



# New Mexico Sentencing Commission

Prepared for : New Mexico Association of Counties (NMAC)

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## Highlights

68.9% of the arrestees held in local New Mexico detention facilities were charged with at least one felony.

More than 50% of arrestees held in detention centers spent almost 7 1/2 months in jail (224 days).

Unsentenced probation violators (546 arrestees) spent more than two months in jail from the time they were booked to the time they were sentenced. Median length of stay varied from a low of 38 days in Eddy County to a high of 96 days in Dona Ana County. Reducing the length of stay of probation violators will reduce jail crowding.

Unsentenced arrestees on new charges spent a median of 167 days in jail from the time they were booked to the time the case was closed by the District Court. According to an NIJ study, courts can exercise considerable control over how quickly cases move through the court system without sacrificing justice.

Slightly more than 18% (459) of all arrestees in the sample were sentenced to prison. Between the date these individuals were sentenced and the date they were transported to prison they spent a median of 19 days in jail. This ranged from 13 days in Dona Ana County to 34 days in Eddy County. These individuals accounted for 8,721 bed days. Reducing the length of stay by 50% would save almost 4,500 bed days.

## Report in Brief

# Length of Stay for Arrestees Held on Felony Charges: *A Profile of Six New Mexico Detention Facilities*

The New Mexico Association of Counties (NMAC) contracted with the New Mexico Sentencing Commission (NMSC) to conduct a study to assess the effects of housing arrestees charged with felonies in New Mexico detention facilities. The goal of the study was to better understand how long felony arrestees stay in detention centers and the corresponding cost. This second report looks at the length of stay of felony arrestees in six New Mexico detention facilities. The first report, *The Cost of Housing Arrestees Held on Felony Charges: A Profile of Six New Mexico Detention Centers*, estimated the annual cost to house four categories of felony arrestees. A copy of the report can be viewed on the NMSC web site at: <http://www.nmsc.state.nm.us/>.

## Research Design

A statewide sample of county detention centers was selected based on size and geographic location. Data was collected from each facility to create a snapshot for June 30, 2004. The number of arrestees in the study sample comprised just over 60% of all arrestees held in New Mexico detention centers on that date in June. Automated information was used in the study when available; however information was primarily collected from files maintained by the detention centers. Cases that yielded suspicious estimates were excluded from the analysis. The

collected data was used to report the median length of stay and frequency distributions for demographic variables and arrestee categories.

## Data Analysis

**Demographics:** Among the 2,536 arrestees in our sample, 25.7% were younger than 25 years of age, 31.7% were between 25 and 34 years of age, and 42.6% were 35 years or older. Men comprised 86.4% of the sample. Hispanics accounted for slightly more than half of the sample (51.9%), Whites accounted for 26.2%, Native Americans and African Americans made up 11% and 10.2%.

**Length of Stay:** We categorized arrestees as either *unsentenced*, meaning charged with a felony but awaiting trial, or *sentenced*, meaning convicted and sentenced. We calculated the median length of stay for both the unsentenced and sentenced portion for each arrestee. We also calculated the total length of stay for arrestees.

Since there was considerable variation in the length of stay data, we used the median to report the length of stay instead of an average (mean). The median statistic is best because it represents the middle score in the data: half the scores

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Detention center administrators do not control jail admissions or length of stay and so cannot directly affect jail populations.

## Policy Implications

- Jail populations nationally and in New Mexico continue to grow while crime rates continue to fall. Nationally, jails are at 94% of capacity and the jails in this study were at 96% of capacity. Information provided in this report could be used to better understand jail population dynamics and lead to policies to control crowding.
- Because felony arrestees comprise a large portion of jail population and stay in jail longer than misdemeanor arrestees ; reductions in the length of stay of felony arrestees would have a significant impact on jail populations. The size of the impact will vary by the type of arrestee.
- Examining how people get into jail, how people leave jail, and how long people stay in jail can assist local government officials in conducting effective criminal justice oversight and improve public safety from a systems perspective.
- Detention centers should work with local courts, district attorneys, public defenders, local government, and law enforcement to improve the administration of justice, i.e., expedite the J&S process, work with sheriffs to reduce delay in transporting arrestees to prison, quicken the scheduling of probation revocation hearings, and investigate the use of goodtime allowed by law.
- Detention centers should develop jail population analysis systems so they can be more proactive in reducing the inmate population in crowded jails.

are greater than the median and half are less than the median. In situations where there is a large dispersion (standard deviation) in the data the median is a more accurate measure.

TABLE 1 TOTAL LENGTH OF STAY IN DAYS

|              | Median     | Number of Arrestees |
|--------------|------------|---------------------|
| Bernalillo   | 183        | 1,446               |
| Curry        | 196        | 170                 |
| Dona Ana     | 168        | 332                 |
| Eddy         | 164        | 108                 |
| San Juan     | 144        | 415                 |
| San Miguel   | 147        | 52                  |
| <b>TOTAL</b> | <b>176</b> | <b>2,523</b>        |

Table 1 describes the number of arrestees and the median length of stay for the six detention facilities. It is surprising that San Juan County had the second largest number of arrestees. Intuitively, county population figures would indicate that Dona Ana County should be second to Bernalillo County. The fact that Dona Ana’s length of stay (168) is below the total median of 176 (5.8 months), might be indicative of the arrest and detention policies in Dona Ana County. Length of stay for the six counties ranged from 144 days in San Juan County to 196 days in Curry County.

Table 2 lists the number of arrestees in three main categories and their median length of stay. Slightly more than 50% (1,256 arrestees) of our sample spent time unsentenced and sentenced. Arrestees in both categories spent more than 60% of a year (224 days) behind bars.

**Unsentenced:** Table 3 shows the median length of stay for unsentenced arrestees.

Table 2 TOTAL LENGTH OF STAY BY SENTENCE STATUS

| Arrestee Category                                       | Median | Number of Arrestees |
|---|--------|---------------------|
| Arrestees who spent time both Unsentenced and Sentenced | 224    | 1,256               |
| Arrestees who only spent time Unsentenced               | 112    | 1,152               |
| Arrestees who only spent time Sentenced                 | 151    | 96                  |

Medians were calculated for: arrestees with probation violations, arrestees with new charges, and arrestees with warrants. Bernalillo County is the only county with warrant data because in all other counties arrestees with warrants were categorized by the underlying charge named in the warrant. In Bernalillo County, the typical unsentenced arrestee with a warrant spent 123 days in jail. The length of stay for arrestees with warrants and probation violations may be less because the arrestee has already been in jail and or sentenced and has failed to comply with some conditions that the judge ordered and the case is already in the court system.

Overall, unsentenced arrestees with probation violations spent 66 days in jail. In Eddy County, unsentenced probation violators spent 38 days in jail, while in Dona Ana County probation violators stayed in jail for more than 3 months (96 days). Bernalillo County is trying an innovative approach to hear probation revocations quicker. The 2005 Legislature appropriated funds for Bernalillo County to hire a pro tem judge to handle probation violation hearings. This approach might be successful in other counties.

Unsentenced arrestees with new charges contributed the most to the overall length of stay shown in Table 1. The length of stay for unsentenced arrestees in the sample was 167 days on a new charge. Bernalillo County had the longest length of stay in this category (187 days) and Eddy County had the shortest (109 days). The legal culture, law enforcement investigation routines, and court scheduling policies may have an effect on the amount of time arrestees on new charges spend in jail. For example, Rule 5-604 the “six-month rule,” allows 182 days before the defendant must be tried. Rule extensions are asked for and routinely granted by the NM courts.

The National Institute of Justice (NIJ) published a study in 2000 entitled, “*Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts.*” This study found that courts can exercise considerable control over

TABLE 3 UNSENTENCED ARRESTEES \*

|              | Probation Violation   |                     | New Charges           |                     | Warrants              |                     |
|--------------|-----------------------|---------------------|-----------------------|---------------------|-----------------------|---------------------|
|              | Median Number of Days | Number of Arrestees | Median Number of Days | Number of Arrestees | Median Number of Days | Number of Arrestees |
| Bernalillo   | 60                    | 303                 | 187                   | 487                 | 123                   | 587                 |
| Curry        | 89                    | 34                  | 182                   | 124                 | -                     | -                   |
| Dona Ana     | 96                    | 69                  | 170                   | 257                 | -                     | -                   |
| Eddy         | 38                    | 23                  | 109                   | 81                  | -                     | -                   |
| San Juan     | 58                    | 106                 | 144                   | 298                 | -                     | -                   |
| San Miguel   | 65                    | 11                  | 143                   | 38                  | -                     | -                   |
| <b>TOTAL</b> | <b>66</b>             | <b>546</b>          | <b>167</b>            | <b>1,285</b>        | <b>123</b>            | <b>587</b>          |

\* For arrestees who spent time unsentenced and sentenced, both sentenced and unsentenced length of stay was calculated resulting in duplicated counts in tables 3, 4, and 5.

how quickly cases move from indictment to resolution without sacrificing legal support or due process. The NIJ study included Bernalillo County. Additionally, utilizing Pre-Trial diversion programs would reduce the amount of time unsentenced arrestees spend in jail awaiting trial.

TABLE 4 SENTENCED ARRESTEES

|              | Probation Violator Sentenced to county facility |                     | Sentenced to county facility |                     |
|--------------|---|---------------------|------------------------------|---------------------|
|              | Median Number of Days                           | Number of Arrestees | Median Number of Days        | Number of Arrestees |
| Bernalillo   | 107   | 149                 | 78                           | 463                 |
| Curry        | 70  | 15                  | 87                           | 29                  |
| Dona Ana     | 29  | 19                  | 9                            | 37                  |
| Eddy         | 73  | 11                  | 72                           | 40                  |
| San Juan     | 68  | 34                  | 58                           | 82                  |
| San Miguel   | 135   | 2                   | 101                          | 12                  |
| <b>TOTAL</b> | <b>92</b>                                       | <b>230</b>          | <b>72</b>                    | <b>663</b>          |

**Sentenced:** The length of stay for arrestees sentenced to the county jail is shown in Table 4. The data are categorized as probation violators and felony arrestees. The overall length of stay for sentenced probation violators was 92 days. Bernalillo County had 149 probation violators serving a median of 107 days (3½ months). Eddy County had the next longest length of stay with probation violators serving 73 days, 34 days less than Bernalillo County. The overall length of sentence for felony arrestees was 72 days. Eddy County had a large percentage (37%) of their total arrestees serving their sentence in the county detention facility. In Bernalillo County, 32% of 1,446 arrestees served their sentences in the local facility.

The prosecution and sentencing practices in some counties

relies on the county facility to provide full term detention services. Judges achieve a form of community based corrections by sentencing arrestees to local detention facilities to meet statutory requirements for mandatory time while utilizing the services of the local facility.

The analysis in Table 5 reports the length of stay for arrestees sentenced and awaiting transfer to prison. On a continuum, a typical arrestee, sentenced to prison waits 9 days after sentencing for the judge to sign the Judgment and Sentence (J&S) document. The arrestee waits in jail an additional 10 days before being transferred to prison, for a total of 19 days. In Eddy County this process takes more than a month (34 days). Dona Ana and San Juan Counties

were below the median (13 days and 17 days). Dona Ana County needs just 2 days to process the J&S. This is due in part to the volume, just 85 arrestees, and to the Court and District Attorney’s sentencing process and use of technology. The amount of time counties take for the prison transfer might be due to several factors; the distance from the county to the prison, a lack of manpower to transport, or adherence to a traditional prison delivery schedule. Bernalillo County reported the total amount of time to complete the continuum from sentencing to prison transfer (23 days). Given Bernalillo County’s size, it was not feasible for us to look up the date the J&S was signed, so only the total time from the sentencing hearing to transfer is shown.

TABLE 5 SENTENCED TO PRISON

|              | From Sentencing Hearing to Signed J&S | Signed J&S to Transport Median Number of Days | Total Number of Days | Number of Arrestees |
|--------------|---------------------------------------|---|----------------------|---------------------|
| Bernalillo   | -                                     | -   | 23                   | 168                 |
| Curry        | 16                                    | 12  | 28                   | 49                  |
| Dona Ana     | 2                                     | 11  | 13                   | 85                  |
| Eddy         | 22                                    | 12  | 34                   | 27                  |
| San Juan     | 8                                     | 9   | 17                   | 125                 |
| San Miguel   | 18                                    | 6   | 24                   | 5                   |
| <b>TOTAL</b> | <b>9</b>                              | <b>10</b>                                     | <b>19</b>            | <b>459</b>          |

## Conclusion

Jail population is a consequence of two factors, the number of jail admissions and the length of stay. Robert Cushman observes in a 2002 NIJ publication, *Preventing Jail Crowding: A Practical Guide*, that often times jail management is reactive rather than proactive. Many

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communities leave the jail population to seek its own level. Jail managers do not control how people get in or out so little is done to analyze the jail composition. However, an examination of the type and duration of the length of stay and the sources of admission can give jail managers the information to formulate policy and improve public protection.

This report provides valuable information for jail managers to begin to better understand how long felony arrestees spend in New Mexico detention centers. This study suggests that despite efforts to standardize the detention process with statutory laws, probation and jail procedures, and court rules, the length of stay varies in each county. Many factors play a part in each county system. Local jail managers monitoring their populations, the volume of the local state probation office caseload, the rapid issuance of a J&S by the district attorney, the expedited transfer of the arrestee to prison, the consistent use of NMSA 33-3-9 for goodtime, all play a part in maximizing the most efficient and effective length of stay according to law.

In the researcher's opinion, arrestee data should be kept by each facility in a format that is usable for jail population analysis and statistical reporting. Additionally, it may be possible to improve the reliability of the data by using some types of checks in the data. This issue cannot be addressed by the current study. The analyses presented in this report are limited and additional research should be completed that focuses on:

- Analyzing the detention process in each county to determine efficiencies and positive externalities.
- Determining how county detention centers, courts, district attorneys, public defenders, and private attorneys can work to reduce delay in getting J&S documents signed.
- Working with county detention centers and sheriffs to reduce the delay in transferring arrestees to prison after the J&S is signed.
- Considering ways to hear probation revocations more quickly to reduce unsentenced length of stay for probation violators.



## Methodology & Terms

NMSC staff collected data from six detention centers in New Mexico. The sample of six detention centers was based on size, geographic location, and budgetary resources. The number of arrestees in the study sample comprised just over 60% of all arrestees held in New Mexico detention centers on June 30, 2003. The Bernalillo County facility is by far the largest in the state with 2,038 beds. Dona Ana and San Juan Counties represent large facilities with 846 and 480 beds respectively. Curry, Eddy, and San Miguel are medium-sized facilities with between 150- 250 beds.

Automated information was used in the study when available, however information was primarily collected from files maintained at the detention centers. Although all the detention centers in the sample have information systems, it was determined that only Dona Ana and Bernalillo had the data quality for extracting the information necessary for the study. In the case of Curry, Eddy, San Juan, and San Miguel their information systems did not provide a mechanism to compile the information for the study. Cases that yielded suspicious estimates were excluded from the analysis. A cross-sectional approach similar to a census was used. The Bureau of Justice Statistics in their Annual Survey of Local Jails uses this approach. We collected information for all arrestees in custody in the detention centers in the sample on June 30, 2003 (the same date that information is collected for the Annual Survey of Local Jails). Detention centers provided lists of arrestees in custody on that day. We determined if the arrestee was held on a felony charge. Data were collected for all arrestees held on felony charges or whose charges could not be determined from the custody lists.

In cases where arrestees were held on multiple charges or warrants, we chose their most serious charge as the one that held them in the facility. In all counties, except Bernalillo, when an arrestee had a warrant the underlying charge cited in warrant was noted. Where an arrestee was held on a warrant and a probation violation, we categorized them by the probation violation. If an arrestee was held on a probation violation and new charges, they were categorized by the new charge. Any cases that yielded suspicious estimates were excluded.

The analyses in this report focuses on the median length of stay of arrestees based on the sentence status and release type. We report on each arrestees' unsentenced, sentenced, and total length of stay. Additionally by looking at the arrestees total length of stay we determined how each arrestee was released from detention. Of the 2,536 arrestees charged with felonies, 48 were still in custody at the time of data collection (September 2004 – January 2005). For arrestees still in custody, the date information was collected in the corresponding facility was used as the date of release for the purposes of calculating the length of stay.

Several dates were collected for every arrestee: the date booked into the detention center, the date released from the detention center, and if applicable the date of a sentencing hearing. When feasible, the date the arrestee's sentence was signed was also collected. Cases that yielded suspicious estimates were excluded from the analysis.

**§ 33-3-9 County Jails; Deduction of Time for Good Behavior:** Authorizes the sheriff or jail administrator, with the approval of the committing judge or presiding judge, to grant any person imprisoned in the county jail a deduction of time for good behavior. Deductions of time cannot exceed half of the prisoner's sentence, as well as other restrictions pertaining to the nature of the prisoner's offense.

**Rule 5-604 B of Rules of Criminal Procedure for District Courts:** The six-month rule sets the time limits for the commencement of trial. The trial of a criminal case or an habitual criminal shall be commenced within six (6) months pending extensions.