New Mexico
Sentencing Commission

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Length of Stay in Detention Facilities: *A Profile of Seven New Mexico Counties*

Looking only at arrestees charged with at least one felony from 2003 to 2010:

- Median length of stay increased 31% for arrestees who spent their entire stay in an unsentenced status (from 112 to 147 days).
- Not accounting for sentence status, total median length of stay increased 2.8% (from 176 to 181 days).
- Median length of stay varied by location.
- Curry and San Miguel counties' total median length of stay decreased by 25%.
- Dona Ana county's total median length of stay decreased by 11%.
- Total median length of stay increased by nearly 13% for Bernalillo, and 3% for Eddy and San Juan.

Looking only at arrestees charged with new charges in District Court from 2003 to 2010:

- Median unsentenced length of stay increased 16% (from 167 to 193 days).

Major Findings from 2010 Study

- Arrestees charged only with misdemeanors spent a median of 80 days in detention facilities.
- Arrestees booked on probation violation in district court spent a median of 70 days in an unsentenced status.
- Arrestees booked on warrant in district court spent a median of 114 days in an unsentenced status.
- 4.3% of arrestees had an I-247 Immigrations Customs Enforcement Detainer.
- 3.1% of arrestees had a mental health competency proceeding filed during the course of their stay. A supplemental report will be written detailing the outcomes of these arrestees.
- 123 arrestees were still in custody on June 30, 2012. Their median length of stay up to that point was 761 days.

In 2004, the New Mexico Association of Counties (NMAC) contracted with the New Mexico Sentencing Commission (NMSC) to conduct a study to estimate the cost of housing arrestees charged with felonies in New Mexico detention facilities. Fiscal impact was the primary focus of the study; however, a second report *Length of Stay for Arrestees Held on Felony Charges: A Profile of Six New Mexico Detention Facilities* was published that analyzed the amount of time arrestees charged with felonies spent in jail. In subsequent years, the cost estimate has been updated annually (funding provided by the County Detention Facility Reimbursement Act, see Section 33-3B-1 NMSA 1978).

The length of stay study had not been updated since 2005. In June 2011, NMAC contracted with NMSC to update the length of stay study. Rather than just look at arrestees with felony charges, the update includes arrestees charged with misdemeanor charges as well as collection of other data elements.

Research Design

The original sample of county detention centers (Bernalillo, Curry, Dona Ana, Eddy, San Juan and San Miguel) were included in the update along with the addition of Cibola county. Data was collected from each facility to create a snapshot for June 30, 2010. The number of arrestees in the study sample comprised just over 70% of all arrestees held in New Mexico detention centers on that date. Automated information was used for Bernalillo and Dona Ana counties. Information for all other counties was collected from files maintained by the detention centers. The New Mexico Administrative Office of the Courts provided additional information.

This study does not measure daily turnover; i.e. how many arrestees are booked and released each day. Rather it looks at a single day and looks backwards and forwards to determine how long each arrestee was in the custody of the facility. Arrestees were categorized as either *unsentenced*, meaning charged but awaiting trial, or *sentenced*, meaning convicted and sentenced. The median length of stay for both the unsentenced and sentenced proportions as well as the total length of stay for each arrestee were calculated. Arrestees were further categorized by court jurisdiction and type of charge.

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 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. Cases that yielded suspicious estimates were excluded from the analysis.

Results

Among the 5,109 arrestees in our sample, 24.4% were younger than 25 years of age, 34.5% were between 25 and 34 years of age, and 41.1% were 35 years or older. Men comprised 83.7% of the sample.

Of the 5,109 arrestees in the sample, 98.2% were booked prior to June 30, 2010. Of the 93 arrestees booked on June 30, 2010, their median length of stay was 8 days. Over a quarter (28%) were released within a day.

Table 1 - Median Length of Stay for Arrestees with Felony Charges

	2010		2003	
	Median	Number	Median	Number
Bernalillo	206	2,131	183	1,446
Cibola	167	106		
Curry	146	218	196	170
Dona Ana	149	444	168	332
Eddy	169	119	164	108
San Juan	149	298	144	415
San Miguel	109	78	147	52
Total	181	3,394	176	2,523

For the 5,016 booked prior to June 30, 2010, 66.7% had already been in the detention center for 30 days or more.

Length of Stay Arrestees Charged with Felonies

Over 66% of arrestees were charged with at least one felony, down from 2003 (68.9%). It is important to note that one possible explanation for the decline is the increase in dollar threshold amounts for property crimes. In 2006, the legislature addressed the effects of inflation on penalties for property crimes in House Bill 80 (Chapter 29) by increasing the dollar amounts for property offenses that would trigger sanctions. Consequently, some property offenses that had previously been 4th degree felonies became misdemeanor offenses. Table 1 describes the number of arrestees charged with a felony by detention facilities and their median length of stay for arrestees.

The median length of stay for 2010 increased by 2.8%. For Curry and San Miguel the total length of stay decreased by 25%, length of stay also decreased 11% for Dona Ana. Length of stay increased by nearly 13% for Bernalillo, and 3% for Eddy and San Juan.

Nearly half of arrestees charged with felonies will spend only time unsentenced or awaiting outcome on their case, while only a small portion will spend time only sentenced, meaning they are completing a court ordered sentenced (6%). 44% of arrestees will spend a portion of stay both unsentenced and sentenced. Table 2 again focuses only on arrestees charged with felonies. Arrestees in the both category spent a median of 7.5 months in a detention center (228 days up nearly 2% from 2003). The median amount of time for an arrestee charged with a felony who was unsentenced their whole stay was 147 days, up 31% from 2003. For arrestees who only spent time sentenced, their median stay was up 8% to 163 days from 149.

Table 2 - Total Length of Stay by Sentence Status for Arrestees with Felony Charges

Category	2010		2003	
	Median	Number	Median	Number
Arrestees who spent time both Unsentenced & Sentenced	228	1,495	224	1,256
Arrestees who only spent time unsentenced	147	1,686	112	1,152
Arrestees who only spent time Sentenced	163	213	151	96

Length of Stay Arrestees Charged with Misdemeanors

Median length of stay for arrestees with misdemeanor charges is considerably shorter (80 days). Table 3 lists the total length of stay for arrestees charged with misdemeanors by county.

Table 3 - Median Length of Stay for Arrestees with Misdemeanor Charges

	2010	
	Median	Number
Bernalillo	84	1,076
Cibola	21	15
Curry	77	103
Dona Ana	32	69
Eddy	106	80
San Juan	87	302
San Miguel	41	25
Total	80	1,670

A higher portion of arrestees charged with misdemeanors are booked to only serve a sentence (13% compared to 6% of arrestees charged with a felony).

The median length of stay for a sentenced arrestee charged with a misdemeanor was 88 days.

Interestingly, the portion of arrestees who spend a portion of stay both unsentenced and sentenced is the same for arrestees charged for misdemeanors as it was for arrestees charged with felonies (44%). The median length of stay for an arrestee who spent time both sentenced and unsentenced was 97 days.

For arrestees charged with misdemeanors that only spent time unsentenced, their

Table 4 - Total Length of Stay by Sentence Status for Arrestees with Misdemeanor Charges		
Category	2010	
	Median	Number
Arrestees who spent time both Unsentenced & Sentenced	97	730
Arrestees who only spent time Unsentenced	55	718
Arrestees who only spent time Sentenced	88	222

median length of stay was 55 days. Table 4 contains the median length of stay by sentence status for arrestees charged with misdemeanors.

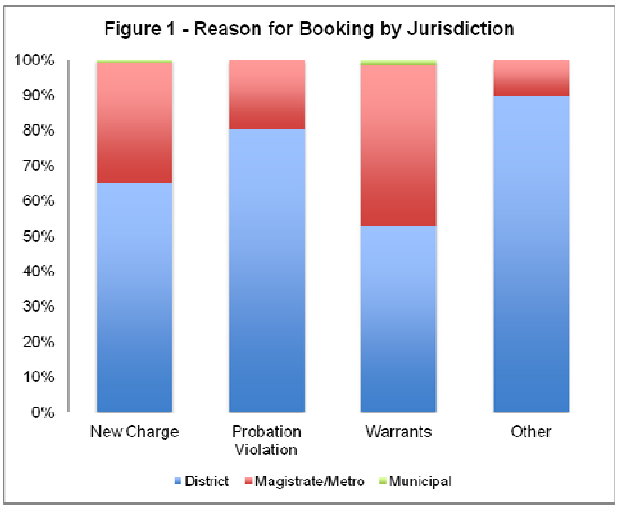
Reason for Booking

Nearly 62% of arrestees were booked on a new charge. Probation violations were the second most common category (18.1%), followed by warrants (17.1%). Table 5 lists the categories of booking reasons.

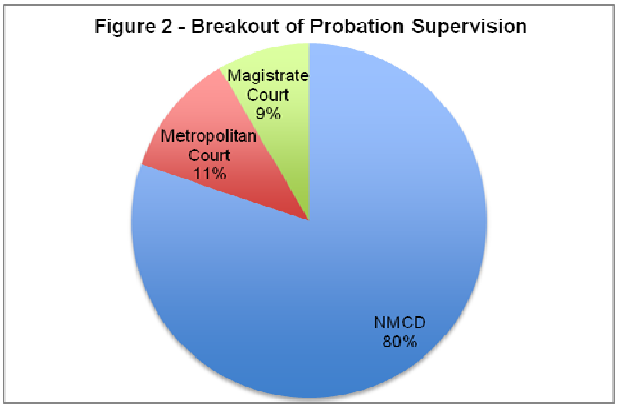
The reason for booking are presented graphically in Figure 1 to show the relative percentage of bookings by court jurisdiction. There are very few cases where the arrestees highest booking is a case in municipal court. Arrestees with new charges, probation violations, and other bookings are more likely to have cases in district court. Warrants are almost evenly split between district and magistrate/metropolitan courts. Failure to appear is the most common warrant type (53%), followed by failure to comply (31%).

Probation can be supervised by different agencies. New Mexico Correction Department (NMCD) Probation Parole Division (PPD) supervises offenders who are sentenced to probation by district court. Typically these offenders are convicted of felonies, however in jurisdictions that do not have magistrate court probation it can include individuals who are convicted of misdemeanors. Bernalillo County Metropolitan

Table 5 - Reason for Booking		
Reason for Booking	2010	
	Count	Percent
New Charge	3,164	61.9%
Probation Violation	924	18.1%
Warrants	875	17.1%
Other: Court Commitments/ Here For Court / Protective Custody	106	2.1%
Parole	40	0.8%
Total	5,109	100.0%



Court and some magistrate courts also supervise probationers. In Metropolitan court judges sentence the offender to probation and court-employed probation officers supervise them. In Magistrate court, county-employed compliance officers supervise offenders sentenced to probation. The vast majority of arrestees booked on probation violations are supervised by NMCD (80%). Figure 2 shows the breakout by supervising agency.



Most Serious Charge

Looking only at arrestees booked on new charges, the most serious charge at arrest was categorized. DWI was the most frequent charge (20.1%), followed by property (16.2%), and assault/battery (9.8%). Table 6 lists the charge categories in order by frequency.

The top 10 most serious charge categories are presented graphically in Figure 3 to illustrate the relative percentage by court jurisdiction. DWI and public order are more common in magistrate/ metropolitan court, while domestic violence is nearly evenly split between magistrate/metropolitan and district courts.

Table 6 - Highest Charge		
Charge	Count	Percent
DWI	635	20.1%
Property	513	16.2%
Assault/Battery	310	9.8%
Violent	275	8.7%
Domestic Violence	231	7.3%
Possession	214	6.8%
Public Order	209	6.6%
Criminal Justice Interference	179	5.7%
Trafficking	175	5.5%
Sexual Offense	137	4.3%
Traffic	83	2.6%
Other	81	2.6%
Murder	71	2.2%
Robbery	51	1.6%
Total	3,164	100.0%

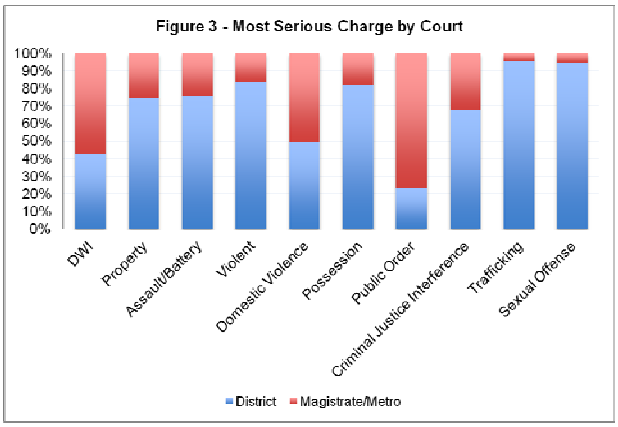
Unsentenced Length of Stay

Using charge type, (was the arrestee booked on a new charge, a warrant, a probation violation, or a parole violation) Table 7 looks at the unsentenced length of stay by court jurisdiction and county for arrestees that spent time in the detention center in an unsentenced status.

District Court

Looking at cases in District Court, the median number of days unsentenced for an arrestee charged with a new charge was up 16% from 2003 (2003 - 167 days 2010 - 193 days). Bernalillo County had the longest length of stay in this category (222 days) and Curry County had the shortest (135 days).

From 2003, the median number of unsentenced days for an arrestee charged with a probation violation was up 6% (2003 - 66 days 2010 - 70 days). In 2003 parole violations were not separated from probation violation. Subsequently to the 2005 publication, parole violation information was separated. In 2010, arrestees booked on a parole violation spent a median number of 28 days.



Data from warrants is not directly comparable with the 2003 data. In 2010, all warrants in Bernalillo county were manually reviewed so all arrest and grand jury warrants could be categorized by the underlying charge as they were in all the other counties. In 2010 all warrants were for court compliance issues: the arrestee failed to appear, comply, pay, etc.

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. Rule 5-604 the "six-month rule," which allowed for 182 days before the defendant must be tried was eliminated in March 2011, when many of these cases were not yet disposed. The practical effect of the elimination is probably minor as in the past the rule required that extensions be requested and they were typically granted.

Additionally due to fiscal conditions in New Mexico, the Courts, the District Attorneys, and Public Defenders had significant vacancies during the time period. It is interesting to note that despite these staffing conditions, Curry county reduced its median unsentenced length of stay for arrestees with new charges by 31%, and 61% for arrestees with probation violations.

Magistrate/Metropolitan Court

Looking at cases in Magistrate/Metropolitan court, the median number of unsentenced days for an arrestee charged with a new charge was 55. The median number of unsentenced days was similar for an arrestee charged with a probation violation (53 days). Arrestees arrested on a warrant spent a median number of 37 days unsentenced.

Sentenced Length of Stay

Using charge type, Table 8 looks at the sentenced length of stay by court jurisdiction and county for arrestees that spent time in the detention center in a sentenced status.

District Court

Arrestees with new charges in District Court spent a median number of 36 days, while arrestees booked on a warrant spent a median number of 32 days. This was half of the 2003 median, and most likely in part related to the increase in median unsentenced length. The median sentence length was also down for probation violators from 92 days to 78 days (15% decrease).

Table 7 - Unsentenced Length of Stay By County, Court Jurisdiction and Charge Type*

	New Charge		Warrant		Probation		Parole	
	Median	Number	Median	Number	Median	Number	Median	Number
District								
Bernalillo	222	1,255	158	267	74	465	27	26
Cibola	215	54	112	24	152	22		
Curry	135	133	76	27	71	44	124	5
Dona Ana	178	258	91	25	61	114	49	4
Eddy	183	61	35	27	49	12	25	1
San Juan	140	182	39	47	51	45	25	4
San Miguel	150	35	93	31	75	11		
Total	**193**	**1,978**	**114**	**448**	**70**	**713**	**28**	**40**
Magistrate/Metropolitan								
Bernalillo	54	549	47	244	64	124		
Cibola	23	13	21	1	1	1		
Curry	51	72	57	15	24	12		
Dona Ana	59	28	25	31				
Eddy	48	37	5	20	8	4		
San Juan	67	193	17	55	22	24		
San Miguel	46	20	24	5				
Total	**55**	**912**	**37**	**371**	**53**	**165**		

** For arrestees who spent time unsentenced and sentenced, both sentenced and unsetenced length of stay was calculated resulting in duplicated counts in tables 7, 8, and 9.*

Magistrate/Metropolitan Court

Arrestees sentenced on new charges in Magistrate/ Metropolitan court spent a median number of 50 days in jail. Arrestees sentenced on a warrant had the lowest median sentenced length of stay (32 days), while arrestees sentenced on a probation violation had the longest sentenced length of stay (87 days).

From Sentencing to Transport for Arrestees Sentenced to Prison

Among arrestees charged with felonies, the percentage who were ultimately sentenced to the New Mexico Corrections Department (NMCD) was higher in the 2010 sample (19.7% compared to 18.2% in 2003). The median number of days from the time the arrestee was

Table 8 - Sentenced Length of Stay By County, Court Jurisdiction and Charge Type

	New Charge		Warrant		Probation	
	Median	Number	Median	Number	Median	Number
District						
Bernalillo	43	598	26	71	118	232
Cibola	16	36	1	13	3	11
Curry	31	90	3	13	46	25
Dona Ana	55	147	13	10	42	68
Eddy	32	64	70	25	87	11
San Juan	24	160	41	48	55	49
San Miguel	12	11	7	7	11	3
Total	**36**	**1,106**	**32**	**187**	**77**	**399**
Magistrate/Metropolitan						
Bernalillo	71	396	28	67	84	87
Cibola	4	2				
Curry	8	39	3	4	113	10
Dona Ana	15	12	13	14		
Eddy	37	35	70	27	88	7
San Juan	20	159	41	64	97	24
San Miguel	25	2	7	2		
Total	**50**	**645**	**32**	**178**	**87**	**128**

** For arrestees who spent time unsentenced and sentenced, both sentenced and unsetenced length of stay was calculated resulting in duplicated counts in tables 7, 8, and 9.*

Table 9 - From Date of Sentence to Date of Transport		
	Median	Number
Bernalillo	20	333
Cibola	27	15
Curry	21	57
Dona Ana	18	140
Eddy	34	38
San Juan	17	67
San Miguel	13	17
Total	20	667

sentenced to time that they were transported to NMCD was very similar (20 days - 2010 and 19 days - 2003). We were not able to track the time from sentencing hearing to signed judgment and sentence or the time from signed judgment and sentence to transport for all cases. Table 9 lists the median number of days from date of sentence to date of transport.

Conclusion

Much of the conclusions from the 2005 report are still relevant. 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 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. Variations exist in the length of stay by county. Efforts need to continue to be made to:

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

Methodology & Terms

NMSC staff collected data from seven detention centers in New Mexico. A cross-sectional approach similar to a census was used. We collected information for all arrestees in custody in the detention centers in the sample on June 30, 2010. Detention centers provided lists of arrestees in custody on that day. We determined the most serious charge for each arrestee. 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. 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. All escapees were excluded. Bernalillo County's custody list included arrestees on Community Corrections which were excluded from the 2003 sample. 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 5,109 arrestees in the sample, 123 were still in custody when facilities were contacted in late June 2012. This date was used to calculate their 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.