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NEW MEXICO BAIL BOND SCHEDULES: A Comparison of Bernalillo County's Bond Schedule to 21 New Mexico Jurisdictions

INTRODUCTION

The purpose of this brief report is to compare the approved Bernalillo County Metropolitan Court and the Second District Court bail-bond schedule for misdemeanors and felonies, to the bond schedules used in 21 other jurisdictions in New Mexico.

The purpose of a bail-bond schedule is to fix an amount upon which a person who is arrested without a warrant may be released from custody prior to appearance in court. Often called a "jailhouse bond," the bond is administered at the jail according to a court-approved schedule or list of offenses and the dollar amount assigned the offense. Bail is the guarantee – financial or otherwise – given by the accused that he will appear before the court regarding the accusation against him. Bail is not designed or meant to be used as a form of punishment. The purpose of bail is to secure the appearance of the accused in court. The idea being that the money bail system motivates the accused to return to court or to refrain from criminal activity upon release from jail pending the disposition of the case.

Reasonable bail is a concept found in English law and included in the Eighth Amendment of the U. S. Bill of Rights.

In New Mexico, the judges of the local courts set the bail-bond schedule for the local jail. The judges from the limited jurisdiction magistrate court or metropolitan court and judges from the general jurisdiction court (i.e., the district court) agree on the amount of the bonds in the bail-bond schedule used by the local jail. These schedules are occasionally adjusted but not on a set schedule. The Supreme Court or Court of Appeals does not set bail-bond schedules in New Mexico. Table 1 lists 21 jails and court locations – magistrate/metropolitan and district courts – in New Mexico used in this report.

The judges of the Second District Court approved the bond schedule used by the courts in Bernalillo County in April

Table 1 21 Jurisdictions with Bond Schedules

Cities and Counties	Date of Schedule
Las Cruces	06/20/07
Belen	06/15/11
DeBaca	10/01/13
Fort Sumner	06/14/11
Grants	05/04/11
Raton	06/14/11
Tucumcari	06/01/11
Otero	Unknown
Rio Arriba	Unknown
Bayard	10/05/10
Clovis/Curry	05/03/11
Eunice/Jal	06/13/11
Carlsbad	Unknown
Lordsburg	07/01/11
Truth or Consequences	06/13/11
Lea	Unknown
Cibola	Unknown
Roosevelt	Unknown
San Miguel	06/13/11
San Juan	Unknown
Santa Fe	06/13/11

2011. Before the change in 2011 the Bernalillo County bond schedule had not been changed since 1996. The changes in 2011 addressed bonds for violent crimes but did not address bond amounts for property crimes and drug offenses. According to an article in the Albuquerque Journal, dated December 7, 2010, the chief of police supported the 2011 changes, while a spokesperson for the NM Criminal Defense Lawyers Association advised that the changes would increase the jail population. The District Judge's committee felt that the changes would not have any negative impact on the jail.

METHOD

The list of charges and the bond amounts for Bernalillo County was taken from the second amended Bernalillo County bond schedule approved in April 2011. Using the respective bond schedules, offenses for the 21 jurisdictions

were matched to the Bernalillo County schedule by statute number and entered into an Excel spreadsheet for comparison. The bond amounts from the '21' were subtracted from the bond amounts in the Bernalillo County schedule. The results were recorded as being higher, lower, or equal to Bernalillo County. This method allowed for charges and bond amounts to be compared individually across all jurisdictions. We were interested in the bond schedules for the '21' compared to Bernalillo County.

Each jurisdiction's bond schedule had varying levels of detail. For example, Grants County only provided bond information for misdemeanors, petty misdemeanors, and driving while license suspended/revoked, whereas Las Cruces had a bond amount for crimes that were not accounted for in Bernalillo County's bond schedule. Due to the limited information regarding jurisdiction-by-jurisdiction bond amounts for crimes the majority of the bond values could not be compared to Bernalillo County. The bond amounts for crimes that could be compared were categorized as higher than, lower than, or equal to Bernalillo County.

ANALYSIS

The bond amounts for violent crimes such as, assault were higher in Bernalillo County. Bond amounts for assault, battery, and aggravated battery, battery on school personnel, and aggravated battery against household member were all higher in Bernalillo

County than the '21' for which comparable information was available. In many cases the bond for an offense was twice as high in Bernalillo County than other jurisdictions. The bond for a misdemeanor assault charge in Bernalillo County was \$1,000 whereas in Fort Sumner, Carlsbad, Raton, Truth of Consequences, Tucumcari, Lea County and Curry County the bond amount was \$500. Violent crimes and felony sexual offenses accounted for the greatest disparity in bond amounts.

Table 2 shows a comparison of Bernalillo County to the 21 other jurisdictions on 16 selected charges. The table shows: the Bernalillo County Bond Amount, the number of jurisdictions with bonds lower, higher, and equal to Bernalillo County, the number of jurisdictions that could not be compared to Bernalillo County, and the percentage of jurisdictions with higher bonds than Bernalillo County for each charge.

In Bernalillo County, the majority of sexual offenses such as criminal sexual penetration and criminal sexual contact of a minor carry a 'no bond hold.' For the purpose of this report, 'no bond hold' was considered to be more severe and higher in value than any dollar amount bond. Therefore while Belen uses a \$100,000 bond for criminal sexual penetration, it is lower than Bernalillo County. Truth or Consequences is the only other jurisdiction that uses a 'no bond hold' for felony sexual offenses equal to Bernalillo County. No bond holds appear across most jurisdictions when dealing with capital offenses. It is for this reason that

Table 2 Bond Amount Comparison						
Charge	Bernalillo Bond Amount	Counties with Lower Bond	Counties with Higher Bond	Counties with Equal Bond	Could not be compared	Percentage Higher than Bern Co.
Violent Crimes						
Murder	"No Bond Hold"	1	0	8	12	0%
Aggravated Assault	\$10,000	4	1	1	15	4.80%
Battery	\$2,500	8	0	0	13	0%
Assault against Household Member	\$2,500	7	3	0	11	14%
Battery against Household Member	\$5,000	9	2	2	11	9.50%
Property Damage						
Criminal Damage U/ 1000	\$2,500	6	1	0	14	4.80%
Criminal Damage O/ 1000	\$5,000	0	1	4	16	4.80%
Robbery	No Bond	4	0	1	16	0%
Motor Vehicle						
Driving While License Suspended or Revoked	\$500	1	11	5	4	52%
DWI 1 st	\$2,500	17	1	1	2	4.80%
DWI 2 nd	\$5,000	17	1	0	3	4.80%
DWI 3 rd	\$7,500	17	1	0	3	4.80%
DWI 4 th	\$15,000	13	3	0	5	14%
Sexual Offenses						
Criminal Sexual Penetration 1F	No Bond	6	0	1	14	0%
Criminal Sexual Contact of a Minor	No Bond	5	0	1	15	0%
Sexual Exploitation of Children	No Bond	0	0	0	18	0%

Charge	Bernalillo County Bond Amount	Counties with Lower Bond	Counties with Higher Bond	Counties with Equal Bond	Counties that could not be compared	Statewide Median Bond Amount*
Felony 4 th Degree	\$2,500	0	16	0	5	\$5,000
Felony 2 nd Degree	No Bond	14	0	1	6	\$25,000
Misdemeanor	\$500	0	17	0	4	\$1,000
Petty Misdemeanor	\$250	0	18	0	3	\$500

* Median does not include Bernalillo County

with seven other jurisdictions using a no bond hold, murder has the highest number of 'equal to' in comparison to Bernalillo County for all charges.

Driving while under the influence (DWI) offenses provided the most data across the 21 jurisdictions making it the most comparable. While most charges had from 12 to 20 jurisdictions that could not be compared to Bernalillo, DWI offenses had only five (5). This could be due to New Mexico's high number of DWI offenses and the attention and importance placed on these offenses. For DWI 1st, 2nd, and 3rd, Bernalillo County had a higher bond amount than 17 other jurisdictions and a higher bond amount than 13 jurisdictions for DWI 4th. Three jurisdictions had higher bonds than Bernalillo County for DWI 4th, and one jurisdiction had higher bond amounts than Bernalillo County for DWI 1st, 2nd, and 3rd. Interestingly, Driving While License Suspended or Revoked – a charge that often goes hand in hand with DWI 2nd and higher – was lower in Bernalillo County than other jurisdictions 52% of the time.

Most jurisdictions, regardless of how many charges carried specific bond amounts, included a general amount for all petty misdemeanors, misdemeanors, 2nd, 3rd, and 4th degree felonies. Bernalillo County also includes a general amount for these categories except for 3rd degree felony. Table 3 shows the amount Bernalillo County assigns to the general charge, the number of jurisdictions lower, higher, and equal to Bernalillo County, the number of jurisdictions that could not be compared to Bernalillo County and the median bond amount for all jurisdictions statewide. When the general amount is applied to a charge the amount is typically higher in most jurisdictions in the state than Bernalillo County.

Jurisdictions that could not be compared did not have a general bond amount specified in their bond schedule.

Table 4 shows jurisdictions in our comparison that stand out as being higher, lower, or equal to Bernalillo County. The jurisdictions that are higher than Bernalillo County were Las Cruces, Santa Fe, Curry, Fort Sumner, Tucumcari, and Lea. The jurisdictions that had the most bonds lower than Bernalillo County are Belen, Truth of Consequences, Rio Arriba, and San Juan. There is a mix of jurisdictions with dense population and rural areas with bond amounts higher and lower than Bernalillo County.

Counties	Bonds Higher than Bern Co.	Bonds Lower than Bern Co.	Bonds Equal to Bern Co.	Bonds could not be compared to Bern Co.
Las Cruces	47	3	7	145
Santa Fe	54	7	0	141
Bayard	3	4	0	194
Belen	6	10	0	185
Clovis/Curry	26	4	2	169
DeBaca	1	3	0	197
Eunice	7	3	0	191
Fort Sumner	39	7	6	150
Grants	0	2	1	199
Carlsbad	7	5	2	188
Lordsburg	8	4	2	188
Raton	10	1	2	189
Truth or Consequences	12	13	9	168
Tucumcari	41	6	7	148
Lea	54	0	0	148
Otero	5	4	0	193
Cibola	3	2	1	196
Roosevelt	4	3	2	193
Rio Arriba	7	8	2	185
San Miguel	5	3	1	193
San Juan	20	8	5	169

Table 5 demonstrates, that amounts on the Bernalillo County Bond Schedule are higher on average than the 21 jurisdictions in this comparison. Overall, 61 criminal charges in the Bernalillo County Schedule could be compared to at least one of the 21 jurisdictions. Across


the 21 jurisdictions and the 61 charges, 3% of the charges were higher than Bernalillo County, 7.3% were lower, 1.6% were equal, and 23% of all charges could not be compared to Bernalillo County.

CONCLUSION

The disparity between the 22 jurisdictions we reviewed in this brief report gives some traction for a larger review to be done. The larger review should contact all

of the jails and court jurisdictions in the state to make sure all the most up to date bail-bond schedules are used in a comprehensive review. In addition to the quantitative review, a qualitative survey of the users of the bail-bond schedules should be included in the review. Users such as jail workers,

law enforcement, court pretrial staff, judges, prosecutors, and defense attorneys should be given a brief set of questions to gauge their attitudes and ideas about the use of the bail-bond schedule. Moreover, an inventory of bail-bond schedule systems used in other states could be utilized by New Mexico judges and county jail staff, to make improvements in the current New Mexico system.

Simply, it might be useful to consider a single bail-bond schedule standardized across the state. A schedule that is comprehensive – including all jurisdictions and possible charges – and routinely updated. 

Number of Charges Potentially Comparable to Bernalillo County	Percentage of Charges Higher than Bernalillo County	Lower than Bernalillo County	Equal to Bernalillo County	Could not be compared
61	3%	7.3%	1.6%	23%

SUMMARY

- The purpose of this report was to compare the bail-bond schedule amounts used by the courts in Bernalillo County to 21 jurisdictions in New Mexico and determine the differences to Bernalillo County's schedule.
- The jurisdictions that are higher on average than Bernalillo County were Las Cruces, Santa Fe, Curry, Fort Sumner, Tucumcari, and Lea.
- The bond amounts for violent crimes such, as Assault and Battery were noticeably higher in Bernalillo County.
- Violent crimes and felony sexual offenses account for the greatest disparity in bond amounts.
- DWI 1st, 2nd, and 3rd Bernalillo had a higher bond amount than 17 of the '21' jurisdictions and had a higher bond amount for 13 of the '21' for 4th offense DWI.
- Across the 21 jurisdictions in the study, 3% were higher, 7.3% were lower and 1.6% were equal to Bernalillo County.