



New Mexico Sentencing Commission

November 2004

Summary

- This study calculates proportions served on the total sentence length and proportions on the total prison length of EMD offenders released in FY04 by the New Mexico Department of Corrections.
- Serious Violent Offenders served 86.3% of their prison sentence and 89.6% of their total sentence in FY04.
- Offenders earning 30 days credit for each day served, served 55.6% of their prison sentence in FY04 and 64.3% of their total sentence in FY04.
- This FY2004 study reports a greater number of offenders than has been reported in previous years. The study reports on 1,264 releases which represent 1,071 offenders with prison release dates between July 1, 2003 and June 30, 2004 (FY04) who had credible admission and release dates.
- Almost 750 staff hours were required to complete this study. In the future automated GTFS data should reduce the amount of time to complete this annual study.
- The 2nd and 11th Judicial Districts continue to contribute the greatest number of offenders and releases under the EMD policy.
- Women in FY04 served similar proportions of their total sentence and slightly lower proportions of their prison sentences compared to men.

Time Served in New Mexico Prisons, FY 2004: *Analysis of the Impact of Earned Meritorious Deductions*

This report provides calculations of the average proportion of time served by inmates released in fiscal year 2004 (July 1, 2003 – June 30, 2004) 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), the report completed on time served from fiscal year 2001 (Time Served in Prison, FY 2001), and the preliminary report on time served from fiscal year 2002 (Time Served in Prison, FY 2002). The New Mexico Sentencing Commission (NMSC) attempted but was not able to complete a time served report for fiscal year 2003 using only automated data stored in the good time figuring module of the New Mexico Corrections Department's (NMCD) Criminal Management Information System (CMIS). This occurred because the automated data stored in the module had only recently been entered and contained too many errors to be used for this study. It should be noted that the CMIS data were not created with this study in mind. This report and nearly 40 other research reports by the NMSC are available on our web site:

<http://www.nmssc.state.nm.us/reports.htm>

Methodology

In July 2004 NMSC staff obtained a list of offenders who were released during FY 2004 from the NMCD. The list contained 1,609 individuals (1,620 releases), who had committed their crimes on or after July 1, 1999, or prison release dates between July 1,

2003 and June 30, 2004, making them subject to the EMD statutory policy.

After discussion with NMCD staff it was determined that the automated data, though more complete than the previous fiscal year, was still not clean enough to be used for this study. It is hoped that automated data can be used for this study in the next two years.

From the list provided by the NMCD approximately 1,264 releases remained after eliminating (1) offenders with offense, arrest, sentence, or admission dates prior to July 1, 1999; (2) offenders subject to early release such as diagnostic evaluations or court-ordered releases; or (3) offenders who had died. Additionally, during the process of collecting copies of offender Good Time Figuring Sheets (GTFS) we could not locate or did not receive all of the requested sheets from the various prison facilities. Further, records were eliminated based on dates that resulted in suspicious estimates.

This study reports the average proportion of time served for the 1,264 valid releases during FY04. This represents 1,071 offenders, indicating that a number of offenders had multiple releases during the reporting period.

Information About Releases

Offenders in this study do not represent a random sample of all FY04 releases because FY04 releases also include offenders serving time under older good time policies. 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

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). 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.

during the time period so it is not possible to report any differences. One consequence of this study is the number of serious violent offenders (SVO) released in FY04 may be lower than what we might see in future years and studies.

Offender Demographics

The offenders included in this study were 881 males (82.3%) and 190 females (17.7%). Ages ranged from 15 to 73 years with the average age at admission being 33 years (Table 1).

As expected, the largest number and percentage of releases were from the Second Judicial District (Bernalillo County). The Eleventh Judicial District (San Juan County and McKinley County) was close behind, followed by the Third Judicial District (Dona Ana County), and the Fifth Judicial District (Chaves County,

Eddy County, and Lea County). These four judicial districts accounted for 68.8% of the offenders (Table 2).

Analysis of Time Served

Offense types are described in Table 3. Sex offenders represented 2.2% of all offenders released under EMD. Probation violations and technical parole violations represent the largest percentage of offenses in the study.

In the analysis of FY01 and FY02 releases, very few serious violent offenders (those receiving up to 4 days credit per 30 days served) had been released. Our analysis of FY04 releases show that 4.7% were classified as serious violent offenders.

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

Table 1. AGE AT PRISON ADMISSION

Age	Frequency	Percentage
15-21	118	11.1
22-25	182	17.1
26-30	188	17.6
31-35	156	14.6
36-40	171	16.0
41-45	135	12.7
46-50	73	6.8
51+	43	4.0
Total	1,066	100.0

Source: NMCD GTFS data based on unduplicated individuals. Age data missing in 5 cases.

Table 2. JUDICIAL DISTRICTS

District	Frequency	Percentage
1	34	3.2
2	244	22.8
3	133	12.4
4	15	1.4
5	123	11.5
6	25	2.3
7	28	2.6
8	35	3.3
9	64	6.0
10	17	1.6
11	237	22.1
12	61	5.7
13	54	5.1
Total	1,071	100.0

Table 3. OFFENSE TYPES

Offense	Frequency	Percentage
Violent	207	19.3
Homicide	8	0.7
Sexual Offenses	10	0.9
Armed Robbery	6	0.6
Other Homicide	7	0.7
Other Sexual Offenses	14	1.3
Kidnapping	3	.3
Robbery	21	2.0
Battery	60	5.6
Assault	29	2.7
Other Violent Offenses	48	4.5
Property	251	23.4
Burglary	90	8.4
Larceny - Theft	31	2.9
Motor Vehicle Theft	28	2.6
Arson	3	0.3
Fraud	73	6.8
Stolen Property	22	2.1
Other Property	3	0.3
Drug	157	14.6
Drug Trafficking	70	6.5
Drug Possession	87	8.1
Public Order	458	42.7
Weapons	13	1.2
Driving While Intoxicated	140	13.1
Judicial Interference	24	2.2
Probation Violation/ Technical Parole Violation	267	24.9
Other Public Order	14	1.3
Total	1,071	100.0

- *Total Sentence Length*: the total number of years in prison set by 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 jail) – this is the time served in prison, from the day the offender enters prison to the expected full time release date.

As noted, 1,264 releases were included in this study out of a possible 1,620 releases identified by the NMCD. The sample included 1,003 offenders earning 30 days credit for 30 days served, 123 4/30 releases, and 135 parole violator 8/30 releases (Table 4). The vast majority (82%) of those released in this sample had a parole term to serve and a minority (18%) were discharged from prison with no parole term (Table 5). *Discharged releases* are those that either served their complete parole term in prison or were revoked back to prison to complete their parole term in a facility.

Table 7 reports the proportion of the total sentence served and the proportion of prison sentence served for EMD categories. The percentage of prison sentences served by SVO's increased from 78.5% in FY02 to 86.3% in FY04. Additionally, SVO's served 89.6% of their total sentence. Technical parole violators (8/30) served 88% of their total sentence and 79.9% of their prison sentence. All other types of offenders, receiving day-for-day earned time, served 64.3% of their total sentence and 55.6% of their prison sentence.

In FY04 on average, women and men served a similar proportion of their total sentence (68.8 % for men and 69.3% for women). Men served a higher proportion (62.4%) of their prison sentence than women (57.9%). Among technical parole violators, men served higher proportions of their total sentence (87.8%) than women (78.3%) and women served higher proportions of their prison sentence in this type (women 87.3% to 80.2% for men). In the other offenders type, women served slightly higher proportion of their total sentence (66.7%) than men (63.7%) and similar proportions of their prison sentence (55% for women and 57% for men) (Table 8).

Table 4. TYPE OF EMD

Type	Frequency	Percentage
30/30	1,003	79.5
4/30	123	9.8
8/30	135	10.7
Total	1,261	100.0

Source: NMCD GTFS data based upon the number of releases. Missing 3 records.

Table 5. TYPE OF RELEASE

Type	Frequency	Percentage
Parole	1,037	82.3
Discharge	223	17.7
Total	1,260	100.0

Source: NMCD GTFS data based upon the number of releases. Missing 4 records.

Table 6. TIME SERVED BY TYPE

Type	Frequency	Percentage
Basic Sentence	722	57.1
Probation Violation	180	14.3
Parole Violator	185	14.6
In-House Parole	177	14.0
Total	1,264	100.0

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

About This Study

Almost 750 staff hours were required to conduct this study and report. In the future automated GTFS data should reduce the amount of time to complete this annual study.

The EMD policy was part of the Sentencing Standards Package proposed by the NMSC to the 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 FY04. The NMSC will be working with NMCD to report on the effect of the EMD law on the prison population.

Acknowledgments

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

Table 7. AVERAGE PROPORTION OF SENTENCE SERVED AND PRISON SENTENCE

EMD Type	Number	Total Sentence	Number	Prison Sentence
SVO (4/30)	53	89.6%	56	86.3%
Parole Violation (4/30)	35	90.1%	42	83.0%
Parole Violation (8/30)	125	88.0%	123	79.9%
Other Offenders (30/30)	935	64.3%	957	55.6%
Overall Average		69.3%		61.7%

Table 8. AVERAGE PROPORTION OF SENTENCE SERVED AND PRISON SENTENCE BY GENDER

Gender	Type	Number	Total Sentence	Number	Prison Sentence
Male	SVO (4/30)	49	90.4%	52	87.1%
	Parole Violators (4/30)	29	88.5%	39	82.4%
	Technical Parole Violators (8/30)	103	87.8%	105	80.2%
	Other Offenders (30/30)	744	63.7%	765	57.0%
	<i>Male Average</i>		<i>68.8%</i>		<i>62.4%</i>
Female	SVO (4/30)	4	80.1%	4	76.9%
	Parole Violators (4/30)	2	96.7%	3	91.4%
	Technical Parole Violators (8/30)	18	78.3%	20	87.3%
	Other Offenders (30/30)	191	66.7%	192	55.0%
	<i>Female Average</i>		<i>69.3%</i>		<i>57.9%</i>

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.

