

Summary

- This study calculates proportions served on the total sentence length and the total prison length of female EMD offenders released in FY12 by the New Mexico Corrections Department.
- Female Serious Violent Offenders served 87.6% of their prison sentence and 89.3% of their total sentence in FY12.
- Female offenders earning 30 days credit for 30 days served, served 50.2% of their prison sentence in FY12 and 61.1% of their total sentence in FY12.
- In FY12, 83.3% of those women released were offenders earning 30 days credit for 30 days served.
- The most common offense was Public Order (44.4%). 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, 9th and 5th Judicial Districts accounted for 65.9% of the offenders.

Time Served in New Mexico Prisons, FY 2012: *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 2012 (July 1, 2011 – June 30, 2012) 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 2011 (Time Served in New Mexico Prisons: *Analysis of the Impact of Earned Meritorious Deductions*- fiscal years 2004 - 2011). This report and more than 90 other research reports by the NMSC are available on our web site: <http://nmsc.unm.edu/>

Methodology

For FY11, we studied earned meritorious deductions for male inmates only. In this report (FY12) we are reporting on female inmates only. In FY13 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 2012 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, 2011 and June 30, 2012. From this list, we extracted all female inmates which was 397 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 women released who were subject to the EMD statutory policy in FY12. We ultimately ended up with a sample of 87.9% of women released under the EMD statutory policy for a total of 349 offenders. This is a sample that is 1.4% larger than the female sample in FY10.

The study reports the average proportion of time served for our sample of valid releases during FY12. This represents 349 offenders and 438 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.

Offender Demographics

Of the 349 women who were included in this study, their ages ranged from 19 to 70 years with the average age at admission being 34.6 years (Table 1).

The largest number and percentage of releases were from the Second Judicial District (Bernalillo County), 112 offenders or 32.1% of released offenders. Next, the Third Judicial District (Dona Ana County) accounted for 12.3% of releases followed by the Ninth Judicial District (Curry County and Roosevelt County) with 11.2%, and the Fifth Judicial District (Chaves, Eddy, and Lea County) with 10.3%. All together, these four judicial districts accounted for 65.9% of the offenders (Table 2).

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 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.

Analysis of Time Served

Offense types are described in Table 3. The most common offense type was Public Order (44.4%). Public Order offenses include Probation Violations, Parole Violations, Driving While Intoxicated, and Judicial Interference. Fifteen percent of offenders were convicted of a 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

Table 1. Age at Prison Admission

Age	Frequency	Percentage
19-21	11	3.2%
22-25	39	11.2%
26-30	76	21.8%
31-35	82	23.5%
36-40	53	15.2%
41-45	39	11.2%
46-50	33	9.5%
51+	16	4.6%
Total	349	100.0%

District	Frequency	Percentage
1	13	3.7%
2	112	32.1%
3	43	12.3%
4	5	1.4%
5	36	10.3%
6	12	3.4%
7	12	3.4%
8	2	0.6%
9	39	11.2%
10	1	0.3%
11	31	8.9%
12	34	9.7%
13	9	2.6%
Total	349	100.0%

the offender enters prison to the expected full time release date.

As noted earlier, the sample contained 438 releases. The vast majority (365) of offenders were earning 30 days credit for 30 days served, 53 were 4/30 releases, and 20 parole violator 8/30 releases (Table 4).

The majority (72.6%) of those released in this sample had a parole term to serve and a minority (27.4%) 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 6 breaks out releases by type of admission. Nearly half of the releases were offenders admitted on a basic sentence (45.7%). Thirty-three percent were probation or parole violators.

Type	Frequency	Percentage
30/30	365	83.3
4/30	53	12.1
8/30	20	4.6
Total	438	100.0

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

Offense	Frequency	Percentage
Violent	53	15.2%
Homicide	2	0.6%
Sexual Offenses	0	0.0%
Armed Robbery	2	0.6%
Other Homicide	2	0.6%
Other Sexual Offenses	1	0.3%
Kidnapping	3	0.9%
Robbery	9	2.6%
Battery	12	3.4%
Assault	3	0.9%
Other Violent Offenses	19	5.4%
Property	60	17.2%
Burglary	22	6.3%
Larceny - Theft	3	0.9%
Motor Vehicle Theft	0	0.0%
Arson	0	0.0%
Fraud	34	9.7%
Stolen Property	1	0.3%
Other Property	0	0.0%
Drug	81	23.2%
Drug Trafficking	43	12.3%
Drug Possession	38	10.9%
Public Order	155	44.4%
Weapons	0	0.0%
Driving While Intoxicated	11	3.2%
Judicial Interference	1	0.3%
Probation Violation / Parole Violation	142	40.7%
Other Public Order	1	0.3%
Other Offenses	0	0.0%
Total	349	100.0

Table 7 reports the proportion of the total sentence served and the proportion of prison sentence 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 are 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 95.1% of their total sentence and 89.0% of their prison

Table 5. TYPE OF RELEASE		
Type	Frequency	Percentage
Parole	318	72.6%
Discharge	120	27.4%
Total	438	100.0%

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

Table 6. TYPE OF ADMISSION		
Type	Frequency	Percentage
Basic Sentence	200	45.7%
Probation Violation	59	13.5%
Parole Violator	85	19.4%
In-House Parole	94	21.5%
Total	438	100.0%

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

sentence.

Offenders serving sentences on a new conviction (Basic Sentence/IHP 30/30) on a nonviolent charge served 61.1% of their total sentence and 50.2% of their prison sentence.

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 FY12.

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)	10	89.3%	10	87.6%
Parole Violation (4/30)	35	95.1%	35	89.0%
Parole Violation (8/30)	19	91.4%	19	82.3%
Parole Violation (30/30)	31	80.6%	31	64.8%
Other Offenders	246	61.1%	246	50.2%
Overall Average		67.6%		57.4%

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.