



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Probation and Sheriff
Department No.: 022/032
For Agenda Of: November 7, 2023
Placement: Departmental
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Bill Brown, Sheriff-Coroner (805) 681-4290
Director(s) Holly Benton, Chief Probation Officer (805) 882-3652
Contact Info: Selim Celmeta, Custody Lieutenant (805) 681-4047
Spencer Cross, Deputy Chief Probation Officer (805) 882-3704

SUBJECT: Alternative Sentencing Program Data, Expansions, and Enhancements

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

It is recommended that the Board of Supervisors:

- a) Receive presentation on Alternative Sentencing (AS) program data, expansions and enhancements;
- b) Review the rules and regulations and administrative policy of the AS program as required on an annual basis pursuant to Penal Code (PC) section 1203.016(d)(1);
- c) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA), because pursuant to sections 15378(b)(5) the recommended actions consist of organizational or administrative activities of government that will not result in direct or indirect physical changes in the environment.

Summary Text:

Pursuant to PC section 1203.016, the County of Santa Barbara offers an Alternative Sentencing (AS) program through which inmates committed to serve time in custody may voluntarily participate in a home detention program for a portion or for all of their sentence, in lieu of confinement in the county jail. On July 1, 2022, the Probation Department assumed responsibility for the supervision component of the program, while the Sheriff's Office (SBSO) has continued to oversee the program application, eligibility determination, and booking/re-housing portions of the process.

On November 1, 2022, SBSO and the Probation Department appeared before the Board to provide a presentation on AS and Pretrial Services. On July 18, 2023, a status report on criminal justice partner improvement efforts was provided to the Board by the County Executive Office, and the Board was advised that an annual report and update on alternative sentencing, including potential opportunities for expansion, would be brought to the Board in October or November 2023.

Further, pursuant to PC section 1203.016(d)(1), “The rules and regulations and administrative policy of the program shall be written and reviewed on an annual basis by the county board of supervisors and the correctional administrator. The rules and regulations shall be given to or made available to any participant upon request.” As required by this section, the rules, regulations and administrative policies are provided to the Board for review.

Background:

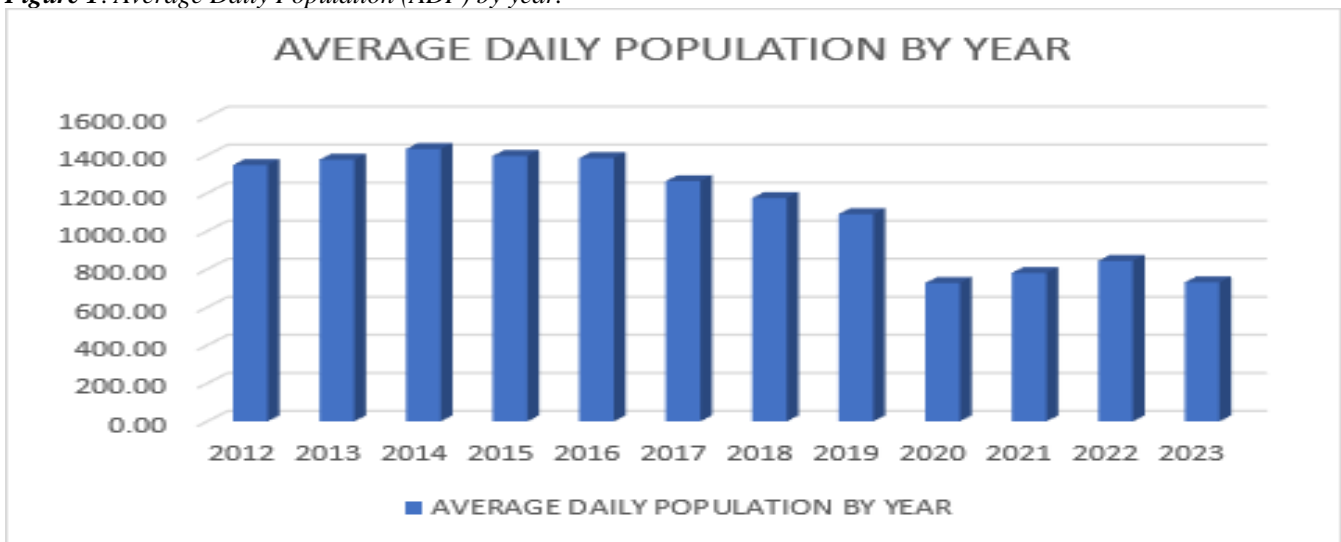
The AS program is a long-standing program within the County as authorized and governed by PC section 1203.016, which provides that the Board of Supervisors may authorize the county correctional administrator to create and operate an alternative custody program, which may include work release and home detention. Home detention programs require individuals to serve sentences in specific residential locations, and they may be monitored through the use of Electronic Monitoring (EM)/Global Positioning System (GPS) devices. Work release, known as the Sheriff’s Work Alternative Program (SWAP) allows individuals sentenced to county jails to participate in community service projects in lieu of confinement in the county jail. Each county may develop its own application process and program parameters/rules, which conform to provisions set forth in the law.

On July 1, 2022, the SBSO and the Probation Department began a collaborative effort to monitor AS eligible individuals serving their court ordered custodial commitments via EM/GPS in lieu of physical incarceration. Per the signed Memorandum of Understanding (MOU) between the agencies, each agency has committed to a shared responsibility to ensure the effective and safe monitoring of individuals on AS. The SBSO continues to accept all AS program applications, determine eligibility, and book/receive individuals prior to referring them to the Probation Department to begin the supervision portion of the commitment. The Probation Department supervises these individuals in the community, and provides assessment of the individual’s needs using an evidence-based assessment, as well as subsequent referrals to community-based programs as applicable. Substance abuse services are consistently identified as a top need of the population and have driven referrals to community organizations. AS participants with identified needs benefit from recommended services and supports. The bifurcation of the program into two components has allowed each agency to offer its respective expertise to this population. Probation does not supervise SWAP participants.

An additional enhancement to AS since the collaboration began has been the earlier identification of potentially eligible individuals. Deputy Probation Officers (DPOs) within the investigations units of the Probation Department prepare sentencing reports for the Court, and during this process, determine pre-eligibility of individuals for AS. This early client contact with the DPO results in AS information and referrals being provided to individuals and creates a bridge to the program application. For individuals who may be eligible, but remain in custody, the DPOs coordinate with a Probation Jail Assessor or SBSO staff to provide the client with an application. If eligibility has been determined and is available at the time of the filing of a sentencing report, the investigating DPO will include information regarding the status of the AS application in the report which serves to reduce the need for further court hearings. According to historical data, the number of individuals released on various forms of alternative sentencing, including

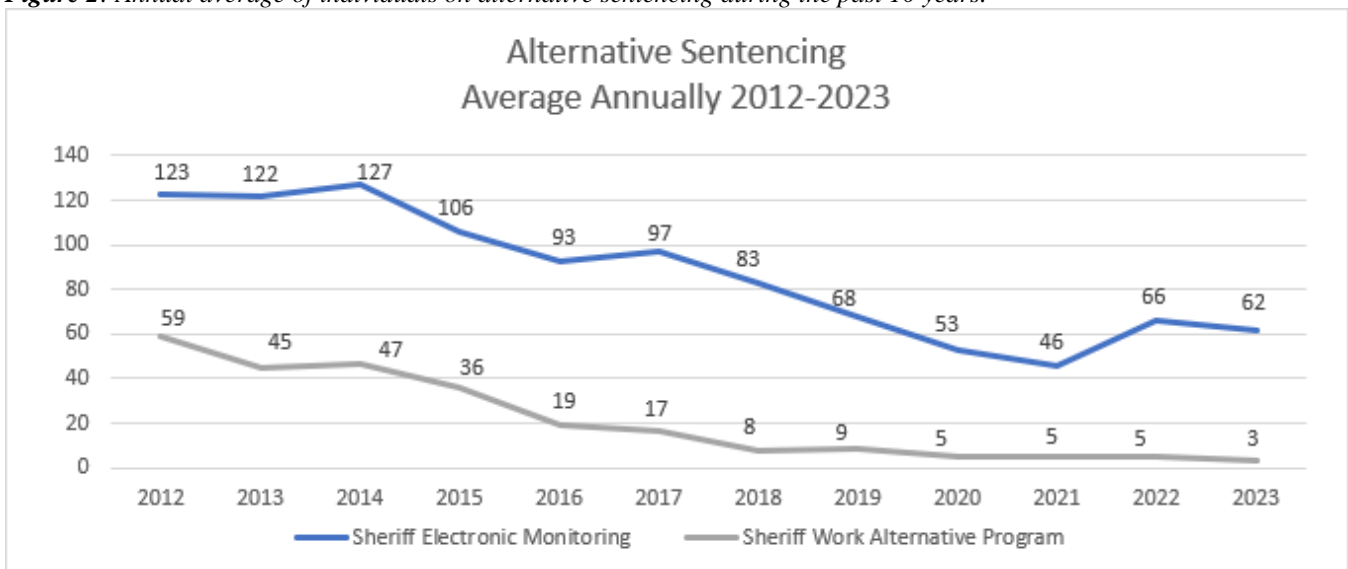
both EM and SWAP, peaked in 2014, with an annual average of 174 individuals active on work alternative and home detention programs on any given day. The steady decline since 2014 was associated with a number of potential reasons, such as the enactment of Proposition 47 in 2014, which reduced the sentencing criteria for certain felonies and thus affected the length of many local sentences, and the Sheriff-initiated program of “milestone” time credits which provides for up to forty (40) days’ jail time credit for successful completion of rehabilitative programming while in custody. The COVID-19 pandemic and implementation of ER-4, caused a dramatic reduction in the overall jail population, and with the courts closed, cases were not being adjudicated. This resulted in fewer sentenced candidates for AS for both EM/GPS and SWAP.

Figure 1: Average Daily Population (ADP) by year.



Since 2021, the number of individuals on EM/GPS has increased moderately while the small number on SWAP has remained relatively consistent as noted below in Figure 2.

Figure 2: Annual average of individuals on alternative sentencing during the past 10 years.

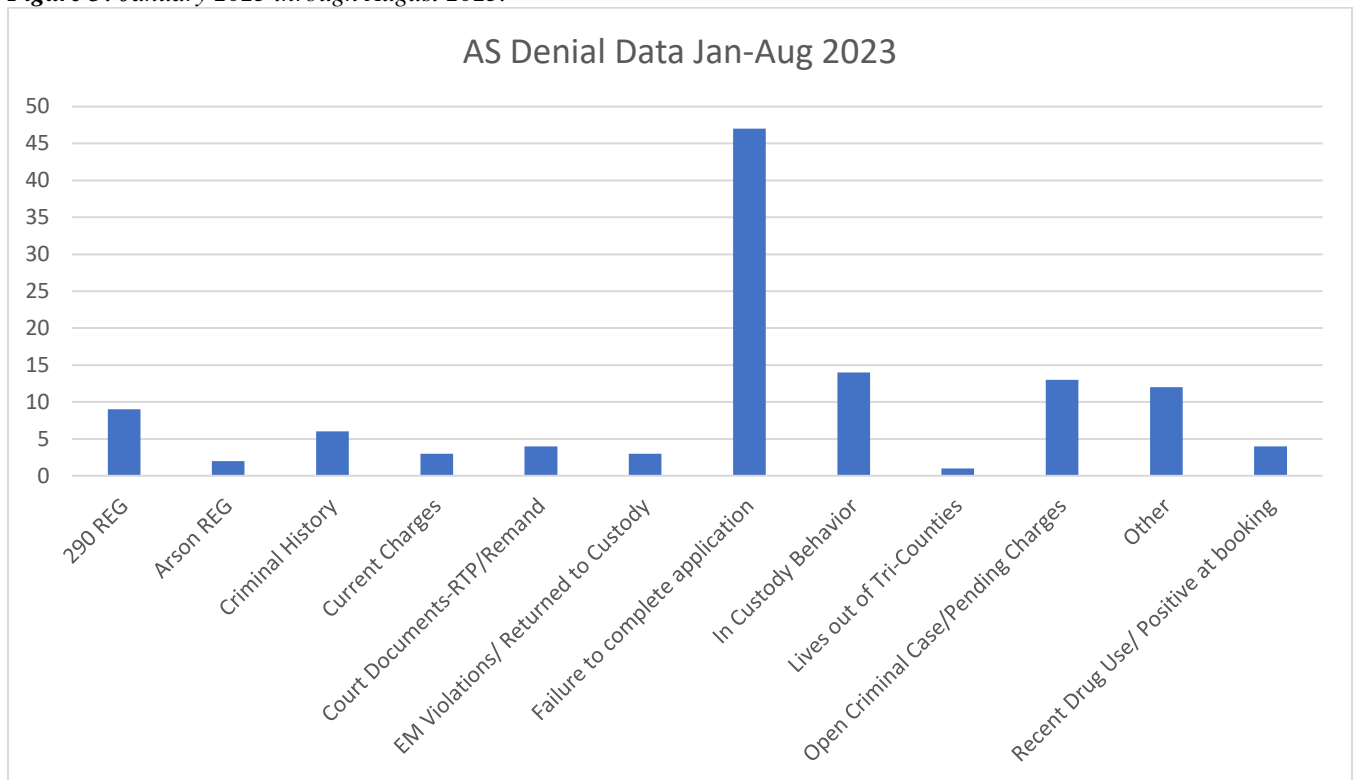


Discussion

The Probation Department and Sheriff’s Office have continued to collaborate on the AS program and have examined the eligibility criteria, the screening process, timelines for enrollment, and supervision strategies, to identify opportunities to expand and enhance the AS operations and to ensure the optimal number of individuals can be safely enrolled and supervised on the program. The intended outcomes by both agencies include a shorter time from application to enrollment, increased numbers of eligible and enrolled individuals, stronger and more easily reportable data metrics, enhanced services and supervision strategies, and maintaining or improving the percentage of successful program exits. While significant progress has been made, data collection continues to be developed to ensure all outcomes are addressed.

To achieve a better understanding of the historical reasons for someone being found ineligible for the AS program, the SBSO compiled and examined data from January through August of 2023 (Figure 3).

Figure 3: January 2023 through August 2023.



The reasons applicants may be found ineligible for the program include, but not limited to, court-ordered restrictions, open criminal cases or pending charges, active bookable warrants, and being under the influence of a controlled substance at the time of booking. If the individual has a history of violent or serious crimes, has a severe substance abuse problem, or poses a threat to harm others, they may be deemed too high-risk for AS. If the individual has a history of non-compliance with court orders or probation conditions, they also may not be considered a good candidate for AS. AS requires a stable place of residence where the individual can be monitored. If the individual is homeless, moves frequently, or is considered a flight risk, AS may not be feasible. The nature of the crime committed can also be a factor. For instance, sex offenders or those convicted of domestic violence may not be eligible for AS.

In addition to the eligibility and suitability requirements noted above, additional criteria are considered when determining AS eligibility. This may include the individual's failure to complete the application process, not being able to provide proof of residence, not having a working phone, having to register as a sex offender or arsonist, in-custody behavior, being ordered to be released to a residential treatment, residing outside of the Tri-County area, being in custody for an AS violation, and the severity of current charge(s).

Expansion and Enrollment

Potential expansions to the program identified and agreed to by the SBSO and Probation Department include: allowing individuals who will be under probation supervision at time of release to be released 30 to 60 days early on AS to begin transition to an enhanced community supervision commensurate with a needs assessment; and eliminating the barrier of not having a phone by providing a cell phone at the time of release or booking. SBSO and/or Probation will facilitate providing cell phones for individuals using the existing community programs.

Additional strategies which require further development and discussion include: using a specified list of charges when reviewing criminal history and establishing specific guidelines related to the recency of charges; developing specific criteria to allow clients to live outside of the Tri-Counties area; and implementing strategies to reduce the number of individuals who fail to complete the application. The latter includes conducting residence checks and making more extensive efforts to follow up with individuals prior to closing out an application for those who fail to communicate, fail to return calls, and/or do not have a proof of residence.

The screening process and timelines for enrollment have been examined. For FY 2022-2023, 1,045 applications were processed, with 915 being approved and 130 being denied, for an 88% acceptance rate. It is important to make the distinction between in-custody and out-of-custody applicants and note that a large majority of clients placed on AS are out-of-custody. Of those individuals who have been denied AS, a greater percentage of denials occur with in-custody applicants at 60%, as compared to 40% of those who are out of custody.

To better facilitate the screening and more rapid enrollment to alternative sentencing for those out-of-custody, the SBSO successfully made the application available for completion online. For those clients in the jail who have been sentenced, the SBSO has committed to offer sentenced inmates applications and to review their files to determine eligibility and interest. The SBSO created a form wherein an inmate's interest in AS is documented and kept on file. The SBSO is researching the potential to include the AS application on the tablets that are available within the housing units, to avoid paper copies and ensure a digital record of the application is kept.

The timelines for enrollment have also been reviewed to establish ways to reduce the amount of time between application and enrollment. Program applicants must be sentenced to serve time in Santa Barbara County Jail in accordance with PC section 1203.018(c). Once an application is submitted, SBSO AS staff review it to determine eligibility and notify individuals of program acceptance or denial. It was previously reported to the Board on November 1, 2022 that the SBSO's goal for in-custody enrollment is ten days from time of application to enrollment, which includes having the GPS device installed and activated, but the process took much longer. Timelines for out-of-custody enrollment last fall varied due to the review process of submitted applications and it was not uncommon for clients to return to court and request an extension due to the delays. While the SBSO goal was 10 days from application to enrollment, it was

reported last November that the timeline could be longer. Since November 1, 2022, the average number of days from application to enrollment has improved significantly compared to the previous year. In the upcoming year, the SBSO goal is to narrow this even more to a consistent 5-15 day period from application to enrollment.

From July 1, 2022, when Probation assumed supervision of individuals on AS, until June 30, 2023, a total of 915 clients were enrolled in AS, with 851 being supervised on electronic monitoring by Probation. Prior to the Probation Department assuming supervision, field contacts were not a component of the program. DPOs now supervise these individuals in the community and assess their needs using an evidence-based assessment, known as the COMPAS Inventory of Needs (ION). A total of 369 field contacts have been made as of September 30, 2023. Subsequent referrals to community-based programs are also completed based on assessed needs and as ordered by the Court.

Of the 851 supervised clients, 700 have either scored below 3 on the Instrument Screening Tool (IST) or returned low risk per the COMPAS Risk of Violence and Recidivism (ROVAR) assessment and thus have no identified criminogenic needs. Thus, (82.3%) have not had an ION completed. Of the 151 (17.7%) clients who have had an ION completed, 111 (73.5%) have an identified primary criminogenic need, 23 (15.2%) are low risk with no need identified, and 17 (11.3%) do not have an identified need despite having medium or high-risk levels; the majority of these clients had no court ordered treatment and were exited after less than 30 days. A total of 586 clients have been referred to community-based programs based on their identified need, 566 (96.6%) of those are court ordered referrals. Of the 265 not referred to community-based programs, 221 (83.4%) are low risk. On average, 57 new individuals are referred to AS supervision each month.

Substance abuse services are consistently identified as a top need of the population and have driven referrals to community organizations. Of the 131 individuals with an identified need, 100 or 76.3% have substance abuse as the primary need. In order to ensure individuals are being referred appropriately, the Probation Department has reviewed supervision strategies and continues to use an evidence-based risk and needs assessments to drive referrals and community supervision. The top three programs referred to have been Central Coast Headway, Alcoholics Anonymous, and Council on Alcoholism and Drug Abuse.

Conclusion

Overall, between July 1, 2022 and September 30, 2023, 750 or 94.3% of individuals on AS have been successful in completing their sentence, and 45 or 5.7% have been unsuccessful in completing their sentence. Through the targeted areas of enhancement and expansion to eligibility outlined herein, it is believed that the AS population will expand over time and numbers served will increase. Based on the greater understanding of the AS enrollment data and the trend developed so far, the EM Program has the potential to increase by 50% during the next year. Streamlining of the application process, narrowing of the time between application to enrollment, and effective supervision/monitoring of offenders while released in the community are some of the areas both SBSO and Probation are continuously working to improve. It is clear that there are also greater opportunities to work with applicants to assist in the completion of applications and remedy some barriers to enrollment. With new data points being tracked, which includes timelines from application to enrollment, and other key metrics, updated and more robust data will continue to be collected and will be made available in the coming year.

Attachments

Attachment A: Sheriff's Office Alternative Sentencing Rules and Regulations and Administrative Policy

Attachment B: Probation Alternative Sentencing Supervision Policy, Chapter 3232

Attachment C: Probation Alternative Sentencing Operational Procedures, Chapter 3233

Attachment D: Alternative Sentencing Power Point

Authored by:

Spencer Cross, Deputy Chief Probation Officer