**Overview**

The CPL penal code crosswalk is intended to help research staff easily identify common groups of offenses affected by policy changes and standardize crime type categorization. The crosswalk includes all California penal codes recognized by DOJ, local statutes in San Francisco and Sonoma, as well as frequent erroneous penal codes that arise from data entry errors. Researchers can merge this crosswalk onto local or state justice data either using (1) Criminal Justice Information Services (*cjis*) code (preferred); or (2) combination of *statutory\_code* and *type*.

The base data combines the PPIC DOJ crosswalk and the 2018-2020 offense codes released by the DOJ. All duplicate entries have been dropped.

The crosswalk includes six main sections:

1. **Base data**: statutory code, offense type, CJIS code, etc.
2. **Add-Ons:** modifications and flags to enable use when the underlying data does **not** include CJIS codes.
3. **San Francisco Flags**: dummy variables to identify offenses that impact pretrial release recommendations.
4. **California Restriction Flags**: dummy variables to identify common offenses the restrict limit eligibility for sentencing reform or record relief under many state reforms.
5. **California Reform Flags**: dummy variables to identify offenses that may be eligible for sentencing reform or record relief under California legislative or ballot reforms. Eligibility is determined by using both the reform and restriction flags.
6. **Categorization**: in the categorization tab, include the BCS summary code and all CPL-approved “roll-up” categories.

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# Section I: Crosswalk Codebook

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Group** | **Variable** | **Description** | **Source(s)** | **Effective Date** |
| **Base** | Statutory\_Code | Identifies specific statute code section. | CA Department of Justice Law Enforcement Code Tables (2018-2020) ([link](https://oag.ca.gov/law/code-tables))  PPIC Crosswalk (2012) | Tables updated 3/10/2020 |
| Type | Defines the charge level (felony, etc) |
| Code\_Type | Identifies the type of statute (PC, VC, etc). |
| CJIS | Criminal Justice Information Services (CJIS) code. DOJ assigned unique code for each offense. If possible, it is best to merge on the CJIS code. |
| Literal\_display | Description of the statutory code |
| Offense\_descr | Description of offense + statutory code. |
| Lei | DOJ code used to uniquely categorize statutory codes. |
| Hier | DOJ code used to prioritize statutory codes from least to most severe in terms of possible sentencing. |
| SC | DOJ code used to group MACR codes into like categories |
| Enact\_Date | Date statue was enacted. |
| Repeal\_Date | Date statute was repealed (if relevant). |
| **Add-Ons** | Code\_Category | **Common**: Available in DOJ table;  **Enhancement:** Enhancement not listed in DOJ table;  **Fix:** Common errors found in local data that will not match to the PCs in the DOJ crosswalk;  **Local:** Local codes. | Various | N/A |
| Locality | **California:** Available in DOJ table;  **San Francisco:** SF local code or penal code fix to correct common SF data entry errors.  **Sonoma:** Local Sonoma codes. | Various | N/A |
| Stat\_Normed | Standardized penal codes by removing parentheses (if they do not matter) and capitalizing | N/A | N/A |
| UniquePC | Dummy Variable flag indicating there is only one entry of that *statutory\_code.* This is helpful when merging on *statutory\_code* when the jurisdiction does not record offense type at the charge level. | N/A | N/A |
| Parens | Variable indicating that parentheses should not be removed when standardizing the penal code. As an example: PC 288(A) is a BCS summary code 4, whereas PC 288A is a BCS summary code 18. |  |  |
| **SF Specific Flags** | psa\_viol\_16 | State of California offenses that the Arnold Foundation has determined meet the definition of a violent offense for the purpose of administering the Public Safety Assessment (PSA). | PSA Violent List for CA, Feb ‘16 | Feb-16 |
| psa\_viol\_17 | PSA Violent List for CA, Aug ‘17 | 17-Aug |
| psa\_viol\_19 | PSA Violent List for CA, July ‘19 | Jul-19 |
| Step2\_16 | Per San Francisco's Decision Making Framework, anyone booked on a Step 2 offense will automatically be given a recommendation of "Release not Recommended" regardless of risk assessment results. | San Francisco DMF (Oct ’17) | 16-May |
| Step2\_17 | 26-Sep-17 |
| Step2\_19 | Email from Mark Culkins to PSA Workgroup 7/12/2019. | 22-Jul-19 |
| Step4 | Per San Francisco's Decision Making Framework, anyone booked on a Step 4 bump up will be given a recommendation and corresponding release condition that is one level higher than the preliminary recommendation. | San Francisco DMF (Oct, ‘17) | May 1, 2016  (No updates made to Step 4s since the start) |
| drug\_poss | The BCS hierarchy does not distinguish between felony drug sales and possession. The San Francisco Sheriff has asked that we disaggregate these when presenting information on felony drug convictions. *Drug\_poss* flags all offenses that are for possession only. Make we isolate possession and non-possession charges in reporting. | N/A | N/A |
| **CA Restriction Flags** | PC1192\_7 | PC 1192.7(c) outlines the 41 categories of "serious felonies." The text rarely includes the specific statute, so we have constructed the underlying charges using the penal code and external resources.  Individuals convicted of a serious felony under PC 1192.7(c) are ineligible for many record clearance and sentencing changes (i.e. AB109). | California Penal Code Section 1192.7(c) |  |
| PC1192\_8 | PC 1192.8 are serious felonies. Individuals convicted of serious felonies are not eligible for many record clearance and sentencing changes. | California Penal Code Section 1192.8 |  |
| PC667\_5 | PC 667.5(c) defines "violent felonies" in California. There are 23 sub-sections of offenses, with a great deal of overlap with 11927.(c). Per California law, a court may impose a three-year term for each separate prison term they are serving for conviction of a violent felony. Similar to 1192.7(c), individuals convicted of a violent felony are ineligible for resentencing and/or clearance under many of California's reforms. | California Penal Code Section 667.5(c) |  |
| PC290 | PC 290 is California's sex offender registration law & requires you to put your name on a public record if you are found guilty of one of the qualifying sex crimes.   A registerable offense can limit the types of record clearance relief and resentencing for which an individual is eligible. | California Penal Code Section 290(c) |  |
|  | PC186\_11 | Aggravated theft – if convicted previously or on current offense, ineligible for 1170(h) sentencing. | Couzen’s AB109 Memo ([link](https://www.courts.ca.gov/partners/documents/felony_sentencing.pdf)) |  |
|  | PC667\_E | Persons with one or more prior convictions under 667(e)(2)(C)(iv) are not eligible for the new misdemeanor, resentencing, or reclassification provisions of Proposition 47. | CA Courts FAQ ([link](https://www.courts.ca.gov/documents/Prop47FAQs.pdf)) |  |
| **CA Reforms** | AB109 | California's Public Safety Realignment (AB109) changed the location and duration of sentencing for a large number of non-violent, non-serious, non-sex felonies. Eligible individuals convicted of these offenses will now server time in county jails and/or under local probation departments in lieu of state prison and/or parole. Flags all eligible charges (need to apply exclusionary criteria to determine if eligible for 1170(h) sentencing. | Couzen’s AB109 Memo ([link](https://www.courts.ca.gov/partners/documents/felony_sentencing.pdf)) |  |
| AB109\_Likely | Series of offenses that may be AB109 (but cannot confirm):   * Burglary: Only Second-Degree burglary is eligible. Flagged burglary without degree listed as it may be possible. * Embezzlement: AB109 allows embezzlement charges to be 1170(h) eligible if they are not related to public funds. But there is no way to tell – so we have flagged these. * Other charges are listed as likely eligible in Couzen’s memo (bold & underlined in memo). |  |  |
| AB1793 | Proposition 64 legalized marijuana in California and subsequently the legislature passed AB 1793 to reclassify/seal/or expunge certain marijuana convictions. Penal codes for any type of clearance are flagged. | California Health and Safety Code 11361.8 |  |
| Prop47\_ | Proposition 47 reduced the penalties for certain theft and drug crimes in California. Specifically, it takes wobblers (offenses that could be charges as a misdemeanor or felony) and requires that they be charged as a misdemeanor in most instances. The law is automatic prospectively and people can apply for retrospective resentencing.   There are 10 Prop47 categories. Misdemeanors and felonies flagged.   **Prop47Drug:** All drug offenses eligible under Prop 47. Includes 11357(A) which can now be sealed under Prop 64. No charge-specific ineligibility criteria. **Prop47Forg:** Forgery offenses reduced under Prop 47. **Prop47Forg\_I:** Ineligible if concurrent identity theft conviction. PCs flagged. **Prop47IF:** Charges related to insufficient funds that are reduced under Prop 47. **Prop47IF\_I**: Ineligible if three prior convictions under 470, 475, or 476.  **Prop47S:** Second degree burglary charges (shoplifting). No ineligibility - but many data sources do not distinguish between first- and second-degree burglary. So may need to be creative here.  **Prop47RCVS:** Receipt of stolen property -- eligible if less than $950. Not always possible to tell with the penal codes.  **Prop47PT:** Petty theft without a prior. **Prop47PT\_I:** Disqualifying priors for petty theft with a prior.  **Prop47T:** Petty theft charges. No ineligibility priors. | Proposition 47 FAQs, issued by Courts: courts.ca.gov/documents/Prop47FAQs.pdf |  |

# Section II: Using Crosswalk

CJIS Merge The preferred option is to use *cjis* to merge the crosswalk onto your data set. This option is available with data directly from DOJ but may not be possible with local data. If you are doing a CJIS merge:

1. Import crosswalk and drop all entries in which *cjis* is missing.
2. This will drop local codes (which do not have a *cjis*) and “fix” variables – duplicates that correct for errors in data entry.
3. Subset crosswalk will merge m:1 to your data on *cjis*.

Penal Code Merge Local data without *cjis* will require the crosswalk to be merged on *statutory\_code* and *type*. This is more of an art than a science because a number of issues arise:

* Felony Burglary: PC 459 covers both first- and second-degree felony burglary. Second degree is a much lesser offense (and is eligible for 1170(h) sentencing under AB109). Some local jurisdictions include “tags” to indicate whether it’s first or second degree – so be sure to check for that.
* Multiple entries: Per above, *statutory\_code* and *type* are not unique.
  + The *sc and literal\_display* differ in about 3% of all entries.
* Data Entry Errors: Parentheses may not be consistently used to indicate sub-sections. For many penal codes, they are still unique if you strip the parentheses off. We have flagged a handful of penal codes in which removing the parentheses changes the meaning (*parens).*
  + 506(B) is a nonnarcotic DUI, whereas 506B is a violation of property sales contracts.
* Missing *type* at the offense level: Some jurisdictions (such as San Francisco) only record the *type* at the case level. This is a challenge when the case is a felony and it includes offenses that can be charged as either a misdemeanor or felony (there are approximately 1,000 such *statutory\_code*s in the crosswalk).
  + For example, a felony 191.5(B) is gross vehicular manslaughter while intoxicated (*sc* 3), whereas the misdemeanor is vehicular manslaughter while intoxicated (*sc* 29). If the case has another offense which can only be charged as a felony (let’s say robbery), we cannot be confident whether the 191.5(B) is a felony or misdemeanor.

We created a few variables to assist with the merge:

* *Stat\_normed* – standardizes all statutes (removes parentheses where they do not matter, capitalize). If the underlying data is prone to inconsistent entry, suggest standardizing and merging on this field.
* *Parens* – flag for penal code when stripping the parentheses changes the meaning and/or *sc*.
* *UniquePC* – flag for *statutory\_codes* that only appear once in the crosswalk. Therefore, you can subset to these codes and do a m:1 merge on *statutory\_codes*.

**Example Steps for Update**

We used four steps to try to best match the San Francisco statute to the correct BCS summary code in the CPL Penal Code Crosswalk. Before merging the data sets, we standardized the penal codes by removing unnecessary parentheses & capitalizing (*stat\_normed*).

Step One: Match unique penal codes to SF Data

* Subset the CPL Penal Code Crosswalk to only include unique penal codes, allowing a to merge the crosswalk only using *stat\_normed*.
* *Why?* Since the data do not include the charge level, a merge will fail if the case type is a felony, but the offense can only be charged as a misdemeanor.

Step Two: Match unique penal codes with an actual offense *type*.

* Subset the CPL Penal Code Crosswalk to exclude offense types that do not exist in SF data (XX, N, S). Retain unique penal codes, allowing a to merge the crosswalk only using *stat\_normed*.
* *Why?* There are some penal codes that are both a M/F/I and XX/N/S, so they will not match in Step One. Example: 602 (M) is trespassing, whereas 602(N) is a series of juvenile offenses in the wealth & institutions code.

Step Three: Match on code type.

* Subset CPL Crime Crosswalk to offenses that are unique by *stat\_normed*, *type*, and *code\_type* (i.e. PC, VC, HS). Subset the SFDA data to include the small # of charges that include the *code\_type*. Merge on these three variables.
  + *Why?* Avoids wrongly categorizing certain offenses that may be both a penal code and a vehicle code, for example. Small match rate in SF because *code\_type* is rarely recorded.

Step Four: Match on penal code and case type

* Goal: subset the CPL Crime Crosswalk so ­*stat\_normed, type* and *sc* are unique. If *stat\_normed* and *type* are associated with more than one *sc*, select the least serious & generate a new variable to save the alternate sc for future sensitivity analysis (affects 1% of cases). Merge on these three variables.
  + Tip: if possible, also use the *enact\_date* and *repeal\_date* variables to “break ties.”

Hierarchy of Offenses CPL utilizes the BCS summary code to identify the most serious offense on a case. One of the common critiques of this approach is that weapons offenses are ranked as less serious than many other charges (i.e. felony weapons is sc 18 and felony drug possession is 12-15; so a case with both drug and gun possession would be categorized as a drug case). In San Francisco, we have created offense-specific flags for offenses that are de-emphasized in the BCS summary code hierarchy, but important locally, such as gun possession and DUIs.

# Section III: Determining Eligibility

## Flagging 1170(h) Eligible Charges

All 1170(h) eligible charges are identified by the variable AB109. These flags are based off Judge Couzen’s Felony Sentencing After Realignment (2017) [memo](https://www.courts.ca.gov/partners/documents/felony_sentencing.pdf). Persons that meet one or more ineligibility criteria are not eligible for 1170(h) sentencing:

* Prior or current serious felony conviction under section 1192.7(c), a violent felony conviction under section 667.5(c), or an out-of-state felony conviction of a crime that would qualify as a serious or violent felony under California law.
* Defendant is required to register as a sex offender under Section 290, for either past or current offense.
* Defendant is convicted of a felony and is sentenced with an enhancement for aggravated theft under section 186.11.

Also: the AB109 offense must be the most serious per the BCS hierarchy. Sentencing is set by the most serious offense & if that offense is not an AB109 charge, we would not expect them to be 1170(h) eligible.

**1170(h) Variables**

|  |  |  |
| --- | --- | --- |
| **Variable** | **Type** | **Purpose** |
| AB109 | Eligible Offenses | Flag charges that may be eligible for 1170(h) sentencing |
| AB109\_Likely | *Likely* Eligible Offenses[[1]](#footnote-1) | Flag charges that are *likely* 1170(h) eligible   * *Offenses flagged as* ***likely*** *in the Couzen’s memo (i.e. 12021.1(A))* * *Burglary without a degree specified (cannot tell if second -eligible- or first – ineligible).* * *Embezzlement charges that do not specify type (public embezzlement is ineligible)* |
| Hier | Severity | The AB109 offense must be the most serious per the BCS hierarcy. |
| PC1192\_7 | One or more prior or concurrent **convictions** renders the person ineligible for 1170(h) sentencing. | Serious felony |
| PC667\_5 | Violent felony |
| PC290 | Offenses that require sex offender registry |
| PC186\_11 | Aggravated theft enhancement |

## Proposition 47

Unlike AB109, Prop 47 includes a combination of universal ineligibility and offense-type ineligibility. Persons with one or more prior convictions for offenses specified under Penal Code section 667(e)(2)(C)(iv) or for a sex offense that requires registration under section 290(c) are not eligible for the new misdemeanor, resentencing, or reclassification provisions of Proposition 47.

**Prop 47 Offenses & Offense-Specific Ineligibility**

|  |  |  |  |
| --- | --- | --- | --- |
| **Variable** | **Description** | **Ineligibility** | **Inelig. Var** |
| Prop47Drug | Drug Possession Offense | N/A |  |
| Prop47Forg | Forgery | Simultaneous conviction for forgery + ID Theft | Prop47Forg\_I |
| Prop47IF | Insufficient funds, eligible if value < $950 | Three prior convictions for PC 470, 475, or 476 | Prop47IF\_I |
| Prop47S | Shoplifting (Burglary, second degree only) | N/A – but must be careful if data doesn’t indicate degree | N/A |
| Prop47RVCS | Receiving stolen property, value >$950 | N/A | N/A |
| Prop47PT | Petty theft with a prior | Prior conviction for 368(D) or 368(E) | Prop48PT\_I |
| Prop47T | Petty Theft | N/A | N/A |

**Prop 47 Universal Ineligibility**

|  |  |  |
| --- | --- | --- |
| **Variable** | **Exclusion** | **Description** |
| PC290 | One or more prior convictions renders an individual ineligible of convicted of the above four Prop 47 offense types [Emphasis on **prior**] | Offenses that require sex offender registry |
| PC667\_E | Select serious/violent felonies. |

# Crime Categorization

The second tab of the crosswalk summarizes the two crime categorization roll up categories used at CPL (by BCS summary code). The first category is the broadest definition & is used in public presentations in which the results must be presented at a high level, such as to mask the underlying identities. The second categorization is preferable and has two important distinctions:

* Disaggregate felony sex offenses, categorizing all failures to register as “Felony Other.”
* Disaggregate felony drug sales and possession offenses.

To disaggregate felony sex, manually recode any straight “290” offense as “Felony Other.”

To disaggregate drug offenses, use the drug\_poss flag in the crosswalk. If the offense is not considered possession, flag it as a sales offense.

# Appendix A: Supporting Documentation

All supporting documentation is saved on CPL’s Google Drive, under CPL Main/Data Documentation/CJ Data Working Group/ Crime Categorization/Back-Up. Summary of files is as follows:

|  |  |  |
| --- | --- | --- |
| **File** | **Contents** | **Variables** |
| **PSA** (Folder) | PSA Violent Offenses California Aug 2017.pdf | psa\_viol\_17 |
| PSA Violent Offenses California Feb 2016.pdf | psa\_viol\_19 |
| PSA Violent Offenses California Sept 2019.pdf | Step2\_16 |
| DMF.pdf | Step2\_17 |
| Step4 |
| Revision to the SF DMF, effective July 22, 2019.pdf | Step2\_19 |
| **Detailed\_off\_list** (Excel file) | 1192\_7\_C | PC1192\_7 |
| 667\_5\_C | PC667\_5 |
| 667\_e\_2 | PC667\_E |
| 290 | PC290 |
| 1192\_8 | PC1192\_8 |
| **Couzen’s\_1170(h)\_Sentencing** (pdf) | *Felonies excluded from county jail*, pages 7-8 | Supporting documentation for ineligibility |
| *Appendix I: Table of Crimes Punishable in State Prison or County Jail Under Section*  1170(h), pages 158-172 | AB109 |
| AB109\_likely |
| **Prop47FAQs** (pdf) | *Who is not eligible for the changes under Proposition 47?,* page 2 | Supporting documentation for universal ineligibility |
| *How does Proposition 47 change theft and drug possession offenses?* page 3-5 | Prop47\_ |

1. It is up to the user to determine whether to include these when flagging eligible charges or not. No matter the decision, preferred approach is to also include a sensitivity analysis to assess the impact of including/excluding. [↑](#footnote-ref-1)