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*Your Responsibility When Using the Information Provided Below:*

When putting this material together, we did our best to give you useful and accurate information because we know that prisoners often have trouble getting legal information and we cannot give specific advice to all prisoners who ask for it. The laws change often and can be looked at in different ways. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet, it is your responsibility to make sure that the law has not changed and still applies to your situation. Most of the materials you need should be available in a law library.

## **JUNE 2, 2011 ADDENDUM TO**

### **INFORMATION REGARDING SEX OFFENDER REGISTRATION, TRACKING AND RESIDENCY REQUIREMENTS (INCLUDING PROPOSITION 83)**

**and**

### **MODEL HABEAS PETITION AND REQUEST FOR STAY CHALLENGING ENFORCEMENT OF SEX OFFENDER PAROLEE RESIDENCY RESTRICTIONS**

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This letter provides information about two recent court cases regarding Penal Code section 3003.5 (b), the statute that forbids any registered sex offender from living within 2,000 feet of a school or park where children regularly gather. Please note that neither of these cases is final as of early June 2011, and that there are likely to be new developments.

***Los Angeles County Litigation – In re Pham/Brown/Moreland***

On November 1, 2010, a superior court judge issued a preliminary injunction prohibiting the CDCR from enforcing Penal Code section 3003.5(b) as to all Los Angeles county parolees. (*In re Moreland/Brown* (Los Angeles Super. Ct. Nov. 1, 2010) Nos. PV000527, PV000533, PV000512, PV000712, Order.) The CDCR filed an appeal. On May 16, 2011, the Court of Appeal, for the Second District, Division Four held that the superior court had erred by granting the preliminary injunction because there was not sufficient evidence to support the superior court's finding that exclusion of parolees from part of the community constituted unconstitutional banishment. The court reversed the preliminary injunction. (*In re Pham/Brown/Neal* (2nd. Dist. Ct. of Appeal) No. B228821, 195 Cal.App.4th 681.) As of early June 2011, the court of appeal's decision is not yet final and may be subject to rehearing by the court of appeal or review by the California Supreme Court. There also may be further proceedings on remand to the Los Angeles County superior court.

***San Diego County Litigation – In re Taylor/Briley***

On March 10, 2011, a superior court issued a permanent injunction prohibiting the CDCR from enforcing Penal Code section 3003.5(b) as to all San Diego County parolees. (*In re Briley* (San Diego Super. Ct. March 10, 2011) Nos., 19731, 19742, 19743, Supplemental Statement of Decision.) The CDCR has filed an appeal in the Court of Appeal for the Forth Appellate District, Division One; the case is now called *In re Taylor*, No. D059574. As of early June 2011, the CDCR has not yet asked the court of appeal to stay the order, and the permanent injunction remains in effect. It is not known whether the CDCR will ask for a stay of the order in the future or whether the court of appeal would grant or deny such a request. Nor is it known when the court of appeal will decide the case.