



Nancy Shane

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Select Crimes Issue Paper: Drug Trafficking 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 drug trafficking 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 drug trafficking 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 drug trafficking. The offenses included are those in Section 30-31-20 (trafficking controlled substances) NMSA 1978 as well as Section 26-1-16 and Section 26-2C-28 NMSA 1978. We include the 1,137 cases that included a drug trafficking 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 (982, or 86%) in which a drug trafficking 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

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

organize the 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 drug trafficking offense charged. Unlike Tables 2 and 3, these analyses include all 1,137 cases, including those with lead offenses that are not drug trafficking 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 (454 or 40%) in which a drug trafficking 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 drug trafficking offense on June 30, 2024. This table 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 preprosecution diversion program.

² Electronic sentencing information is either unavailable or difficult to interpret for 2 or <1% of the 454 cases. Sentencing information is complex and more prone to data entry error than other information included in this report.

Tables

Table 1: Drug Trafficking Offenses Charges in Cases³

Statute	Description	Typical Degree	Number of Cases	Percent of Cases
30-31-20B(1)	Trafficking controlled substances, 1 st offense	2 nd Felony	997	88%
26-1-16	Dangerous drugs, conditions for sale	4 th Felony	87	8%
30-31-20B(2)	Trafficking controlled substances, 2 nd or subsequent offense	1 st Felony	61	5%
30-31-20C	Trafficking controlled substances within a drug-free school zone	1 st Felony	3	<1%
26-2C-28	Violation of Cannabis Trafficking Regulation	Misdemeanor	3	<1%

Table 2: Drug Trafficking-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
30-31-20B(1)	Trafficking controlled substances, 1 st offense	878	36%	6%	56%	1%	<1%
30-31-20B(2)	Trafficking controlled substances, 2 nd or subsequent offense	54	22%	2%	72	4%	0
26-1-16	Dangerous drugs, conditions for sale	47	4%	2%	92	2	0
26-2C-28	Violation of Cannabis Trafficking Regulation	2	50%	0%	50	0	0
30-31-20C	Trafficking controlled substances within a drug-free school zone	1	0%	0%	100%	0	0
	Total cases	982	34%	6%	59%	1%	<1%

³ Because cases can include charges for more than one type of drug trafficking violation, the sum of cases in Table 1 exceeds 1,137, and the sum of percentages exceeds 100%.

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

Degree	Number of Cases	Finding of Guilt for the Lead Offense	Conditional Discharge	Dismissal	Incompetency	Acquittal
1 st Felony	51	24%	0%	72%	4%	0%
2 nd Felony	785	33%	5%	60%	1%	<1%
3 rd Felony	97	63%	14%	22%	1%	0%
4 th Felony	47	4%	2%	92%	2%	0%
Misdemeanor	2	50%	0%	50%	0%	0%
Total cases	982	34%	6%	59%	1%	<1%

Table 4: Most Serious Drug Trafficking Offenses and Their Disposition by Statute

Statute	Description	Number of Cases	Finding of Guilt for the Most Serious Drug Trafficking Offense	Conditional Discharge	Dismissal	Incompetency	Acquittal
30-31-20B(1)	Trafficking controlled substances, 1 st offense	991	36%	6%	56%	1%	<1%
26-1-16	Dangerous drugs, conditions for sale	83	4%	1%	94%	1%	0%
30-31-20B(2)	Trafficking controlled substances, 2 nd or subsequent offense	58	24%	2%	69%	3%	2%
26-2C-28	Violation of Cannabis Trafficking Regulation	3	33%	0%	67%	0%	0%
30-31-20C	Trafficking controlled substances within a drug-free school zone	2	0%	0%	100%	0%	0%
	Total cases	1,137	33%	6%	60%	1%	<1%

Table 5: Most Serious Drug Trafficking Offenses and Their Disposition by Degree

Degree	Number of Cases	Finding of Guilt for the Most Serious Drug Trafficking Offense	Conditional Discharge	Dismissal	Incompetency	Acquittal
1 st Felony	56	25%	0%	70%	4%	2%
2 nd Felony	882	32%	5%	61%	1%	<1%
3 rd Felony	113	63%	16%	20%	<1%	0%
4 th Felony	83	4%	1%	94%	1%	0%
Misdemeanor	3	33%	0%	67%	0%	0%
Total cases	1,137	33%	6%	60%	1%	<1%

Table 6: Sentencing When Most Serious Conviction is a Drug Trafficking 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)
30-31-20B(1): Trafficking, 1 st offense	2 nd F	432	3.0 (30)	2.0	3.0 (154)	5.0	5.0 (248)
30-31-20B(2): Trafficking, 2 nd + offense	1 st F	15	18.0 (5)	2.0	3.5 (7)	5.0	5.0 (3)
26-1-16: Conditions for sale	4 th F	4	3.0 (1)	1.0	1.2 (2)	4.0	1.5 (1)
26-2C-28: Cannabis trafficking	M	1					1.0 (1)
Total cases		452	4.8 (36)	2.0	3.0 (163)	5.0	5.0 (253)

Table 7: Sentencing When Most Serious Conviction is a Drug Trafficking 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)
1 st Felony	14	18.0 (5)	2.0	3.5 (7)	5.0	5.0 (2)
2 nd Felony	332	2.0 (23)	1.0	4.0 (128)	5.0	5.0 (181)
3 rd Felony	101	4.0 (7)	2.0	1.5 (26)	3.2	3.0 (68)
4 th Felony	4	3.0 (1)	1.0	1.2 (2)	4.0	1.5 (1)
Misdemeanor	1					1.0 (1)
Total cases	452	4.8 (36)	2.0	3.0 (163)	5.0	5.0 (253)

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

⁵ Numbers of cases are indicated in parentheses.

Table 8: Expected Lengths of Stay for People Incarcerated in NM Prisons on Drug Trafficking Offenses
June 30, 2024

Statute	Description	Number of Cases	Mean Expected LOS (yrs)	Median Expected LOS (yrs)
30-31-20B(1)	Trafficking controlled substances, 1 st offense	320	3.4	2.8
30-31-20B(2)	Trafficking controlled substances, 2 nd or subsequent offense	34	8.5	8.6
26-1-16	Dangerous drugs, conditions for sale	6	2.4	2.4
	Total cases	360	3.9	2.9

Methodology

This report covers those offenses in Section 30-31-20 (trafficking controlled substances) NMSA 1978 as well as Section 26-1-16 and Section 26-2C-28 NMSA 1978. We include the 1,137 cases that included a drug trafficking offense as any charge and were adjudicated between July 1, 2023 and June 30, 2024. We drew cases that included a drug trafficking offense as any charge, but the case was eliminated if (1) all charges of drug trafficking 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 3,469 charges in the 1,137 cases, 1,701 or 49% are drug trafficking offenses. Other common charges include other drug offenses (distribution, possession, and paraphernalia) and resisting an officer.

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 the charges with the highest degree. If a drug trafficking 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 drug trafficking offense for Tables 4 and 5 based on the drug trafficking charge with the highest degree. If there are multiple such charges, we select the charge with a conviction, if any.

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 sentences 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 sentences, 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 for a non-sex offender, 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 drug trafficking offenses in New Mexico prisons. The incarceration sentences reported here include expected earned meritorious deductions.