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Select Crimes Issue Paper: Weapons Offenses (FY2024)

Introduction

The New Mexico Sentencing Commission’s Select Crimes Issue Papers provide thorough examinations of data concerning criminal offenses that are regularly discussed by policymakers in New Mexico. Each paper in the series describes the frequency of charges and outcomes for a selected category of offenses in a given fiscal year. The Sentencing Commission publishes the Select Crimes Issue Papers pursuant to its statutory mandate (see Section 9-3-10(D) NMSA 1978).

This Select Crimes Issue Paper concerns weapons offenses. A short description of the Dataset is followed by a Description of the tables. The Tables show the frequency, disposition, sentencing, and length of stay for weapons crimes. A Methodology section at the end of the Issue Paper describes in detail how the information in each Table was compiled.

All papers in the series are published on the New Mexico Sentencing Commission website at <https://nmsc.unm.edu/reports/index.html>. They will be updated periodically. Please feel free to reach out to the Sentencing Commission with any questions.

Dataset

This Select Crimes issue paper concerns weapons offenses. The offenses included are those in Chapter 30-7 NMSA 1978 (weapons and explosives) as well as those in Sections 30-3-8, 30-16-1(H) and 11, 30-20-16, and 30-22-16 NMSA 1978. We include the 2,587 cases that included a weapons offense as any charge and were adjudicated between July 1, 2023 and June 30, 2024. Information about the offenses comes from data collected by the Administrative Office of the Courts and the Corrections Department. The Methodology section describes how the information in each table was compiled.

Description of Tables

In Table 1, we describe the offenses by statute, including the typical degree assigned in statute (not including initiatory offenses, which may drop the degree) as well as the number of cases in which an offense of the statute was charged.

Tables 2 and 3 examine dispositions for the subset of cases (1,646, or 64%) in which a weapons offense is the lead offense—that is, the charge with the highest degree. We define a finding of guilt as one in which either a conviction or a deferral has taken place. Conditional discharge is not a finding of guilt, but is included in its own column since a conditional discharge can result in a probation term. Acquittal means the defendant was found not guilty, while incompetency and dismissal suggest the court did not make a determination of guilt.¹ Tables 2 and 3 organize the

¹ Different charges within cases may have different dispositions. Tables 2 and 3 consider only the disposition of the lead offense. In addition, dispositions are not necessarily indicative of sentencing. For example, a conviction may result in incarceration, probation, or a

same information differently. Table 2 provides dispositions by statute, while Table 3 provides the same information by degree.

In Tables 4 and 5, we examine dispositions of the most serious weapons offense. Unlike Tables 2 and 3, these analyses include all 2,587 cases, including those with lead offenses that are not weapons offenses. One might thus expect lower rates of conviction here compared to Tables 2 and 3, as offenses other than lead offenses are often dismissed via plea bargains. Tables 4 and 5 organize the same information differently. Table 4 provides dispositions by statute, while Table 5 provides the same information by degree.

Tables 6 and 7 examine sentencing for the subset of cases (707, or 27%) in which a weapons offense is the most serious (meaning the highest degree) conviction, including all cases that could result in incarceration (prison or jail) or probation: convictions, deferrals, and conditional discharges. We calculate the median incarceration, probation, and parole sentence. Table 6 reports this information by statute, while Table 7 provides the same information by degree.² These tables do not incorporate expected earned meritorious deductions (good time).

Table 8 reports the expected length of stay (LOS) for people who were incarcerated in a New Mexico prison for a weapons offense on June 30, 2024. This information incorporates expected earned meritorious deductions. The table does not include people incarcerated in a detention center or youth detention center.

Please see the Methodology section at the end of this report for more details.

program such as a treatment court. A case may be dismissed for many reasons, including the possibility that the court assigned the defendant to a prosecution diversion program.

² Electronic sentencing information is either unavailable or difficult to interpret for 122 or 17% of the 707 cases. In addition, sentencing information is complex and more prone to data entry error than other information included in this report.

Tables

Table 1: Weapons Offenses Charges in Cases³

Statute	Description	Typical Degree	Number of Cases	Percent of Cases
30-7-16(A)1	Possession firearm – felon	3 rd Felony	950	37%
30-7-4	Negligent use of a deadly weapon	P. Misdemeanor	923	36%
30-3-8(B)	Shooting at/from motor vehicle	2 nd –4 th Felony	298	12%
30-7-2	Unlawful carrying	P. Misdemeanor	264	10%
30-7-2.2	Unlawful carrying – person under 19	Misdemeanor	191	7%
30-3-8(A)	Shooting at dwelling	2 nd –4 th Felony	121	5%
30-16-11	Receiving stolen property (firearm)	4 th Felony	107	4%
30-7-2.1	Unlawful carrying – school premises	4 th Felony	78	3%
30-20-16(B)	Making shooting threat	Misdemeanor	26	1%
30-7-16(A)2,3	Possession firearm – (A2) protection order and/or (A3) DV convictions	Misdemeanor	25	1%
30-7-3	Unlawful carrying – liquor establish.	4 th Felony	20	1%
30-16-1(H)	Larceny - firearm (Less than \$2500)	4 th Felony	20	1%
30-20-16(A)	Bomb scare	4 th Felony	13	1%
30-7-21	False report of fire or explosion	Misdemeanor	12	<1%
30-7-8	Unlawful possession switchblades	P. Misdemeanor	11	<1%
30-7-2.4	Unlawful carrying – university	P. Misdemeanor	10	<1%
30-7-19	Possession explosive device	4 th Felony	7	<1%
30-7-22	Interference bomb/fire control	Misdemeanor	6	<1%
30-7-5	Dangerous use of explosives	3 rd Felony	5	<1%
30-7-4.1	Negligent – accessible to minor	4 th Felony	5	<1%
30-7-7	Unlawful sale	P.-Misdemeanor	4	<1%
30-22-16	Possession deadly weapon – prisoner	2 nd Felony	1	<1%

³ Because cases can include charges for more than one type of weapon violation, the sum of cases in Table 1 exceeds 2,587, and the sum of percentages exceeds 100%.

Table 2: Weapons -Related Lead Offenses and Their Dispositions by Statute

Statute	Description	Number of Cases	Finding of Guilt for the Lead Offense	Conditional Discharge	Dismissal	Incompetency	Acquittal
30-7-16(A)1	Possession firearm – felon	682	35%	0%	63%	1%	<1%
30-7-4	Negligent use of a deadly weapon	391	20%	8%	71%	--	1%
30-3-8(B)	Shooting at/from motor vehicle	180	30%	10%	59%	1%	--
30-7-2.2	Unlawful carrying – person under 19	71	30%	24%	45%	1%	--
30-3-8(A)	Shooting at dwelling	70	33%	9%	56%	1%	1%
30-7-2.1	Unlawful carrying – school premises	64	30%	22%	47%	2%	--
30-7-2	Unlawful carrying	63	25%	6%	68%	--	--
30-16-11	Receiving stolen property (firearm)	30	17%	3%	80%	--	--
30-20-16(B)	Making shooting threat	23	17%	26%	52%	4%	--
	All other weapon violations	72	25%	4%	67%	3%	1%
	Total cases	1,646	29%	6%	63%	1%	1%

Table 3: Weapons-Related Lead Offenses and Their Dispositions by Degree

Degree	Number of Cases	Finding of Guilt for the Lead Offense	Conditional Discharge	Dismissal	Incompetency	Acquittal
2 nd Felony	45	27%	2%	69%	--	2%
3 rd Felony	667	36%	<1%	62%	1%	<1%
4 th Felony	350	27%	11%	61%	1%	<1%
Misdemeanor	127	29%	18%	50%	2%	--
Petty Misdemeanor	457	20%	8%	70%	--	1%
Total cases	1,646	29%	6%	63%	1%	1%

Table 4: Most Serious Weapons Offenses and Their Disposition by Statute

Statute	Description	Number of Cases	Finding of Guilt for the Most Serious Weapons Offense	Conditional Discharge	Dismissal	Incompetency	Acquittal
30-7-16(A)1	Possession firearm – felon	932	36%	15%	63%	1%	1%
30-7-4	Negligent use of a deadly weapon	731	17%	6%	76%	--	1%
30-3-8(B)	Shooting at/from motor vehicle	237	31%	8%	59%	<1%	1%
30-7-2	Unlawful carrying	191	18%	5%	75%	1%	1%
30-7-2.2	Unlawful carrying – person under 19	144	27%	15%	56%	1%	1%
30-3-8(A)	Shooting at dwelling	105	32%	6%	60%	1%	1%
30-7-2.1	Unlawful carrying – school premises	73	29%	25%	45%	1%	--
30-16-11	Receiving Stolen Property (Firearm)	40	15%	2%	83%	--	--
30-20-16(B)	Making shooting threat	25	16%	24%	56%	4%	--
	All other weapon violations	109	22%	5%	71%	2%	1%
	Total cases	2,587	27%	5%	67%	1%	1%

Table 5: Most Serious Weapons Offenses and Their Disposition by Degree

Degree	Number of Cases	Finding of Guilt for the Most Serious Weapons Offense	Conditional Discharge	Dismissal	Incompetency	Acquittal
2 nd Felony	63	27%	2%	70%	--	2%
3 rd Felony	906	36%	<1%	62%	1%	1%
4 th Felony	457	28%	9%	61%	1%	1%
Misdemeanor	223	27%	1%	58%	2%	<1%
Petty Misdemeanor	457	18%	6%	76%	<1%	1%
Total cases	2,587	27%	5%	67%	1%	1%

Table 6: Sentencing When Most Serious Conviction is a Weapons Offense by Statute⁴

Statute/ Description	Typical Degree	Number of Cases	Fully Incarcerated		Partial Suspension		Fully Suspended
			Jail/prison sentence (yrs)	Parole term (yrs)	Jail/prison sentence (yrs)	Probation sentence (yrs)	Probation sentence (yrs)
30-7-16(A)1: Possession firearm – felon	3 rd F	237	3.0 (40)	2.0	2.0 (95)	3.0	3.0 (102)
30-7-4: Negligent use of a deadly weapon	P. Mis.	105	<.1 (1)	0.0	<.1 (17)	1.0	.5 (87)
30-3-8(B): Shooting at/from motor vehicle	2 nd - 4 th F	17	--	--	2.5 (17)	4.0	--
30-7-2.2: Unlawful carry- person under 19	Mis.	43	1.0 (4)	0.0	<.1 (3)	1.2	1.0 (36)
30-3-8(A): Shooting at dwelling	4 th F	87	2.5 (13)	0.0	2.0 (9)	5.0	1.5 (65)
30-7-2.1: Unlawful carry – school premises	4 th F	30	1.0 (3)	0.0	2.0 (1)	2.5	1.0 (26)
30-7-2: Unlawful carrying	P. Mis.	28	.1 (6)	0.0	.1 (4)	.5	.5 (18)
30-16-11: Stolen Firearm	4 th F	11	.5 (1)	1.0	1.5 (1)	4.5	1.5 (9)
30-20-16B: Shooting threat	Mis.	10	--	--	--	--	.7 (10)
All other Weapon offenses		17	7.0 (1)	1.0	1.0 (2)	.5	1.2 (14)
Total cases		585	3.0 (69)	1.0	1.5 (149)	3.0	1.5 (367)

⁴ Numbers of cases are indicated in parentheses. Charges were not necessarily assigned the typical degree, especially for initiatory crimes.

Table 7: Sentencing When Most Serious Conviction is a Weapons Offenses by Degree⁵

Degree	Number of Cases	Fully Incarcerated		Partial Suspension		Fully Suspended
		Jail/prison sentence (yrs)	Parole term (yrs)	Jail/prison sentence (yrs)	Probation sentence (yrs)	Probation sentence (yrs)
2 nd Felony	11	10.0 (3)	2.0	3.0 (5)	5.0	3.0 (3)
3 rd Felony	239	3.0 (43)	2.0	2.0 (96)	3.0	3.0 (100)
4 th Felony	133	1.0 (12)	0.0	1.7 (22)	2.5	1.5 (99)
Misdemeanor	69	1.0 (4)	0.0	<.1 (5)	1.0	1.0 (60)
Petty Misdemeanor	133	<.1 (7)	0.0	<.1 (21)	1.0	.5 (105)
Total cases		585	3.0 (69)	1.0	1.5 (149)	3.0

Table 8: Expected lengths of stay for people incarcerated in NM Prisons on Weapons Offenses June 30, 2024

Statute	Description	Number of Cases	Mean Expected LOS (yrs)	Median Expected LOS (yrs)
30-7-16(A)1	Possession firearm – felon	92	2.2	2.0
30-3-8(B)	Shooting at/from motor vehicle	52	6.6	5.9
30-3-8A	Shooting at dwelling	13	7.1	3.6
30-22-16	Possession deadly weapon – prisoner	9	5.2	4.4
30-16-11	Receiving stolen property (firearm)	1	1.3	1.3
30-7-2.1	Unlawful carrying – school premises	1	.7	.7
30-7-5	Dangerous use of explosives	1	2.3	2.3
	Total cases	169	4.1	2.7

Methodology

This report covers those offenses in Chapter 30-7 NMSA 1978 (weapons and explosives) as well as those in 30-3-8, 30-16-1(H) and 11, 30-20-16, and 30-22-16 NMSA 1978. It includes the 2,587 cases that were adjudicated between July 1, 2023 and June 30, 2024. We drew cases that included a weapons offense as any charge, but the case was eliminated if (1) all charges of weapons offenses were dropped before the case was adjudicated, (2) the case has not yet been adjudicated or (3) the case was bound over, transferred, or consolidated to a different case. Among all 8,803 charges in the 2,587 cases, 3,395 or 39% are weapons offenses. Other common charges include assault, drug offenses, and judicial interference.

Sometimes dispositions are amended; in this report we use the most recent disposition for each charge. However, we do not include changes in dispositions that may have occurred due to appeals processes.

We determine the Lead Offense for Tables 2 and 3 primarily based on charges with the highest degree. If a weapons offense charge is among those with the highest degree, we select it as the lead offense. If there are multiple such charges, we select the charge with a conviction, if any.

We determine the Most Serious weapons offense for Tables 4 and 5 based on the weapons charge with the highest degree. If there are multiple such charges, we select the charge with a conviction, if any.

⁵ Numbers of cases are indicated in parentheses.

The determination of sentencing in Tables 6 and 7 requires some explanation. Electronic sentencing information usually is recorded charge by charge, with an indication of whether the sentence is concurrent or consecutive to other convictions in the case. We determine the ‘charge term’—the intended length of incarceration for the charge—by adding any enhancement (e.g. habitual offender, firearm) to the sentence and subtracting any suspension. For total incarceration in the case, we use the longest charge term when all charge terms are to be served concurrently; we sum charge terms when they are each to be served consecutively. The incarceration sentences reported here do not incorporate the calculations of expected earned meritorious deductions (good time). Therefore, the lengths of incarceration for those incarcerated in prison (not jail) may be shorter than indicated here, as individuals incarcerated in prison earn meritorious deductions.

Probation sentences are derived from a different dataset than sentencing. There may be one entry for the entire case, or there may be separate entries for multiple convictions. We sum probation sentences. If the sum exceeds five years, we use the longest probation term instead, unless the defendant is a sex offender for whom the statutory maximum of five years of probation does not apply.

Parole sentences are derived from yet another dataset unrelated to sentencing or probation. While there is usually just one entry for a case, occasionally there are multiple entries. We assume the longest parole term. We do not include any parole term for partially suspended cases because, if one exists, it is served concurrently to the probation term, which is usually longer. We also do not include the parole term for fully suspended cases, as they only are served when a defendant completes probation incarcerated after probation has been revoked.

In Tables 6 and 7, we omit cases when electronic data is confusing or questionable, unless checked manually using New Mexico Secure Court Case Access. Omitted cases include those in which there are a mix of concurrent and consecutive charge terms, parole exceeds two years, a single probation record exceeds five years for a non-sex offender, parole terms are not accompanied by incarceration terms, or no sentencing information is available electronically.

Finally, for Table 8 we use admission dates and expected release dates to determine the mean and median lengths of stay for individuals incarcerated on June 30, 2024 for weapons offenses in New Mexico prisons. The incarceration sentences reported here do include expected earned meritorious deductions.