

## Summary

- This study calculates proportions served on the total sentence length and proportions on the total prison length of male EMD offenders released in FY17 by the New Mexico Corrections Department.
- Male Serious Violent Offenders served 94.4% of their total sentence and 89.2% of their prison sentence in FY17.
- Male offenders earning 30 days credit for 30 days served, served 73.4% of their total sentence and 53.1% of their prison sentence in FY17.
- In FY17, 73.9% of the men released were offenders earning 30 days credit for 30 days served.
- The most common offense was Public Order (69.1%). 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, and 5th Judicial Districts combined, accounted for 58.95% of the offenders.

## Time Served in New Mexico Prisons, FY 2017: *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 2017 (July 1, 2016 – June 30, 2017) who earned deductions to their sentences under the Earned Meritorious Deductions (EMD) statutory policy.

Each fiscal year the New Mexico Sentencing Commission (NMSC) rotates the study between male and female inmates. For FY17 this study is reporting on males.

### Methodology

In July 2017 the NMSC staff obtained a list of all inmates released between July 1, 2016 and June 30, 2017 from the New Mexico Corrections Department (NMCD). In this time frame, there were 3,118 unique male offenders released. From the 3,118 unique male inmates released, the NMSC randomly sampled 600 unique inmate files. The sample was then limited by the following factors: the inmate must have committed a crime on or after July 1, 1999; the inmate did not exceed their total sentence and/or prison sentence by more than 105%; the inmate file indicates a release within the time period; an inmate file must indicate a start date; an inmate file cannot be a court-ordered release.

After all the factors were used to limit the sampled 600 unique inmate files, only 514 unique inmate files remained. These 514 inmate files accounted for 695 releases. An individual can have multiple releases as an inmate may complete a basic sentence, serve in house parole, and be a parole violator within a fiscal year.

### Definitions<sup>1</sup>

- 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 denoted as (4/30).
- Serious Violent Offenders (SVO) (4/30) represent offenders who have a probation violation, a basic sentence, or release eligible inmates whose underlying charge is considered a 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.
- Parole violators (30/30) represent offenders who violated their parole and were convicted of a nonviolent offense.
- 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)	74	94.4%	74	89.2%
Parole Violation (4/30)	62	96.5%	62	88.3%
Parole Violation (8/30)	43	91.2%	43	81.4%
Parole Violation (30/30)	46	76.5%	46	59.8%
Other Offenders (30/30)	465	73.4%	465	53.1%
<b>Overall Average</b>	<b>690<sup>2</sup></b>	<b>79.2%</b>	<b>690</b>	<b>62.6%</b>

In Table 1 parole violators (30/30) were the most common type of parole offender and served 76.5% of their total sentence and 59.8% of their prison sentence. Offenders serving sentences on a new conviction (Basic Sentence/Release Eligible Inmates 30/30) on a nonviolent charge served 73.4% of their total sentence and 53.1% of their prison sentence.

Type	Frequency	Percentage
30/30	511	73.9%
4/30	136	19.8%
8/30	43	6.3%
<b>Total</b>	<b>690<sup>2</sup></b>	<b>100.0%</b>

Table 2 shows the sample included 511 offenders earning 30 days credit for 30 days served, 136 4/30 releases, and 43 parole violator 8/30 releases.

Type	Frequency	Percentage
Basic Sentence	193	27.8%
Probation Violator	121	17.4%
Parole Violator	155	22.3%
Release Eligible Inmates	226	32.5%
<b>Total</b>	<b>695</b>	<b>100.0%</b>

Table 3 breaks out releases by type of admission and shows that 27.8% of the releases were offenders admitted on a basic sentence while a total of 39.7% were probation or parole violators.

Type	Frequency	Percentage
Parole	469	67.5%
Discharge	226	32.5%
<b>Total</b>	<b>695</b>	<b>100.0%</b>

Table 4 shows that the majority (67.5%) of those released in the sample had a parole term to serve and a minority (32.5%) 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

Offense	Frequency	Percentage
<b>Violent</b>	<b>66</b>	<b>12.8%</b>
Homicide	2	0.4%
Sexual Offenses	14	2.7%
Armed Robbery	1	0.2%
Other Homicide	2	0.4%
Other Sexual Offenses	2	0.4%
Kidnapping	3	0.6%
Robbery	6	1.2%
Battery	23	4.5%
Assault	10	1.9%
Other Violent Offenses	3	0.6%
<b>Property</b>	<b>35</b>	<b>4.9%</b>
Burglary	12	2.3%
Larceny - Theft	6	1.2%
Motor Vehicle Theft	7	1.4%
Arson	1	0.2%
Fraud	5	1.0%
Stolen Property	0	0.0%
Other Property	4	0.8%
<b>Drug</b>	<b>58</b>	<b>11.3%</b>
Drug Trafficking	25	6.4%
Drug Possession	33	4.9%
<b>Public Order</b>	<b>355</b>	<b>69.1%</b>
Weapons	9	1.8%
Driving While Intoxicated	24	4.7%
Judicial Interference	29	2.4%
Probation Violation / Parole Violation	282	54.9%
Other Public Order	8	1.6%
Other Offenses	3	0.6%
<b>Total</b>	<b>514</b>	<b>100.0%</b>

Table 5 describes the inmates by the first entry in their file within FY 17 by their most serious offense. The most common offense type was Public Order (69.1%). Public Order offenses include Probation Violations, Parole Violations, Driving While Intoxicated, and Judicial Interference. 12.8% of offenders were convicted of a Violent offense.

District	Frequency	Percentage
1	31	6.0%
2	166	32.3%
3	52	10.1%
4	14	2.7%
5	85	16.5%
6	19	3.7%
7	13	2.5%
8	11	2.1%
9	32	6.2%
10	13	2.5%
11	30	5.8%
12	25	4.9%
13	23	4.5%
<b>Total</b>	<b>514</b>	<b>100.0%</b>

Table 6 illustrates that the largest number and percentage of releases were from the Second Judicial District (Bernalillo County), with 166 offenders, or 32.3%, of released offenders. Next, the Fifth Judicial District (Chaves, Eddy, and Lea County) accounted for 16.5% of released offenders, followed by the Third (Doña Ana) for 10.1% of released offenders. Together, these three judicial districts accounted for 58.9% of the offenders.

Age	Frequency	Percentage
21 & under	15	2.9%
22-25	76	14.8%
26-30	99	19.3%
31-35	110	21.4%
36-40	71	13.8%
41-45	47	9.1%
46-50	42	8.2%
51+	54	10.5%
<b>Total</b>	<b>514</b>	<b>100.0%</b>

Table 7 shows that of the 514 men who were included in this study, their ages ranged from 20 to 64 years. The average age at admission being 35.4 years.

## Endnotes:

1: For further details, see the earned meritorious deductions statutory policy at the end of this report.

2: There were five individuals without an EMD type.

## 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 (N.M. STAT. ANN. § 31-18-15(G) (2016)). This report is the fulfillment of that mandate for FY17.

## 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.

## Acknowledgment

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

## 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. (N.M. STAT. ANN. § 33-2-34 (2015)) 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 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.