

## Introduction

On August 2, 1988, as a result of a lawsuit concerning jail overcrowding at the Santa Barbara County Main Jail, the Superior Court of the State of California for the County of Santa Barbara issued a Court Order authorizing the Sheriff to institute an early release program pursuant to Section 4021.1 of the California Penal Code, and to prepare a plan for early release based upon a three-day pass system pursuant to Sections 4018.6 of the California Penal Code. The Court Order directed that the plan should exclude inmates with sentences of 60 days or less. Additionally, the Court Order directed the Jail Overcrowding Task Force to prepare and present to the Court, a report with specific recommendations regarding the following:

- Earlier release for inmates not being released pre-trial under existing Own Recognizance (OR) or bail procedures
- Staffing requirements and costs to expand the Court pre-trial services unit to allow adequate screening and pre-trial early release of more County jail inmates
- The feasibility of expanding the use of the County Parole program
- Feasibility and costs of implementing a house arrest program
- A plan for the release of pretrial detainees in addition to OR release and bail releases to be implemented in the event of a court-ordered deadline to reduce overcrowding. For example, OR release all persons whose bail is less than a specific amount
- A plan for clearing outside agency holds and transfer of inmates to those agencies
- The feasibility of releases as to each of the tasks assigned to the Jail Overcrowding Task Force, and an estimate of potential impact on overcrowding was to be included with the recommendation

In a Court Order issued on February 13, 1989 the Court ordered the County, among other actions, to immediately begin to proceed with plans for facilities and development of alternative programs to relieve jail overcrowding. Programs were to include, but not be limited to, detention as well as mental health, alcohol, and drug diversion and detoxification facilities. The Court issued the opinion that the long-term planning must be done with a view towards establishing suitable facilities in the North County. The County was ordered to complete the planning and construction of a new reception center at the Main Jail (the Reception Center was opened in 1993). The County was ordered to provide the necessary funds, staffing, equipment, and space, and to take any other measures necessary to implement the orders.



# Overcrowding Alternatives

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Since the issuance of the above mentioned Court Orders and several subsequent Court Orders and amendments, the Sheriff's Department, Jail Overcrowding Task Force, County Departments, and the Courts have continued to address the overcrowding of the Santa Barbara County Main Jail. This section illustrates the most recent actions taken pursuant to the Court Order issued on May 5, 2005.

## Alternative Sentencing Programs Overview

The Santa Barbara County Sheriff's Department operates the Alternative Sentencing Programs. Within the Alternative Sentencing Programs staff monitors individuals by using a combination of technology and field check visits.

The Sheriff's Alternative Sentencing programs Average Daily Population (ADP) increased from 170 in 2004 to 207 in 2005. This represents a 22% increase in program participation without corresponding increases in staffing.

### Work Furlough/Electronic Monitoring (WF/EM):

Inmates in this Sheriff operated program continue their jobs within the community, while serving their court imposed sentence. A portion of the incarceration costs for these inmates is reimbursed by participants through a daily fee assessment. Due to jail overcrowding, the Work Furlough program was modified several years ago to allow these inmates to be placed on Electronic Monitoring (EM) rather than being held in the facility. Additionally, in an effort to alleviate overcrowding, the program was expanded to allow participation by unemployed individuals.

Participants in EM are monitored by attaching a transmitter to the ankle or wrist of the participant. There are three different monitoring capabilities used, and the type of device used is based upon level of supervision needed for the participant.

*Radio Frequency (RF)* - A transmitter is attached to the inmate's ankle or wrist and a monitoring unit is plugged into power and phone at the inmate's home. This monitors when the individual comes in and leaves the home. Inmates are given time off to leave home for work and household needs. When not at work they are on a curfew and must be at home.

*Cellular Radio Frequency* - The same as RF with the exception that this device is used when the inmate does not have a hard phone line in the home.

*Global Positioning System (GPS)* - Same as above except when the inmate returns home, information is downloaded by the monitor and officers can verify where the inmate has been during the day.



## Overcrowding Alternatives

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For budgetary reasons, the County Probation Department discontinued their EM Program designed to provide intensive supervision of individuals considered to be a higher risk for release than those needing moderate supervision.

### **Sheriff's Work Alternative Program (SWAP):**

Originally, convicted misdemeanants with 60 days or less to serve were eligible to apply for this program as an alternative to jail. The program involves assignment to one of several work sites throughout the County. Participants may serve their sentences in increments, such as weekends, so as not to affect their full-time jobs. Participants also pay a daily fee to offset the cost of the program. This program was modified and the length of sentence is no longer a factor in qualifying criteria for the program. The average daily population in the SWAP is 140.

### **County Parole:**

Originally, inmates were qualified to apply for County Parole after serving one-third or more of their sentences. Once the application was received, processed, and considered for review, a hearing before the County Parole Board was set. The County Parole Board consisted of a representative from the Sheriff's Department, one from the Probation Department, and a volunteer citizen of the County. The Parole Board would make its decision based upon an interview with the inmate, a review of the parole packet (included was the inmate's criminal history, in-custody behavior report, probation plan, and review and recommendation of the probation officer), and a majority vote. Those inmates considered to be low-risk non violent offenders with employment and residential stability were the target population for the program and were supervised by the County Probation Department.

As a result of the need to review the County Parole Criteria, and in an effort increase the number of inmates released to the program, inmates are now eligible to fill out an application requesting County Parole after serving *seven* days of their sentences.

Unfortunately over the last several years, the number of inmates participating in the County Parole program has declined. The ADP in the program in 2003 was one. In 2004 the ADP was two. To date in 2005, there have been no inmates released on County Parole. This decline may be a result of the increase in participation of the alternative sentencing programs within the Sheriff's Department and cap release procedures that result in less desirable individuals applying for the program.



# Overcrowding Alternatives

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## Additional Overcrowding Measures for Consideration

In order to continue to comply with the Court Order cap that limits the number of inmates in the Main Jail facility and requires that no inmates sleep “on-the-floor,” additional measures are being considered. The measures being considered include expanding the criteria for EM to accept pre-trial felonies, not booking persons charged solely with a state parole violation, not accepting misdemeanor bookings, and creation of a Day Reporting Center which would have an increased cost associated with it. Additional drastic measures may also have to be taken. It is very likely that in the near future the Sheriff may be forced to refuse to accept violation of probation bookings in which no state prison commitment is expected, and to limit the types of misdemeanor arrests accepted for booking. This is already being done by several counties in California that are also dealing with overcrowding issues. These counties include Los Angeles, Orange, and San Diego. These measures are seen as a last step to avoid sanctions from the Court for violation of the Court Order.

## Continuing Actions to Alleviate Overcrowding

The Sheriff’s Department is taking additional steps to reduce the inmate population in an attempt to comply with the Court ordered population caps. Most recently (in the past 10 months), the following steps have been taken:

- Proceeding with planning to acquire property and construct a new jail facility to be located on the Laguna County Sanitation District site in the Santa Maria area.
- Changed Honor Farm Criteria:
  - Misdemeanor bail amount no longer a consideration
  - Felony probation violators eligible for Farm consideration
  - Pre-trial non-violent offenders eligible for Farm consideration
  - Increased available pre-trial beds from 90 to 140 (significant concern of potential for escape and violence to staff and inmates)
  - Option for pre-trial inmates to work inside work crews



## Overcrowding Alternatives

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- Release Criteria Amended:
  - Cite Release **all** new misdemeanor bookings, except:
    - Assaults and batteries against peace officers, emergency personnel, educators, and public officials
    - Violation of a protective order
    - Failure to register as a sex offender
    - Lewd acts in a public place
    - Exhibition of a deadly weapon
    - Annoying or molesting children under the age of 18
    - Carrying a concealed weapon
    - Carrying a loaded firearm
  - Citation release of inmates who have been arrested on felony offenses that are reduced to misdemeanors at arraignment
    - Since June of this year, 63 have been cite released and three placed on EM
    - This has a significant impact on drug court program, as sanctions are a critical part of treatment
- Electronic Monitoring:
  - Expanded criteria for acceptance into program
  - Eliminated court ordered exclusionary charges (119) from consideration
  - Now allowing previously exclusionary charges
  - 70% of the escapes from the EM program occurred after the relaxation of the program criteria
- Modified County Parole procedures by eliminating the hearing process. Decision to place an inmate on parole is based upon a review of the application by representatives from Probation and the Sheriff's Department.

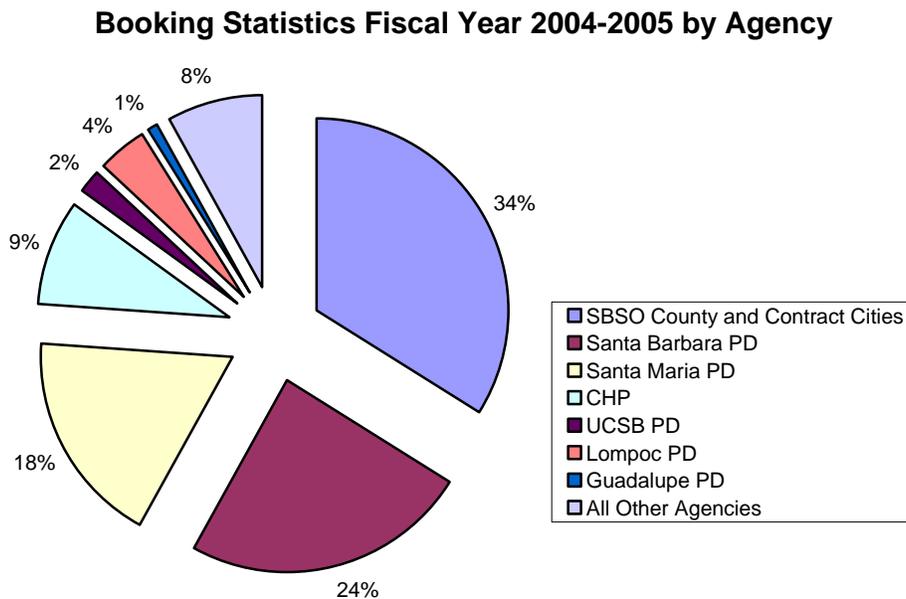


# Overcrowding Alternatives

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- Booking Criteria:
  - Increased traffic/misdemeanor warrant bail from \$1,000 to \$2,000
  - Increased out-of-county criminal warrant bail from \$2,000 to \$5,000
  - Increased minimum bail on local warrants for booking from \$1,000 to \$2,000
  - Judges seeing an increase in failures to appear by defendants
  - Result – Monthly booking totals have declined by approximately 2% per month from 2004

The following chart shows the breakdown of booking by agency:



- Courts:
  - Expedited processing of State sentencing packets for inmates sentenced to California Department of Corrections
  - Increased Pre-Trial Services Unit efforts to release on OR; and, time served on municipal code/traffic warrants

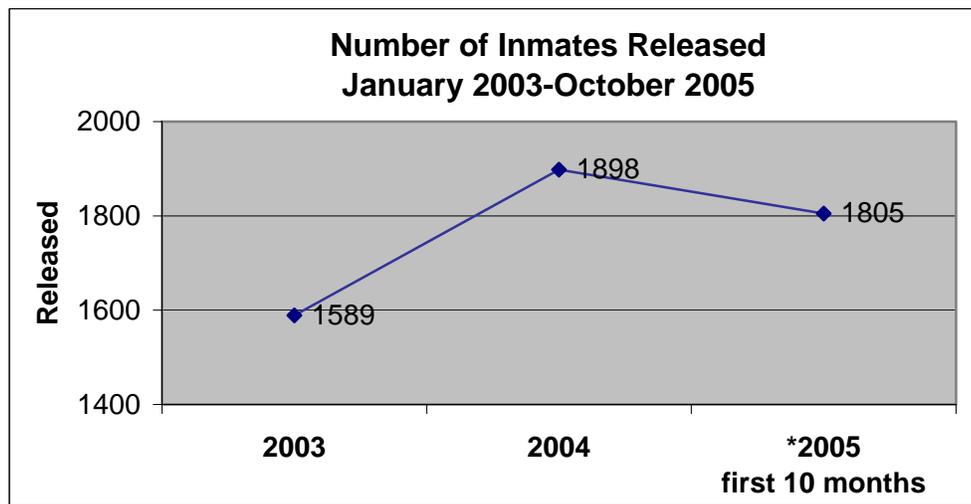


## Overcrowding Alternatives

In addition to the measures discussed previously in this document, the Sheriff's Department has expanded the criteria of early release to allow for the releasing of inmates who have 21 days or less to serve on their conviction. Thus far in 2005, 1,805 inmates have been released early.

- 1,344 released directly to the street
- 461 released to Alternative Sentencing programs or other agencies

The chart below shows the number of inmates released from January 2003 to October of 2005



Since February 1999 a total of 9,864 inmates have been released prior to completion of their sentences.

Additional measures to reduce jail overcrowding that are being considered:

- Expanding the criteria for EM to accept pre-trial felonies
- Not booking persons charged solely with a state parole violation
- Not accepting misdemeanor bookings, and
- Creating a Day Reporting Center for a drug treatment program potentially diverting up to 30 inmates

The Jail Overcrowding Task Force continues to meet and discuss the status of overcrowding at the Santa Barbara County jail facilities; the impact overcrowding is having on the criminal justice system within Santa Barbara County and to explore new ideas for resolving these issues.



# Overcrowding Alternatives

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## Results of Overcrowding Alternatives on Public Safety

As alternative sentencing criteria are relaxed and expanded, additional public safety issues are generated. As presented to the Board of Supervisors in April of 2005, a snapshot profile taken in September 2004 showed **98** inmates were released directly to the street. A subsequent snapshot taken September 2005 showed that **171** inmates were released directly to the street. The number of inmates released early that were serving sentences on felony convictions was **62**. These charges ranged from drug possession, to armed robbery, to unlawful sexual acts with a minor and sexual acts against a person who was restrained, medically disabled, or institutionalized.

With the relaxed criteria that allow inclusion of inmates who previously did not qualify for the EM program, some notable and significant public safety concerns have arisen. One example occurred when an inmate who was booked directly into the EM program was charged, while in the program, with attempted murder on an individual who was visiting his home. The inmate was subsequently convicted of assault with great bodily injury. Another example occurred when an inmate was cap released into the EM program. His charge of spousal abuse did not qualify him for release to the street, but based upon the relaxed criteria for the program, his criminal history, and no objection from his victim, he was released into the EM Program. Less than one month from his placement into EM, he absconded from the program. Sheriff's staff attempting to locate him discovered he was booked into the Monterey County Jail on new charges of spousal abuse. ***It should also be noted that 70% of the escapes from the EM program occurred after the relaxation of the program criteria.***

Despite the changes made in the criteria for bookings, alternative sentencing programs, and cap release procedures, the ADP of the facilities continues to increase. This may be due, in part, to a resistance from the courts to embrace the early release criteria. The County continues to receive court remands that hold inmates in custody in pre-trial status for a specified time and then are brought back to court with the order stating "dress out for release." This excludes them from consideration for Cap Release. One of the post arraignment misdemeanor cite releases was remanded back into custody during a first court appearance after release, with a new order for the Sheriff's Department to not release the defendant.

## Summary

Over the years, as jail population has grown and Court Orders and Grand Jury Reports have been issued, the Santa Barbara Sheriff's Department has significantly expanded programs and resources aimed at reducing jail overcrowding. These measures are reaching maximum capacity and cannot be relied upon to alleviate a long-term and growing concern.

