



Time Served in New Mexico Prisons, FY 2019: Analysis of the Impact of Earned Meritorious Deductions

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Summary

- This study calculates proportions served on the total sentence lengths and proportions on the total prison length of male EMD offenders released in FY19 by the New Mexico Corrections Department
- Male Serious Violent Offenders served 91.8% of their total sentence and 87.6% of their prison sentence in FY19.
- Male offenders earning 30 days credit for 30 days served, served 66.2% of their total sentence and 53.7% of their prison sentence in FY19.
- In FY19, 72.7% of the men released were offenders earning 30 days credit for 30 days served.
- The most common offenses were Public Order offenses (34.4%). These 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, 5th, and 4rd Judicial Districts combined accounted for 57.7% of the offenders.

This report provides calculations of the average proportion of time served by male inmates released in fiscal year 2019 (July 1, 2018 – June 30, 2019) who earned deductions 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 2015 (Time Served in New Mexico Prisons: Analysis of the Impact of Earned Meritorious Deductions – fiscal years 2004-2015). It should be noted the New Mexico Corrections Department (NMCD) information system was not designed with this study in mind. This report and other research reports by the NMSC are available on our website: <https://nmsc.unm.edu/>

Methodology

In this report (FY19) we are reporting on male inmates only. Each fiscal year we rotate the study between male and female inmates.

In July 2019 NMSC staff obtained a list of all inmates released who had committed their crimes on or after July 1, 1999 making them subject to the EMD statutory policy. These inmates had prison release dates between July 1, 2018 and June 30, 2019. From this list we extracted all male inmates which was 2,762 offenders.

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 men released who were subject to the EMD statutory policy in FY19. We ultimately ended up with a sample of 15.5% of men released under the EMD statutory policy for a total of 429 offenders.

The study reports the average proportion of time served for our sample of valid releases of time served for our sample of valid releases during FY19. This represents 429 offenders of 538 releases, indicating that a number of offenders had multiple releases or changes in prison status 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

Male offenders in the study do not represent a random sample of all FY19 male releases because FY19 also includes offenders serving time under an older good time policy. Therefore, the characteristics reported here may be unusual, especially compared to the prison population 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.

Definitions¹

- Total Sentence Length: the total number of time 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.
- EMD Types represent what an individual can earn in sentence deductions for every 30 days served. For example, if an individual would earn four days for every 30 days served it would be donated as 4/30).
- Serious Violent Offenders (SVO) (4/30) represent offender who have a probation violation, a basic sentence, or release eligible inmates whose underlying charge is considered an SVO.
- 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 are revoked for violations such as failing to pass a drug test administered as a condition of parole.
- Other Offenders (30/30) represent offenders who have probation violations, basic sentences, or are in house parolees who are not SVO.

Analysis of Time Served

EMD Type	Number	Total Sentence	Number	Prison Sentence
SVO (4/30)	60	91.8%	60	87.6%
Parole Violation (4/30)	40	97.4%	40	89.1%
Parole Violation (8/30)	45	91.7%	45	81.8%
Parole Violation (30/30)	37	78.3%	37	62.5%
Other Offenders (30/30)	354	66.2%	354	53.7%
OVERALL AVERAGE	538 ²	74.3%	538 ²	63.1%

In Table 1 Parole Violators (8/30) were the most common type of parole offender and served 91.7% of their total sentence and 81.8% of their prison sentence. Offenders serving sentences on a new conviction (Basic Sentence/ Release Eligible Inmates 30/30) on a nonviolent charge served 66.2% of their total sentence and 53.7% of their prison sentence.

EMD Type	Frequency	Percentage
SVO (4/30)	60	11.2%
Parole Violation (4/30)	40	7.4%
Parole Violation (8/30)	45	8.4%
Parole Violation (30/30)	37	6.9%
Other Offenders (30/30)	354	66.1%
TOTAL	538 ²	100%

Table 2 shows the sample included 391 offenders earning 30 days credit for 30 days served, 100 4/30 releases, and 45 parole violator 8/30 releases.

Type	Frequency	Percentage
Basic Sentence	185	34.4%
Probation Violator	113	21.0%
Parole Violator	122	22.7%
Release Eligible	118	21.9%
TOTAL	538	100%

Table 3 breaks out releases by type of admission and shows that 34.4% of the releases were offenders admitted on a basic sentence while a total of 43.7% were probation or parole violators.

Type	Frequency	Percentage
Parole	369	68.6%
Discharge	169	31.4%
TOTAL	538	100%

Table 4 shows that the majority (68.6%) of those released in the sample had a parole term to serve and a minority (31.4%) were discharged from prison with no parole term. Discharge refers to 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.

Offender Demographics

Table 5. AGE AT PRISON ADMISSION		
Age	Frequency	Percentage
21 & under	11	2.6%
22-25	51	11.9%
26-30	97	22.6%
31-35	95	22.1%
36-40	64	14.9%
41-45	48	11.2%
46-50	26	6.1%
51+	37	8.6%
Total	429	100%

Table 5 shows that of the 429 men who were included in this study, their ages ranged from 19 to 75 years. The average age at admission being 35.1 years.

Table 6. JUDICIAL DISTRICTS		
District	Frequency	Percentage
1	18	4.2%
2	141	32.9%
3	44	10.3%
4	10	2.3%
5	62	14.5%
6	11	2.6%
7	16	3.7%
8	12	2.8%
9	24	5.6%
10	5	1.2%
11	32	7.5%
12	38	8.9%
13	16	3.7%
TOTAL	429	100%

Table 6 illustrates that the largest number and percentage of releases were from the Second Judicial District (Bernalillo County), with 141 offenders, or 32.9% of released offenders. Next the Fifth Judicial District (Chavez, Eddy, and Lea counties) accounted for 14.5% of released offenders, followed by the Third Judicial District (Dona Ana county) for 10.3% of released offenders. Together, these three judicial districts accounted for 57.7% of the offenders.

Table 7. OFFENSE TYPES		
Offense	Frequency	Percentage
VIOLENT	162	30.1%
Homicide	13	2.4%
Sexual Offenses	16	3.0%
Armed Robbery	11	2.0%
Other Homicide	11	2.0%
Other Sexual Offenses	5	0.9%
Kidnapping	8	1.5%
Robbery	5	0.9%
Battery	48	8.9%
Assault	18	3.3%
Other Violent Offenses	27	5.0%
PROPERTY	98	18.2
Burglary	35	6.5%
Larceny - Theft	20	3.7%
Motor Vehicle Theft	31	5.8%
Arson	1	0.2%
Fraud	8	1.5%
Stolen Property	2	0.4%
Other Property	1	0.2%
DRUG	93	17.3%
Drug Trafficking	40	7.4%
Drug Possession	53	9.9%
PUBLIC ORDER	185	34.4%
Weapons	6	1.1%
Driving While Intoxicated	18	3.3%
Judicial Interference	13	2.4%
Probation/Parole Violation	147	27.3%
Other Public Order	1	0.2%
TOTAL	538	100%

Table 7 describes the inmates by the first entry in their file within FY19 by their most serious offense. The most common offense type was Public Order (34.4%). These offenses include probation violations, parole violations, driving while intoxicated, weapons, and judicial interference. 30.1% of offenders were convicted of a Violent offense.

Endnotes:

- 1: For further details, see the earned meritorious deductions statutory policy at the end of this report.
- 2: There were 2 individuals without an EMD type.

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 batter
- 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 the 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 their 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 violations may receive up to 8 days of credit for 30 days served (8/30). All other types of offenders would continue to receive up to 30 days credit for 30 days served (30/30).

Note that under the EMD policy, non-violent inmates may receive 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.

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 FY19.

Acknowledgment

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

About the Commission

The New Mexico Sentencing Commission (NMSC) serves as a criminal and juvenile justice policy resource to the three branches of state government and interested citizens. Its mission is to provide impartial information, analysis, recommendations, and assistance from a coordinated cross-agency perspective with an emphasis on maintaining public safety and making the best use of our criminal and juvenile justice resources. The Commission is made up of members of the criminal justice system, including members of the Executive and Judicial branches, representatives of lawmakers, law enforcement officials, criminal defense attorneys, and citizens.