

## Summary

- This study calculates proportions served on the total sentence length and proportions on the total prison facility sentence length of male EMD offenders released in FY09 by the New Mexico Corrections Department.
- Male Serious Violent Offenders served 89.3% of their total sentence length and 85.4% of their prison facility sentence length in FY09.
- Male offenders earning 30 days credit for 30 days, served 61.5% of their total sentence length and 51.5% of their prison facility sentence length in FY09.
- In FY09, 74% of those men released were offenders earning 30 days credit for 30 days served.
- The most common offense was Public Order offenses (31.2%). Public Order offenses include Probation Violations, Parole Violations, Driving While Intoxicated, and Judicial Interference.
- The 2nd Judicial District contributed the greatest number and percent of offenders and releases under the EMD policy. The 2nd, 3rd, 11th and 5th Judicial Districts accounted for 71.6% of the offenders.

## Time Served in New Mexico Prisons, FY 2009: *Analysis of the Impact of Earned Meritorious Deductions*

This report provides calculations of the average proportion of time served by male inmates released in fiscal year 2009 (July 1, 2008 – June 30, 2009) 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 2008 (Time Served in New Mexico Prisons: *Analysis of the Impact of Earned Meritorious Deductions*- fiscal years 2004 - 2008). 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://nmsc.unm.edu/nmsc\\_reports/prison/](http://nmsc.unm.edu/nmsc_reports/prison/)

### Methodology

For FY08, we studied earned meritorious deductions for female inmates only. In this report (FY09) we report on male inmates only. In FY10 we will study and report on earned meritorious deductions for female inmates only. For ensuing fiscal years we will rotate the study between female and male inmates.

In July 2009 NMSC staff obtained a list of all inmates released in FY 2009. From this list we extracted all male inmates who were released during the time period. The list contained 2,845 men who had committed their crimes on or after July 1, 1999 making them subject to the EMD statutory policy and had prison release dates between July 1, 2008 and June 30, 2009.

Similar to previous years we decided to sample from the total population of releases for two reasons. First, the number of male releases was sufficiently large that a 100% sample was not necessary to complete the study and second, the amount of resources required to collect a 100% sample was prohibitive. We collected a statistically large enough sample to conduct the analyses and to provide reliable estimates (95% confidence level, 3.5 confidence interval).

We were not able to collect information on all male offenders in the sample for various reasons including; some files had not arrived at records at the time of our data collection, and some of the files were located in a facility because the offender was back in prison. We excluded any offenders who were admitted as a diagnostic evaluation, were court ordered releases, or were admitted as a parole violation sanction.

The study reports the average proportion of time served for the sample of valid releases during FY09. This represents 680 offenders and 742 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. This primarily included estimates of prison time served that were negative.

### Information About Releases

Male offenders in the study do not represent a random sample of all FY09 male releases because FY09 releases also include offenders serving time under an older good time policy. Therefore the characteristics reported here may

## 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

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.

### Offender Demographics

Of the 680 men who were included in this study, their ages ranged from 18 to 72 years with the average age at admission being 34.5 years (Table 1).

The largest number and percentage of releases were from the Second Judicial District (Bernalillo County), 216 offenders or 31.8% of released offenders. Next, the Third Judicial District (Dona Ana County) accounted for 15.7% of releases followed by the Eleventh Judicial District (San Juan County and McKinley County) with 13.4%, and the Fifth Judicial District (Chaves, Eddy, and Lea County) with 10.7%. All together, these four judicial districts accounted for 71.6% of the offenders (Table 2).

- 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). 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, 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.

### Analysis of Time Served

Offense types are described in Table 3. The most common offense type was Public Order (31.2%). Public Order offenses include Probation Violations, Parole Violations, Driving While Intoxicated, and Judicial Interference. Thirty percent 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

Table 1. AGE AT PRISON ADMISSION

Age	Frequency	Percentage
15-21	40	5.9
22-25	109	16.1
26-30	139	20.5
31-35	114	16.8
36-40	92	13.5
41-45	71	10.5
46-50	56	8.2
51+	58	8.5
<b>Total</b>	<b>679</b>	<b>100.0</b>

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

Table 2. JUDICIAL DISTRICTS

District	Frequency	Percentage
1	22	3.2
2	216	31.8
3	107	15.7
4	10	1.5
5	73	10.7
6	21	3.1
7	19	2.8
8	12	1.8
9	40	5.9
10	7	1.0
11	91	13.4
12	31	4.6
13	31	4.6
<b>Total</b>	<b>680</b>	<b>100.0</b>

Table 3. OFFENSE TYPES

Offense	Frequency	Percentage
<b>Violent</b>	<b>205</b>	<b>30.1</b>
Homicide	2	0.3
Sexual Offenses	8	1.2
Armed Robbery	2	0.3
Other Homicide	19	2.8
Other Sexual Offenses	15	2.2
Kidnapping	6	0.9
Robbery	32	4.7
Battery	58	8.5
Assault	31	4.6
Other Violent Offenses	32	4.7
<b>Property</b>	<b>135</b>	<b>19.9</b>
Burglary	69	10.1
Larceny - Theft	11	1.6
Motor Vehicle Theft	15	2.2
Arson	2	0.3
Fraud	26	3.8
Stolen Property	9	1.3
Other Property	3	0.4
<b>Drug</b>	<b>128</b>	<b>18.8</b>
Drug Trafficking	74	10.9
Drug Possession	54	7.9
<b>Public Order</b>	<b>212</b>	<b>31.2</b>
Weapons	12	1.8
Driving While Intoxicated	99	14.6
Judicial Interference	19	2.8
Probation Violation / Technical Parole Violation	75	11.0
Other Public Order	7	1
<b>Total</b>	<b>680</b>	<b>100.0</b>

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 550 offenders earning 30 days credit for 30 days served, 144 4/30 releases, and 48 parole violator 8/30 releases (Table 4). The majority (65.0%) of those released in this sample had a parole term to serve and a minority (35.0%) were discharged from prison with no parole term (Table 5). *Discharged releases* are offenders who either served their complete parole term in prison, were revoked back to prison to complete their parole term in a prison facility, or were probation violators who complete their supervision in prison.

Table 7 reports the proportion of the total sentence length served and the proportion of prison facility sentence length served for 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 (30/30) were the most common type of parole offender and served 73.2% of their total sentence and 53.3% of their prison sentence. Offenders serving sentences on a new conviction (Basic Sentence/IHP 30/30) on a nonviolent charge served 61.5% of their total sentence and 51.5% of their prison sentence.

Figure 1 looks at the historical trend of total sentence length and prison facility sentence length from 2004 - 2009. In 2008 the information is based on females only and in 2009 the information is based on males only.

### 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 FY09.

Type	Frequency	Percentage
30/30	550	74.1
4/30	144	19.4
8/30	48	6.5
<b>Total</b>	<b>742</b>	<b>100.0</b>

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

Type	Frequency	Percentage
Parole	482	65.0
Discharge	260	35.0
<b>Total</b>	<b>742</b>	<b>100.0</b>

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

Type	Frequency	Percentage
Basic Sentence	350	47.2
Probation Violation	82	11.1
Parole Violator	218	29.4
In-House Parole	92	12.4
<b>Total</b>	<b>742</b>	<b>100.0</b>

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

EMD Type	Number	Total Sentence	Number	Prison Sentence
SVO (4/30)	47	89.3%	47	85.4%
Parole Violation (4/30)	36	92.0%	36	82.4%
Parole Violation (8/30)	47	87.3%	47	76.5%
Parole Violation (30/30)	93	73.2%	93	53.3%
Other Offenders	435	61.5%	435	51.5%
<b>Overall Average</b>		<b>69.1%</b>		<b>59.0%</b>

### 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.

Figure 1. NMCD EMD Trends 2004 -2009  
(note that 2008 female only, 2009 male only)

