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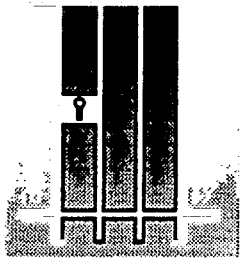
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JAIL UPDATE

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IMPACT OF COURT-ORDERED CAPACITY LIMITS ON ADULT DETENTION FACILITIES

INTRODUCTION

The San Diego Association of Governments (SANDAG) Criminal Justice Research Division conducts adult inmate population management studies to assess issues related to jail overcrowding. This study addresses the impact of programs implemented by the County of San Diego to meet court-ordered capacity limits imposed on five Sheriff's detention facilities on July 1, 1990.¹

The decision to reduce the jail population by releasing inmates raised questions regarding the potential negative impact of early release on court appearances and public safety. This SANDAG study measures the effects of these early release programs on failures to appear in court and rearrests prior to court disposition, or up to 90 days after release from custody.

This report focuses on the impact of the specific measures to reduce the population to meet court-ordered caps in 1990. Prior to that time, a number of other alternatives had been instituted by the County. These other programs are discussed in previous SANDAG studies.

SUMMARY

The study findings suggest that the County was effective in reducing the adult inmate population to meet court-ordered capacity limits imposed in 1990. Over time, the population has exceeded the caps, but the County has responded by reducing jail bookings, increasing releases, and freeing additional detention facility beds.

The early release options implemented to reduce the jail population did not have a significant negative impact on court appearance rates or public safety. However, the data confirm that certain types of offenders tend to be more likely to miss court hearings and commit new offenses after release (i.e., those charged with property and drug-related crimes). Increases in bail amounts in 1990 for unsentenced drug offenders did not reduce their propen-

¹The court-ordered capacity limits at the five facilities are based on a consent agreement between the litigants in *Armstrong v. the County of San Diego*. One additional jail, the Central Detention Facility, has been under a court-ordered capacity since 1980 (*Huddler v. Duffy*).

sity to miss court hearings. This finding suggests that alternative programs may be needed to ensure that these defendants appear in court, such as supervised release, incentives to appear in court, or enhanced sanctions. Also, the fact that most of the failures to appear occurred within 60 days after release indicates that supervised release programs should provide the most extensive supervision during this time frame.

Release programs which were used more frequently by the jail and courts in 1991 to reduce the number of unsentenced inmates were bail, misdemeanor book and release, and supervised release. The program which had the greatest impact on the sentenced inmate population was the 10% reduction in sentence time served. While increased use of county parole for sentenced prisoners was proposed to reduce the number of inmates in custody, this program was not used more extensively after the caps were imposed. County parole is generally used to release inmates meeting eligibility criteria approximately one month prior to the end of their sentence. Increased use of this program for inmates released early may be a means of reducing rearrest rates during the first 30 days after release, when a high percentage of new offenses occur. Study findings also suggest that supervision for probationers during the first 30 days after release should be more intensive, possibly including drug treatment for drug-involved offenders who tend to have higher rearrest rates.

BACKGROUND

In 1990, San Diego had twelve local adult detention facilities housing sen-

tenced and unsentenced inmates. The Sheriff's Department operated seven local jail facilities at six locations which housed both sentenced and unsentenced inmates. Six of these facilities are under court-ordered capacity limits. The Central Detention Facility has been under court order for a number of years. Limits were imposed at five additional Sheriff's facilities in July 1990. The Probation Department was operating five institutions for sentenced males during this time period.

There are three primary means for reducing the jail population:

- reduce the number of inmates booked
- increase the number of releases
- reduce the average length of stay in custody.

Four early release programs were implemented in 1990 to reduce the number of sentenced and unsentenced inmates:

- a court-authorized 10% reduction in time served by sentenced prisoners
- increased use of county parole
- electronic surveillance home custody for unsentenced inmates
- release of selected undocumented persons to Border Patrol.

The programs were implemented in all local detention facilities, even though only the Sheriff's facilities were under the court-ordered capacity limits. The reason for this was two-fold. First, to ensure due process, all sentenced prisoners were treated equally by reducing sentence time served by 10%. Second, the reduction in inmates in Probation facilities allowed the transfer of Sheriff's inmates from overcrowded facilities.

Methodology

A special study was conducted to assess the impact of releases to meet Sheriff's jail capacity limits. A random sample was selected of inmates released from Sheriff and Probation facilities during two study periods from computer tapes provided by the County:

- July 1 to September 30, 1989, one year before the caps were imposed
- July 1 to September 30, 1991, one year after the caps went into effect.

The final samples consist of 367 sentenced and unsentenced inmates released in 1989 and 406 in 1991. The data collected include:

- booking number
- booking date
- release date
- booking facility
- highest charge
- release type
- sentence status at the time of release
- sentence or final action date
- sentence days ordered
- credit for time served
- court case number
- minimum release date
- number of failures to appear during follow-up period
- date of first non-appearance
- number of rearrests during follow-up period
- date of first rearrest
- number of days in custody during follow-up period.

The data sources include:

- Sheriff, Probation, Automated Regional Justice Information System (ARJIS), and District Attorney computer screens
- jail booking files
- Probation detention facility files
- court records.

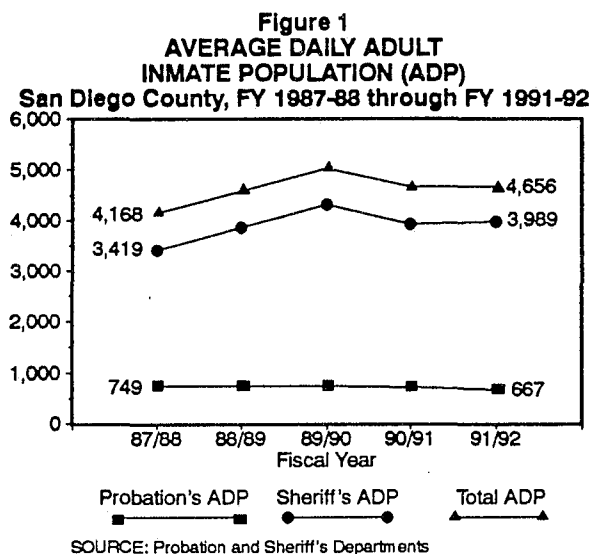
The time period for measuring failures to appear in court and new offenses was prior to the final court disposition, or within 90 days of release (whichever was less).

POPULATION TRENDS

The adult inmate population in local detention facilities had been increasing prior to the imposition of jail caps in July 1990. Figure 1 shows that the number of inmates systemwide rose from 4,168 in FY 1987-88 to 5,046 in FY 1989-90 (21%), the time period before the caps went into effect. After the limits were imposed, the population decreased significantly, to 4,663 inmates in FY 1990-91.

The trend for just the Sheriff's facilities is similar. In FY 1987-88, the average population was 3,419 inmates in the Sheriff's custody, rising to 4,298 in FY 1989-90 (26%). The following year, the number dropped to 3,923 when the caps were in effect. The number of inmates in Probation facilities remained relatively stable through FY 1989-90, with a slight reduction in the population in FY 1990-91 when the court order was imposed, from an average of 748 inmates to 740 (1%).

The year after the caps were imposed (FY 1991-92), the overall adult inmate population remained about the same (4,656); however, there was an increase in the average daily population for Sheriff's facilities (from 3,923 to 3,989) due to the opening of the East Mesa Detention Facility and the transfer of inmates when two Probation Department honor camps were closed. The Probation institution population dropped from 740 to 667 prisoners (10%) during this same period.



Court-Ordered Capacity

On the day the capacity limits were imposed in 1990, the population at Sheriff's detention facilities was below the authorized number of inmates. Since that time, the population has varied, and has at times exceeded the caps. Table 1 shows the court-ordered capacity and population at the six Sheriff's facilities affected by a court order on the first day of each quarter. The capacity limits and population figures presented are adjusted to exclude the following categories of inmates which are not affected by the

caps: medical patients; inmates in the psychiatric security unit; inmates being processed and pending release; and branch jail transients being transported between facilities.

The court-ordered capacity limits changed during the two-year time period reviewed, for the following reasons.

- The capacity at the Central Detention Facility was increased from 750 to 1,000 to accommodate inmates from the Vista Detention Facility during construction. By January 1, 1991, the cap was lowered to 750.
- When the East Mesa Facility opened in November 1991, the Descanso Facility was transferred to the Probation Department. This change is reflected in the January 1, 1992 capacity figure.
- The Sheriff's facilities exceeded the court-ordered capacity in late 1991 and early 1992, so the Descanso Facility was transferred back to the Sheriff by July 1, 1992. Also, the court-ordered capacity for Vista was lowered from 937 to 886 on July 1.

The figures show that throughout the first year, the jails were below the court-ordered capacity, based on one-day counts. On October 1, 1991 and April 1, 1992, these facilities exceeded the capacity limit by 96 and 46 inmates, respectively. The population continued to increase, with the overage reaching 408 on June 1, 1992. When the Descanso Facility was transferred back to the Sheriff, the population was once again below the court-ordered caps. On July 1, 1992, the population was under the limit by 346 inmates.

Table 1

**Quarterly Jail Population and Court-Ordered Capacity
Sheriff Detention Facilities Under Court Order
July 1, 1990 through July 1, 1992**

First Day of Quarter	Court-Ordered Capacity	Adjusted Population	Over/Under Capacity
July 1, 1990	3,479	3,228	-251
October 1, 1990	3,479	3,432	-47
January 1, 1991	3,229	2,941	-288
April 1, 1992	3,229	3,035	-194
July 1, 1991	3,229	2,930	-299
October 1, 1991	3,229	3,325	96
January 1, 1992	2,789	2,723	-66
April 1, 1992	2,789	2,835	46
July 1, 1992	3,178	2,832	-346

NOTE: Population and capacity figures exclude medical patients, inmates in the psychiatric security unit, inmates being processed and pending release, and inmates being transferred between facilities.

STUDY FINDINGS

The findings regarding the effects of early release on unsentenced and sentenced inmates are discussed separately. In general, the early releases of unsentenced and sentenced inmates did not have a significant impact on court appearance or rearrest rates.

Unsentenced Inmates

The samples for unsentenced inmates released in the 1989 and 1991 study periods were similar in terms of the highest charge that was active at the time of release. Table 2 shows that most of the inmates released were charged with misdemeanor offenses, with the highest percentages in the categories of driving under the influence of drugs or alcohol (DUI), drug-related offenses, and other misdemeanors. These offenses accounted for about two-thirds of the releases in both years. Since April 1987, bookings for misdemeanor offenses have been limited primarily to violent offenses and drug and alcohol-related charges.

About one of five releases was for a felony offense in both study periods.

Table 2

**Jail Releases by Offense
Unsentenced Inmates
1989 and 1991 Sample Data**

Offense	1989	1991
Felony		
Violent	4%	3%
Property	8%	9%
Drugs	8%	6%
Other	2%	4%
Misdemeanor		
Violent	3%	5%
Property	3%	5%
Drugs	15%	15%
DUI	38%	39%
Other	15%	10%
Probation/Parole	5%	4%
Total Sample	179	208

NOTE: Percentages may not equal 100 due to rounding.

The types of releases varied between the two years, which is expected since alternative early release programs were implemented in July 1990. The new early release programs included the use of electronic surveillance home custody and release of selected undocumented persons to Border Patrol. The data available do not allow a breakdown of these two types of releases because they are included in other categories. Study results show that three types of releases for unsentenced inmates were used more frequently in 1991 compared to 1989, including inmates posting bail, book and release of misdemeanants by jail personnel, and supervised release ordered by the court (Table 3). These increases contributed to a reduction in the jail population.

Table 3

**Jail Releases by Type of Release
Unsentenced Inmates
1989 and 1991 Sample Data**

Type of Release	1989	1991
Own Recognizance	18%	18%
Bail	16%	20%
Misd. Book and Release	22%	25%
No Charges Filed	6%	3%
DUI Quick Release	35%	28%
Supervised Release	1%	3%
Court Book/Release	1%	2%
State Parole	3%	<1%
Total Sample	179	208

NOTE: Percentages may not equal 100 due to rounding.

Court Appearances. The proportion of inmates released in 1991 who failed to appear in court prior to disposition, or within 90 days after release from custody, was about the same as in 1989 (Table 4). In both years, about three in ten defendants released from custody missed one or more court appearances. Failures to appear may be affected by a number of factors, including the method for notifying defendants of hearings and conditions of release. It is assumed that these factors were the same in both time periods studied.

Table 4

**Failures to Appear (FTA)
Unsentenced Inmates
1989 and 1991 Sample Data**

Number of FTA's	1989	1991
None	71%	71%
One	29%	28%
Two or Three	0%	2%
Total Sample	174	207

Note: FTA data were not compiled for parole violators released to the street.

Percentages may not equal 100 due to rounding.

Most of the failures to appear occurred within 31 to 60 days after release (55% in 1989 and 70% in 1991). The average number of days from release to the first missed hearing decreased slightly from 41 days in 1989 to 39 days in 1991. This change may be due to the release of pretrial inmates who would not have qualified for release in the past, and who may have been more likely to miss the first court hearing.

The types of offenders most likely to miss court hearings were those charged with felony and misdemeanor drug violations, felony property offenses, and misdemeanor driving under the influence. A significant increase in bail amounts for selected drug offenses in 1990 did not result in a reduction in failures to appear for this group of offenders. In fact, the percentage of drug offenders missing court appearances increased from 40% in 1989 to 50% in 1991. This finding suggests that other programs, in addition to bail, may be needed to ensure court appearances for these defendants.

Rearrests. The proportion of defendants rearrested for a new offense or probation violation during the follow-up period increased slightly, from 18% to 19% (Table 5). The new arrest charges were not as serious overall in 1991 compared to 1989. The proportion with new arrests for felonies and probation violations dropped, with a corresponding increase in misdemeanor rearrests. Rearrest rates were highest for inmates who had been in custody for felony and misdemeanor drug offenses and felony property crimes.

About two-thirds of the inmates released in 1989 who were rearrested committed the new offenses within 30 days after release (66%). This figure dropped to 50% in 1991. The average time to the new arrest was 24 days in 1989 and 35 days in 1991.

The actual number of releases has been decreasing due to a decline in jail bookings; therefore study findings suggest that the actual number of failures to appear and rearrests for unsentenced inmates did not increase after the early release programs went into effect. The study does not address the potential impact of restrictions on bookings on court appearances and new arrests. A previous study, conducted by SANDAG, showed that 33% of those cited by law enforcement in the field for misdemeanor charges in June 1987 failed to appear in court, and 22% were rearrested prior to disposition, or within 90 days after the citation was issued².

Table 5

Rearrests by New Arrest Charge Unsentenced Inmates 1989 and 1991 Sample Data		
Rearrest Charge	1989	1991
Felony	7%	5%
Misdemeanor	8%	11%
Probation Violation	3%	2%
Public Inebriate	3%	2%
Percent Rearrested	18%	19%
Number Rearrested	32	40

NOTE: An individual could have been arrested more than once.

²Pennell, Susan and Christine Curtis, *Population Management System (PMS): Studies to Examine Jail Overcrowding*, San Diego Association of Governments, January 1989.

Sentenced Inmates

Table 6 presents the highest active conviction charge at time of release for the sentenced inmates in the two study periods. The charges vary somewhat over time, which could be associated with changes in offenses occurring in the community, law enforcement emphasis, or the dispositions of cases by the prosecutor and the courts. In the 1991 sample, defendants were more likely to be charged with felony drug offenses and violent, property, and other misdemeanor crimes than in 1989.

Table 6

Jail Releases by Offense Sentenced Inmates 1989 and 1991 Sample Data		
Offense	1989	1991
Felony		
Violent	6%	4%
Property	20%	14%
Drugs	10%	15%
Other	4%	4%
Misdemeanor		
Violent	4%	7%
Property	10%	11%
Drugs	7%	6%
DUI	9%	7%
Other	11%	14%
Probation/Parole	19%	19%
Total Sample	188	198

NOTE: Percentages may not equal 100 due to rounding.

The early release programs implemented for sentenced prisoners are a 10% reduction in the time served and an increase in releases to county parole. In most cases, the type of release for sentenced prisoners was completion of time served in both time

periods; 89% in 1989 and 87% in 1991 (Table 7). In 1991, after the jail caps were in effect, 60% of the 176 inmates sentenced to local custody were released early through the court-ordered 10% reduction in sentence time. Inmates serving time who were not released early may not have been eligible due to disciplinary actions taken while in custody or holds placed on release by outside agencies (e.g., outstanding warrants, pending cases, etc.).

Table 7

**Jail Releases by Type of Release
Sentenced Inmates
1989 and 1991 Sample Data**

Type of Release	1989	1991
Time Served*	89%	87%
Probation	6%	8%
Stayed/Suspended Sentence	2%	3%
County Parole	3%	3%
Total Sample	188	198

*The 1991 releases in this category include those released early with a 10% reduction in time served.

NOTE: Percentages may not equal 100 due to rounding.

In contrast to the 10% sentence reduction, parolees remain under the County's supervision for a period of time after release. County parole was used as a release mechanism in the same proportion of cases in 1989 and 1991 (3%). This indicates that parole was not used more often after the caps were imposed.

Other sentenced inmates were released when their cases were adjudicated because custody time was not ordered. This includes grants of probation and stayed and suspended sentences.

Rearrests. The early release programs implemented for sentenced prisoners in July 1990 did not present an increased risk to public safety, as measured by rearrests. In fact, the proportion of sentenced inmates rearrested decreased during the 90 days after release from custody, despite implementation of the 10% reduction in sentence time served (Table 8). In the 1989 sample, 24% of the sentenced prisoners were rearrested after release, compared to 20% in 1991. The reduction is due to a decline in rearrests for felony charges. The rate of misdemeanor rearrests remained the same (9%). The rearrest rate for probation violators increased from 1% to 3%, which may be associated with the implementation of a probation revocation court for drug offenders. In some cases, the prosecutor will now request a revocation of probation rather than filing new charges. Felony charges accounted for the highest percentage of offenders rearrested in both time periods (16% in 1989 and 10% in 1991).

Table 8

**Rearrest Rates by New Arrest Charge
Sentenced Inmates
1989 and 1991 Sample Data**

Rearrest Charge	1989	1991
Felony	16%	10%
Misdemeanor	9%	9%
Probation Violation	1%	3%
Public Inebriate	2%	3%
Percent Rearrested	24%	20%
Number Rearrested	45	39

NOTE: An individual could have been arrested more than once.

The reduction in the rearrest rate in 1991 was due, in part, to a significant decline in the rate for misdemeanants, from 23% rearrested in 1989 to 10% (Table 9). The lower rearrest rate can be attributed to a decline in misdemeanor property and drug offenders released in 1991. These offenders tend to have higher rearrest rates than other groups. Probation and parole violators also showed a decrease in rearrests, from 26% with new offenses to 24%. The rate for felony offenders rose from 24% to 30%.

Table 9

**Rearrest Rates by Original Conviction Offense
Sentenced Inmates
1989 and 1991 Sample Data**

Conviction Offense	1989	1991
Felony	24%	30%
Misdemeanor	23%	10%
Probation/Parole Violation	26%	24%
Number Rearrested	45	39

Forty-four percent (44%) of the rearrests occurred during the first 30 days after release in 1989, decreasing to 36% after the caps were in effect. The average number of days to rearrest was 58 in 1989 and 49 in 1991.

The rearrest rate for those released through the 10% reduction in sentence time was similar to the proportion for all sentenced inmates (22%). Six of the 23 sentenced inmates released early and arrested for new offenses were arrested during the 10% early release time period in 1991. Three of these instances involved felony charges.

Sentence Time Served. Data were collected on the custody time ordered and actual time served before and after the jail caps were imposed. The average sentence ordered decreased between July to September 1989 and 1991 from 193 days to 162 days (16%). This decrease may be related to the reduction in the seriousness of charges for the 1991 sample cases. During the same time frame, the average time served dropped from an average of 124 days to 91 days (27%).

In 1989, sentenced prisoners served an average of 64% of the time ordered, compared to 56% in 1991 (down 8%). State statute allows sentences to be reduced by one-third for good time and work credits, and inmates can be released up to eight days early when jails are overcrowded. These programs were in effect during both study periods. Therefore, the change in charge level and the 10% reduction in time served on local custody sentences after July 1, 1990 account for the reduction in custody time served.

UPCOMING PROJECTS

During FY 1992-93, the SANDAG Criminal Justice Research Division will be conducting the following studies related to local inmate detention facilities.

- Determine the impact of the San Diego City jail on the County, in terms of County detention facility bookings, court cases handled, and costs.
- Develop a profile of inmates in adult detention facilities, based on a one-day sample, to evaluate classification of inmates with respect to the security level of housing.

- Assess characteristics of juveniles taken to Juvenile Hall and identify factors associated with overcrowding at this facility.

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