

Summary

- This study calculates proportions served on the total sentence length and proportions on the total prison length of women EMD offenders released in FY08 by the New Mexico Corrections Department.
- Offenders earning 30 days credit for 30 days, served 50.0% of their prison sentence in FY08 and 63.0% of their total sentence in FY08.
- In FY08 almost 85% of those women released were offenders earning 30 days credit for 30 days served.
- The most common offense was Public Order (32.2%). Public Order offenses include Probation Violations, Parole Violations, Driving While Intoxicated, and Judicial Interference.
- The 2nd Judicial District contributed the greatest number of offenders and releases under the EMD policy. The 2nd, 3rd, 11th and 5th Judicial Districts accounted for 71.6% of the offenders.
- Parole violators (8/30) were the most common type of parole offender and served 92% of their total sentence and 82% of their prison sentence.
- In FY08 only 7 of 379 (1.8%) female releases were Serious Violent Offenders.

Time Served in New Mexico Prisons, FY 2008: *Analysis of the Impact of Earned Meritorious Deductions*

This report provides calculations of the average proportion of time served by female inmates released in fiscal year 2008 (July 1, 2007 – June 30, 2008) who earned credits to their sentences under the Earned Meritorious Deductions (EMD) statutory policy.

For background information on the EMD policy and its effects, see the two baseline studies completed on releases prior to the implementation of the EMD policy (Working Papers #16 and #30) and the reports on time served from fiscal year 2004 through fiscal year 2007 (*Time Served in New Mexico Prisons: Analysis of the Impact of Earned Meritorious Deductions*- fiscal years 2004 - 2007). It should be noted the New Mexico Corrections Department (NMCD) information system was not designed with this study in mind. This report and more than 50 other research reports by the NMSC are available on our web site:

<http://nmisc.unm.edu/reports.php>

Methodology

For FY08, we studied earned meritorious deductions for female inmates only. In FY09 we will study and report on earned meritorious deductions for male inmates only. For ensuing fiscal years we will rotate the study between female and male inmates.

In July 2008 NMSC staff obtained a list of female inmates who were released during FY 2008 from the NMCD. The list contained 441 women who had committed their crimes on or after July 1, 1999, and had prison release dates between July 1, 2007 and June 30, 2008, making them subject to the EMD statutory policy.

The list provided by the NMCD included (1) offenders with offense, arrest, sentence, or admission dates after July 1, 1999 and (2) offenders who were not subject to early release such as diagnostic evaluations or court-ordered releases. We attempted to collect the information for all the women released in FY08. We were not able to collect information on all female offenders for various reasons including; some files could not be located in the storage shed (onsite at the Women's Correctional Facility, the shed is used to store files of released offenders), some files were already archived, and some of the files were located in the facility at the time of our data collection. We were unable to collect 103 offenders for the analysis; however, this year's sample was nearly double that of last years (338 compared to 169).

The study reports the average proportion of time served for our sample of valid releases during FY08. This represents 338 offenders and 379 releases, indicating that a number of offenders had multiple releases during the reporting period. From the analyses that report the proportions of the total time served and prison time served, a number of records were eliminated based on dates that resulted in suspicious estimates.

Information About Releases

Female offenders in the study do not represent a random sample of all FY08 female releases because FY08 releases also include offenders serving time under an older good time policy. Therefore the characteristics reported here may be unusual, especially compared to the prison population

EARNED MERITORIOUS DEDUCTIONS STATUTORY POLICY

Offenders who committed their crimes on or after July 1, 1999 or violated their parole on a crime committed on or after July 1, 1999, are subject to the Earned Meritorious Deductions statutory policy. Under this policy, offenders convicted of the following "serious violent crimes" as defined by New Mexico statute will only receive up to 4 days of credit for 30 days served (4/30):

- second degree murder (first degree murder is not subject to any meritorious deductions)
- voluntary manslaughter
- third degree aggravated battery
- first degree kidnapping
- first and second degree criminal sexual penetration
- second and third degree criminal sexual contact of a minor
- first and second degree robbery
- second degree aggravated arson
- shooting at a dwelling or occupied building
- shooting at or from a motor vehicle
- aggravated battery upon a peace officer
- aggravated assault upon a peace officer
- assault with intent to commit a violent felony upon a peace officer

The following list of violent offenses are also considered to be "serious violent offenses" when the nature of the offense and the resulting harm are such that the court judges the crime to be so, and are also subject to 4 days of credit for 30 days served (4/30):

- involuntary manslaughter
- fourth degree aggravated assault
- third degree assault with intent to commit a violent felony
- third and fourth degree aggravated stalking
- second degree kidnapping

- second degree abandonment of a child
- first, second, and third degree abuse of a child
- third degree dangerous use of explosives
- third and fourth degree criminal sexual penetration
- fourth degree criminal sexual contact of a minor
- third degree robbery
- third degree homicide by vehicle or great bodily injury by vehicle
- battery upon a peace officer

Parole violators convicted under this statutory policy would also be subject to reduced credit eligibility. Parole violators who are convicted of new crimes or are found to be absconders may receive up to 4 days of credit for 30 days served. Parole violators revoked for technical violations may receive up to 8 days of credit for 30 days served (8/30 or 30/30). All other types of offenders would continue to receive up to 30 days for 30 days served (30/30).

Note that under the EMD policy, inmates may not receive any credits during their first 60 days in prison. Prisoners confined in federal, out-of-state, and in private facilities are eligible for EMD. EMD can be forfeited for misconduct or restored for exemplary conduct or work performance. Prisoners are kept informed of their EMD status on a quarterly basis.

Additionally, the policy allows the opportunity for an offender to earn "lump sum awards" for activities such as successfully completing an approved vocational, substance abuse or mental health program, or for earning various educational degrees.

as a whole. We do not have information on all offenders released during the time period so it is not possible to report any differences.

Offender Demographics

Of the 338 women who were included in this study, their ages ranged from 20 to 63 years with the average age at admission being 34.7 years (Table 1).

The largest number and percentage of releases were from the Second Judicial District (Bernalillo County), with the Fifth Judicial District (Chaves County, Eddy County, and Lea County) closely behind (79 offenders or 23.4% of releases and 76 offenders or 22.5% of releases respectively). Next, the Third Judicial District (Dona Ana County) accounted for 13.6% of releases followed by the Eleventh Judicial District (San Juan County and McKinley County) with 12.1%. All together, these four judicial districts accounted for 71.6% of the offenders (Table 2).

Table 1. AGE AT PRISON ADMISSION

Age	Frequency	Percentage
15-21	7	2.1
22-25	49	14.5
26-30	76	22.6
31-35	57	16.9
36-40	69	20.5
41-45	42	12.5
46-50	23	6.8
51-63	14	4.2
Total	337	100.0

Source: NMCD GTFS data based on unduplicated individuals. Age data missing in 1 cases.

District	Frequency	Percentage
1	5	1.5
2	79	23.4
3	46	13.6
4	7	2.1
5	76	22.5
6	7	2.1
7	14	4.1
8	1	0.3
9	27	8.0
10	3	0.9
11	41	12.1
12	24	7.1
13	8	2.4
Total	338	100.0

Analysis of Time Served

Offense types are described in Table 3. The most common offense type was Public Order (32.2%). Public Order offenses include Probation Violations, Parole Violations, Driving While Intoxicated, and Judicial Interference. Nearly 15% of offenders were convicted of a Serious Violent offense.

In this report we distinguish between two types of sentence length:

- *Total Sentence Length*: the total number of years in prison set by the court at sentencing – this includes time served in jail before sentencing and/or after sentencing and before transfer to prison
- *Prison Facility Sentence Length*: the total sentence length (defined above) minus any credits for time served outside the prison facility (usually in a local jail) – this is the time served in prison, from the day the offender enters prison to the expected full time release date.

The sample included 314 offenders earning 30 days credit for 30 days served, 39 4/30 releases, and 26 parole violator 8/30 releases (Table 4). The vast majority (79.7%) of those released in this sample had a parole term to serve and a minority (20.3%) were discharged from prison with no parole term (Table 5). *Discharged releases* are offenders who either served their complete parole term in prison or were revoked back to prison to complete their parole term in a prison facility.

Table 7 reports the proportion of the total sentence served and the proportion of prison sentence served for

Offense	Frequency	Percentage
Violent	50	14.8
Homicide	5	1.5
Sexual Offenses	1	0.3
Armed Robbery	1	0.3
Other Homicide	0	0.0
Other Sexual Offenses	0	0.0
Kidnapping	1	0.3
Robbery	8	2.4
Battery	14	4.1
Assault	5	1.5
Other Violent Offenses	15	4.4
Property	93	27.6
Burglary	18	5.3
Larceny - Theft	7	2.1
Motor Vehicle Theft	9	2.7
Arson	1	0.3
Fraud	54	16.0
Stolen Property	4	1.2
Other Property	0	0.0
Drug	86	25.4
Drug Trafficking	43	12.7
Drug Possession	43	12.7
Public Order	109	32.2
Weapons	2	0.6
Driving While Intoxicated	26	7.7
Judicial Interference	6	1.8
Probation Violation / Technical Parole Violation	75	22.1
Other Public Order	0	0.0
Total	338	100.0

EMD categories. Parole violators are split into 3 categories. Parole violators (4/30) represent offenders who either abscond or have an alleged commission of a new felony offense. Parole violators (8/30) represent offenders who convicted of a SVO or failed to pass a drug test administered as a condition of parole. Parole violators (30/30) represent offenders who violated their parole and were convicted of a nonviolent offense. Parole violators (4/30) were the most common type of parole offender and served 95% of their total sentence and 88% of their prison sentence. Offenders serving sentences on a new conviction (Basic Sentence/IHP 30/30) on a nonviolent charge served 63% of their total sentence and 50% of their prison sentence.

Type	Frequency	Percentage
30/30	314	82.8
4/30	39	10.3
8/30	26	6.9
Total	379	100.0

Source: NMCD GTFS data based upon the number of releases.

Type	Frequency	Percentage
Parole	302	79.7
Discharge	77	20.3
Total	379	100.0

Source: NMCD GTFS data based upon the number of releases.

Type	Frequency	Percentage
Basic Sentence	184	48.5
Probation Violation	74	19.6
Parole Violator	77	20.3
In-House Parole	44	11.6
Total	379	100.0

Source: NMCD GTFS data based upon the number of releases.

EMD Type	Number	Total Sentence		Prison Sentence
		Number	Percentage	
SVO (4/30)	7	7	84.0%	82.0%
Parole Violation (4/30)	29	29	95.0%	88.0%
Parole Violation (8/30)	26	26	92.0%	83.0%
Parole Violation (30/30)	21	21	76.0%	58.0%
Probation Violation	74	74	66.0%	51.0%
Basic Sentence or IHP (30/30)	216	216	63.0%	50.0%
Overall Average			64.0%	50.0%

About This Study

The EMD policy was part of the Sentencing Standards Package proposed by the NMSC to the New Mexico State Legislature in 1999. NMSC is statutorily mandated to provide an analysis of the average reduction in the sentence of imprisonment due to meritorious deductions earned by prisoners.

(NMSA 31-18-15G). This report is the fulfillment of that mandate for FY08.

Acknowledgments

This study would not be possible without the help of the New Mexico Corrections Department.

About The Commission

The New Mexico Sentencing Commission serves as a criminal and juvenile justice policy resource to the State of New Mexico. Its mission is to provide information, analysis, recommendations, and assistance from a

coordinated cross-agency perspective to the three branches of government and interested citizens so that they have the resources they need to make policy decisions that benefit the criminal and juvenile justice systems. The Commission is made up of members from diverse parts of the criminal justice system, including members of the Executive and Judicial branches, representatives of lawmakers, law enforcement officials, criminal defense attorneys, and members of citizens' interest groups. 