made.

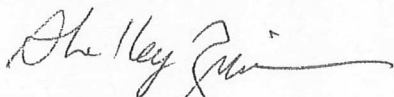
### **Some Effects of Proposition 47**

According to SANDAG, on November 3, 2014 (one day before Prop 47 passed), the total jail population in San Diego County was 5,782, and on March 23, 2015, it had dropped to 4,900. This 15 percent decrease reflects the release of some offenders who were reclassified, but may also be related to a decrease in arrests for Prop 47 codes. For example, countywide, there were 1,560 bookings into local jails for Prop 47 impacted offenses in October 2014, which dropped to 776 in December 2014, a decrease of 50 percent.

Additional information compiled from the San Diego Police Department's Crime Analysis Unit shows some trends that appear to be related to Prop 47. For the four-month period from November 2014 through February 2015, since the passing of Prop 47, there have been some significant changes in the number of arrests compared to the same four month period a year prior.

- Due to the shift in many narcotics violations from the felony category to the misdemeanor category, overall arrests for narcotics violations decreased 32%, (1,583 narcotics violations during the four months after Proposition 47 passed compared to 2,314 during the same four months a year prior).

- Adult felony arrests decreased 29% overall, in large part, due to decreases in narcotics arrests, (429 adult felony narcotics arrests during the four months after Proposition 47 passed compared to 1,376 arrests during the same four months a year prior).
- Not surprisingly, misdemeanor narcotics violations increased by 25%, (1,092 misdemeanor narcotics arrests and cites during the four months after Proposition 47 passed compared to 875 during the same four months a year prior).
- With only five months of data to evaluate, it is still too early to determine the long term implications of Proposition 47.



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Chief of Police