

Time Served in New Mexico Prisons, Fiscal Year 2002: A Preliminary Analysis of the Impact of Earned Meritorious Deductions

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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:

- 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
- 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
- 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:

- 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. All other types of offenders would continue to receive up to 30 days for 30 days served.

Note that under the EMD policy, inmates may not receive any credits during their first 60 days in prison.

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.

INTRODUCTION

This provides a preliminary estimate of the average proportion of time served by inmates, released in fiscal year 2002, who received credits to their sentences under the Earned Meritorious Deductions (EMD) statutory policy. We describe these estimates as preliminary because they are based solely on automated data provided by the New Mexico Corrections Department, whereas our previous estimates were premised on hard-copy data we collected, verified, and entered ourselves. Our staff is working on collecting hard copy data to supplement what we have received so far through automated data. Unexpected delays in receiving the release list will cause the final estimate to be available later this fall.

For background information on the EMD policy and its effects, see the two baseline studies (Working Papers #16 and #30) completed on releases prior to implementation of the policy and the report on time served from fiscal year 2001 (Information Report #5). The reports are available on the Council's web site: <http://www.cjcc.org/publications.php>.

PRELIMINARY METHODOLOGY

CJJCC staff obtained a list of offenders who were released during FY02 from the New Mexico Corrections Department. Approximately 924 potential EMD releases remained after eliminating from the list (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; (3) offenders who had died; or (4) offenders serving life sentences. Further records were eliminated based on dates that resulted in suspicious estimates. Also note that the limited information available through the automated data meant that we could not create estimates for parole violators. This, then, covers estimates for the 706 offenders released to parole during FY02, who appeared to be serving time under the EMD policy, and had credible admission and release dates.

INFORMATION ABOUT RELEASES

Because the offenders included in this study (likely to have been subject to EMD) do not represent a random sample of all FY02 releases (that also included offenders serving time under older good time policies), the characteristics reported may seem unusual, especially when compared to the prison population as a whole. The main consequence of limiting the sample selection to offenders who had committed crimes on or after July 1, 1999, is that in order to have been released during Fiscal Year 2002, most offenses were low-level felonies receiving fairly short sentences. Again, it is important to keep in mind that the data used for these analyses have not been verified against the original hard-copy data. The modules used to create good time estimates in the automated data have only recently been implemented and were not created for the purposes of this study,

OFFENDER DEMOGRAPHICS

The offenders included in this study were 619 males (87.7%) and 87 females (12.3%). Ages ranged from 18 to 67 years, with the average age at admission being 32.6.

Age at Prison Admission		
Age	Frequency	Percentage
18-21	79	11.2%
22-25	118	16.7%
26-30	130	18.4%
31-35	130	18.4%
36-40	96	13.6%
41-45	91	12.9%
46-50	36	5.1%
51+	26	3.7%
Total	706	100%

Judicial District		
District	Frequency	Percentage
1	18	2.6%
2	141	20.0%
3	82	11.6%
4	16	2.3%
5	81	11.5%
6	23	3.3%
7	24	3.4%
8	26	3.7%
9	33	4.7%
10	13	1.8%
11	183	26.0%
12	41	5.8%
13	24	3.4%
Total	705	100%

As was the case in FY01, the most striking thing about the distribution of counties among FY02 EMD releases is the large representation of offenders who committed crimes in the Eleventh Judicial District (driven primarily by San Juan County). Although we can only speculate

about the reasons, it appears that the majority of offenders from San Juan County were convicted of drunk driving and drug possession offenses and tended to receive fairly short sentences. It may be that San Juan County is handling more DWI and/or drug offenders than are other counties, or it may be that judges in San Juan County are handing down shorter sentences, and DWI and drug offenders serving time under EMD from other counties had not yet been released during FY01. Bernalillo County (Second Judicial District), being the most populous county, has a much larger criminal case load than the other counties, so its relatively high percentage is not surprising.

SENTENCING INFORMATION

Offense types were classified into the scheme below, as the Council has used in all its previous publications. Given the short time from earliest offense date (July 1, 1999) to release during FY02, the distribution below follows with expectations that EMD FY02 releases are generally for less serious offenses.

Offense Types		
Offense	Frequency	Percentage
Violent	135	19.1%
Homicide	2	0.3%
Sexual	2	0.3%
Armed Robbery	5	0.7%
Other Homicide	6	0.8%
Other Sexual Offenses	6	0.8%
Robbery	20	2.8%
Battery	45	6.4%
Assault	28	4.0%
Other Violent Offenses	21	3.0%
Property	202	28.6%
Burglary	86	12.2%
Larceny-Theft	33	4.7%
Motor Vehicle Theft	22	3.1%
Arson	2	0.3%
Fraud	41	5.8%
Stolen Property	11	1.6%
Other Property	7	1.0%
Drug	159	22.5%
Drug Trafficking	80	11.3%
Drug Possession	79	11.2%
Public Order	210	29.7%
Weapons	12	1.7%
Driving While Intoxicated	151	21.4%
Judicial Interference	33	4.7%
Other Public Order	14	2.0%
Total	706	100.0%

ANALYSIS OF TIME SERVED

In the analysis of FY01 releases, very few serious violent offenders (those receiving up to 4 days credit per 30 days served) had been released. Our preliminary analysis of FY02 releases shows that 3.5 percent (25 offenders) released in FY02 were classified as serious violent offenders. Again, the format of the data did not allow analysis of parole violators released during FY02.

When estimating the quantitative impact of meritorious deductions on proportion of time served, it is useful to distinguish between two types of sentence length:

- *Total Sentence Length*: the total number of years in prison set by court at sentencing, minus any suspensions or deferrals - this includes time served in jail during trial or before transfer to prison;
- *Prison Facility Sentence Length*: the total sentence length minus any credits for time served outside the prison facility - this is the time to be served *in prison*, from the day the offender enters prison to the expected release date.

For this analysis, data were only available to estimate the proportion of time served for the *prison sentence*. Once the hard copy data have been collected and analyzed, we will be able to provide the proportion of time served for both types of sentences for the final report.

Average Proportion of Sentence Served

EMD Type	Number	Prison Sentence
Serious Violent Offender (4/30)	25	78.49%
Other (30/30)	681	60.11%
Overall Average	706	60.76%

Here we see that the goal of increasing time served from serious violent offenders has been met, at least for the handful of offenders of this type. For offenders continuing to earn 30 days credit for 30 days served, the proportion of prison sentence served was 60% (compared to 61% in FY01).

Average Proportion of Sentence Served by Gender

Type	Number	Prison Sentence
Male		
Serious Violent Offender (4/30)	22	78.28%
Other (30/30)	597	60.07%
<i>Male Average</i>	<i>619</i>	<i>60.72%</i>
Female		
Serious Violent Offender (4/30)	3	80.00%
Other (30/30)	84	60.35%
<i>Female Average</i>	<i>87</i>	<i>61.02%</i>
Overall Average	706	60.76%

Estimates from FY01 releases showed that women served smaller proportions of their sentences than did men. The preliminary estimates from FY02 show that the proportions of time served are, for the most part, similar for men and women, with women serving somewhat higher proportions of their sentences.

SUMMARY

Because of the small number of EMD offenders released during FY02, it is difficult to draw many conclusions about the impact of the law on time served. These estimates may change significantly as a result of the addition of information collected from hard copy data on meritorious deductions earned by these prisoners and with the addition of information on proportion of time served by parole violators.

It is clear that serious violent offenders will serve a larger proportion of their sentences under the new law. However, because only offenders with very short sentences were included in the study (since those with longer sentences have not yet been released), it is not possible to determine the effect of the policy on offenders who are continuing to earn 30 days credit for 30 days served. The longer the policy is in effect, the better our picture of its impact will be.

ACKNOWLEDGMENTS

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ABOUT THIS STUDY

The Earned Meritorious Deductions policy was part of the Sentencing Standards Package proposed by the Council to the New Mexico Legislature in 1999. The Council 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 preliminary report is the fulfillment of that mandate for FY02.

ABOUT THE COUNCIL

The Criminal and Juvenile Justice Coordinating Council 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 Council is made up of members from diverse parts of the criminal justice system, including members of the Executive and Judiciary branches, representatives of lawmakers, law enforcement officials, criminal defense attorneys, and members of citizens interest groups.

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