

# Comparison of Case Outcomes: Household Member Assault/Battery Cases and Non-Household Member Assault/Battery Cases

Prepared by:

New Mexico Sentencing Commission

Linda Freeman, M.A.

## Methodology

This report looks at cases disposed statewide in New Mexico for calendar year 2008. During 2008, NM District Courts disposed of 1,860 cases that had at least one assault or battery charge. In NM, if the victim of an assault or battery meets the definition of a household member (HHM) “a spouse, former spouse, parent, present or former stepparent, present or former parent-in-law, grandparent, grandparent-in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship” (NMSA 30-3-11) the defendant can be charged with a specific charge that is identifiable and different than if the victim does not meet the definition.

For the purposes of this study, the existence of separate statutes allows us to compare the case outcomes when the victim meets the HHM definition compared to when the victim is not a HHM.

The analysis used in this report is based on the most serious charge in the case. All cases disposed in 2008 that had any assault/battery or assault/battery HHM charges were selected from data that is provided to the New Mexico Sentencing Commission (NMSC) by the New Mexico Administrative Office of the Courts (AOC). After the initial case selection, it was determined whether or not the assault/battery or assault/battery HHM charge was the most serious charge in the case or a lower charge. Lower charges are considered less serious and we categorize cases by the most serious charge. Typically the most serious charge in the case is first count in the case; we refer to it as the top charge.

Cases were categorized by their most serious charge and then grouped by whether or not it was a HHM or non-HHM crime anywhere in the charges. Prosecution rates, disposition and sentencing analysis were computed for each category of cases.

## Results

Cases were evenly divided between cases with HHM and non-HHM charges. There were more cases where assault/battery (either against a HHM or a non-HHM) was the most serious charge (56.1%) than cases where an other charge was the most serious charge. There were slightly more assault/battery non-HHM cases (29.5% compared to 26.6%). Table one shows the break out of cases by the most serious charge and HHM and non-HHM categories.

**Table 1. Most Serious Charge in the Case by HHM and Non-HHM**

Most Serious Charge in the Case	HHM		Non-HHM	
	Count	Percentage	Count	Percentage
Assault/Battery	495	26.6%	549	29.5%
Other Charge	433	23.3%	383	20.6%
Total	928	49.9%	932	50.1%

Looking at the cases where the most serious was something other than assault/battery there were different patterns in HHM and Non-HHM cases. Nearly 51% of HHM cases had other violent charges as the most serious charge (this category includes charges like false imprisonment, child abuse and stalking). Other frequent top charges in HHM cases were kidnapping (26.1%) and burglary (9.2%). Looking at non-HHM cases, burglary (20.3%), other violent (19.3%), and kidnapping (13.8%) were the most frequent top charges. The portion of cases where sexual offenses were the top charges was similar for HHM and non-HHM cases (4.8% and 5.2%). These differences were statistically significant. Table 2 lists the top charges in cases where assault/battery was not the most serious charge by HHM and non-HHM cases.

**Table 2. Charge Categories for Cases where Assault/Battery is not the Most Serious Charge in the Case by HHM and Non-HHM**

Most Serious Charge in the Case	HHM		Non-HHM	
	Count	Percentage	Count	Percentage
Armed Robbery	1	0.2%	35	9.1%
Burglary	40	9.2%	78	20.4%
Criminal Justice Interference	11	2.5%	13	3.4%
Homicide	4	0.9%	32	8.4%
Kidnapping	113	26.1%	53	13.8%
Other Violent	219	50.6%	74	19.3%
Robbery	1	0.2%	31	8.1%
Sexual Offenses	21	4.8%	20	5.2%
Other	23	5.3%	47	12.3%
Total	433	100.0%	383	100.0%

Additionally cases were broken out on whether or not there the assault/battery charge was aggravated. Aggravated charges are more serious and occur when a deadly weapon was used, or there was great bodily harm. Looking at the distribution, non-HHM cases were more likely to have aggregated charges. Cases where aggravated assault/battery was the most serious charge comprised 52.3% of non-HHM cases compared to 41.2% of HHM cases. Cases where aggravated assault/battery was a lower charge in the case comprised 33.4% of Non-HHM cases and 27.2% of HHM cases. These differences were statistically significant. Table 3 lists the breakout of aggravated charges by HHM and non-HHM.

**Table 3. Breakout of Aggravated Charges by HHM and Non-HHM**

Type of Case	HHM		Non-HHM	
	Count	Percentage	Count	Percentage
Assault/battery	113	12.2%	61	6.5%
Aggravated assault/battery	382	41.2%	488	52.3%
Other most serious with assault/battery	181	19.5%	72	7.7%
Other most serious with aggravated assault/battery	252	27.2%	311	33.4%
Total	928	100.0%	932	100.0%

Using the case breakout outlined above that separates cases by aggravated charges and most serious charges in the case we calculated a series of outcome measures. The first outcome measure that we calculated was prosecution rate for the top charge. The prosecution rate is defined as: when looking at the most serious charge in the case, all defendants were considered prosecuted except those whose top charge was “dismissed” or “nolle prosequi”. There were differences in the prosecution rate for HHM and non-HHM cases. All non-HHM cases were more likely to have the most serious charge in the case prosecuted. In 56.9% of non-HHM cases that had aggravated assault/battery as a less serious included offense the most serious offense was prosecuted compared to 47.5% of HHM cases. The prosecution rates were similar for cases where assault/battery was a less serious included offense (47.9% for Non-HHM cases and 46.0% of HHM cases). These differences were statistically significant. Table 4 contains the prosecution rates by type of case.

**Table 4. Prosecution Rates for Most Serious Charge by HHM and Non-HHM**

Type of Case	HHM	Non-HHM
Assault/battery	69.0%	75.4%
Aggravated assault/battery	52.1%	61.3%
Other most serious with assault/battery	46.0%	47.9%
Other most serious with aggravated assault/battery	47.5%	56.9%
Total Number of Cases	928	932

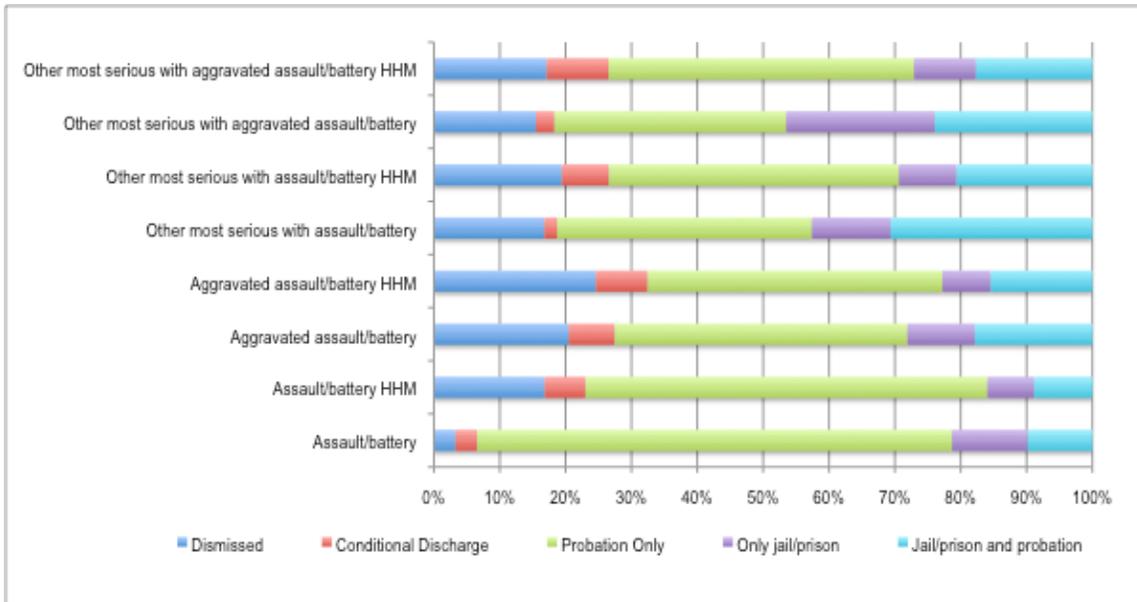
It is important to note even if the most serious charge is not prosecuted the defendant could be prosecuted on other charges in the case. To better understand the overall case disposition the outcomes of the cases were categorized into one of the following: convicted on the most serious charge, convicted on a lower charge, dismissal/acquittal, and conditional discharge. A conditional discharge is counted separately than a conviction because although an offender is required to complete a term of probation, there is no adjudication of guilt and after a successful completion of probation, the charge does not appear on the offender’s record. The overall conviction rate (cases where there was any conviction in the case) varied from a low of 67.5% for HHM aggravated assault/battery cases to a high of 93.4% for non-HHM assault/battery cases. In all types of cases, non-HHM cases were more likely to have a conviction on the most serious charge. In HHM cases where aggravated assault/battery was the most serious charge or a lower included offense defendants were more likely to be convicted of a lower charge compared to non-HHM cases. All HHM cases were more likely to dismissed or receive a conditional discharge. These differences were statistically significant. It is important to note that since this analysis relies on aggregate data, we do not have any measures of prior criminal history or other variables that may explain the differences in case outcomes. Table 5 lists the outcomes by HHM and non-HHM cases.

**Table 5. Case Outcome by Type of Case and HHM and Non-HHM**

Type of Case	HHM			
	Convicted top charge	Convicted lower charge	Dismissal/ Acquittal	Conditional discharge
Assault/battery	63.7%	13.3%	16.8%	6.2%
Aggravated assault/battery	45.3%	22.3%	24.6%	7.9%
Other most serious with assault/battery	38.9%	34.5%	19.4%	7.1%
Other most serious with aggravated assault/battery	38.1%	35.4%	17.1%	9.4%
Type of Case	Non-HHM			
	Convicted on top charge	Convicted lower charge	Dismissal/ Acquittal	Conditional discharge
Assault/battery	72.1%	21.3%	3.3%	3.3%
Aggravated assault/battery	53.3%	19.3%	20.5%	7.0%
Other most serious with assault/battery	44.4%	37.0%	16.7%	1.9%
Other most serious with aggravated assault/battery	52.8%	29.2%	15.3%	2.8%

The next step is to divide the case outcome with the type of sentence offenders received. In figure 1 below we can see that non-HHM assault/battery cases are the most likely to great probation only sentences, that aggravated assault/battery HHM cases had the most dismissal/acquittals, and that non-HHM cases with a more serious charge and a lower included aggravated assault/battery charge were the most likely to have a jail sentence. Figure 1 contains the case outcomes by each type of case.

**Figure 1. Break down of Case Outcome by Case Type**

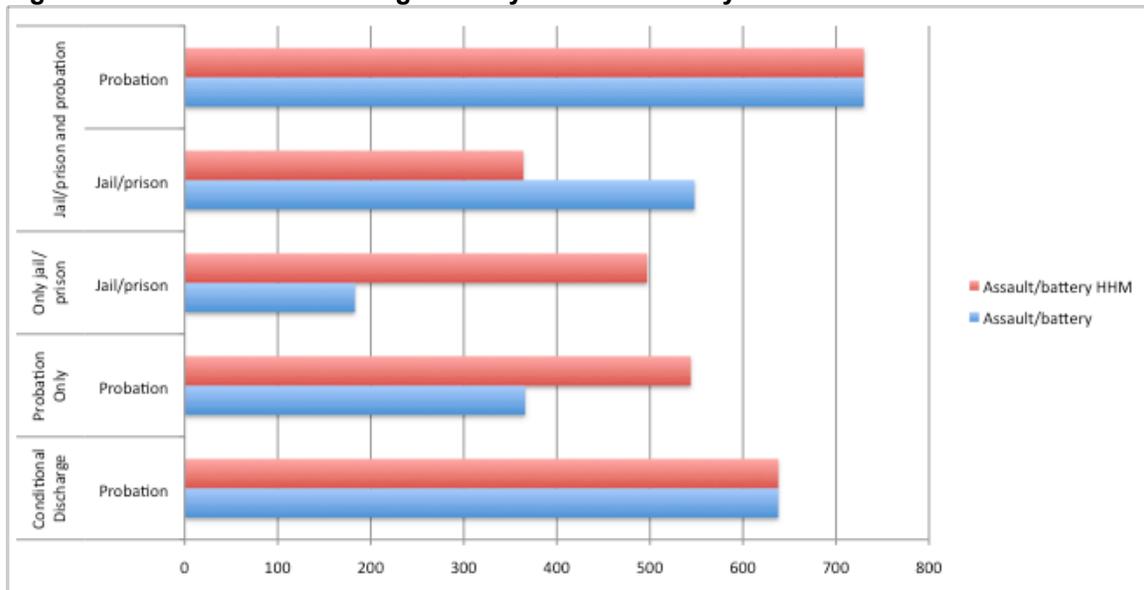


We calculated the median probation and jail/prison sentences in days for all offenders whose cases were not dismissed. The jail/prison sentence is the total sentence in the case minus any suspensions, but does not take into account any time already served. We decided to not subtract time served because we wanted the sentences to reflect the overall jail/prison sentence not the amount of time left to served after any pre-trial confinement time was taken in account.

Since there is considerable variation in probation and jail/probation sentences, we use the median to report the sentence lengths 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.

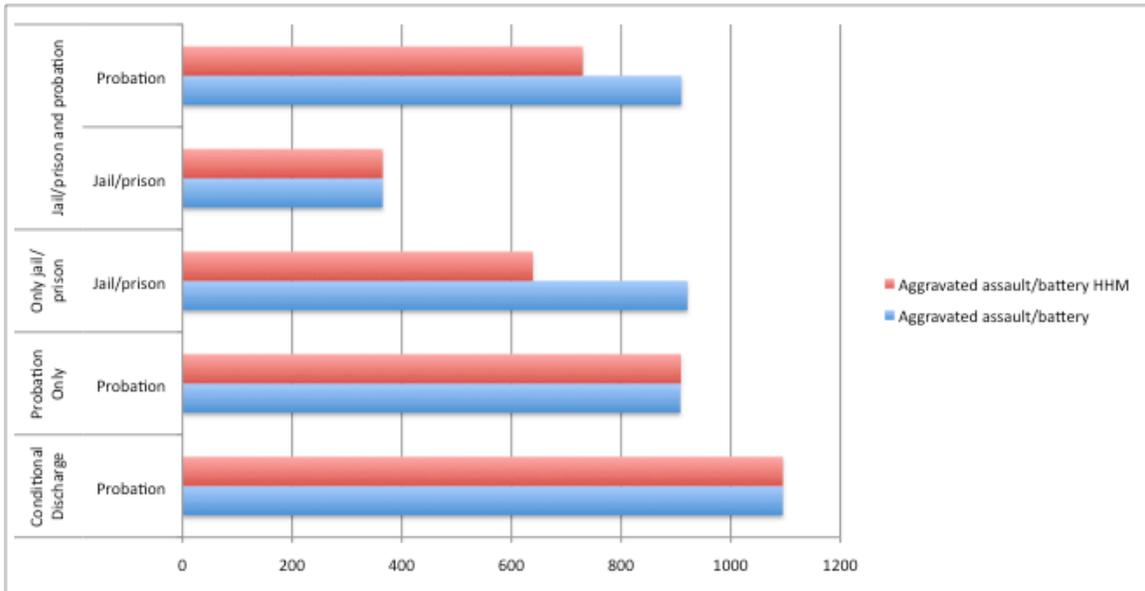
Assault/battery HHM cases had shorter jail/prison sentences in cases where the the offender got jail/prison and probation and longer jail sentences in cases where the offender just got jail and cases where the offender got just probation. Figure 2 compares median sentences for assault/battery cases.

**Figure 2. Median Sentence Length in Days Assault/battery Cases**



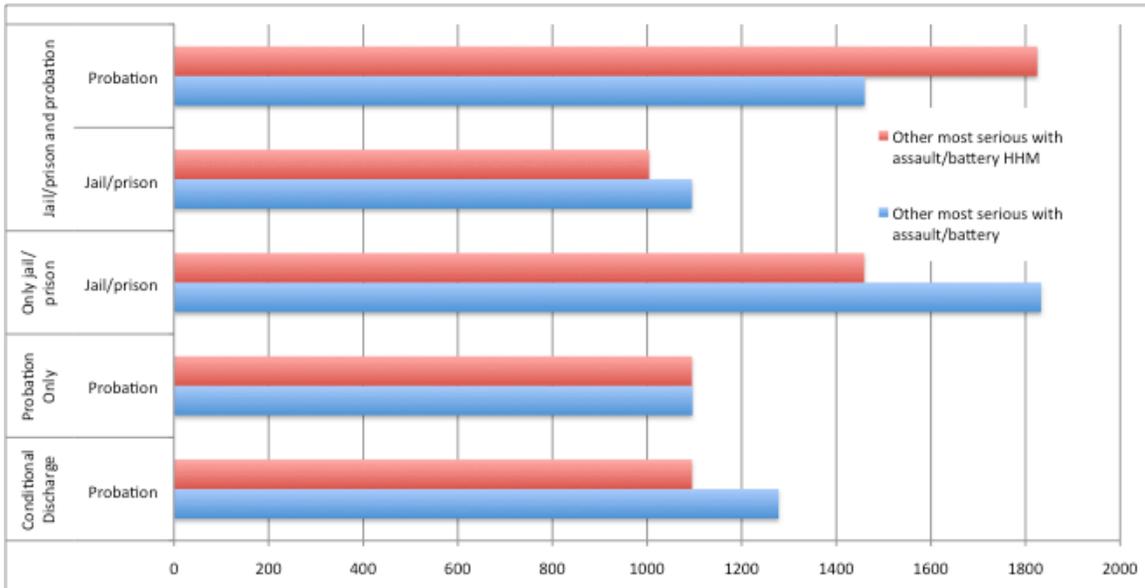
Aggravated assault/battery HHM cases had shorter probation sentences in cases where the the offender got jail/prison and probation and shorter jail sentences in cases where the offender just got jail. Figure 3 compares median sentences for aggravated assault/battery cases.

**Figure 3. Median Sentence Length in Days Aggravated Assault/battery Cases**



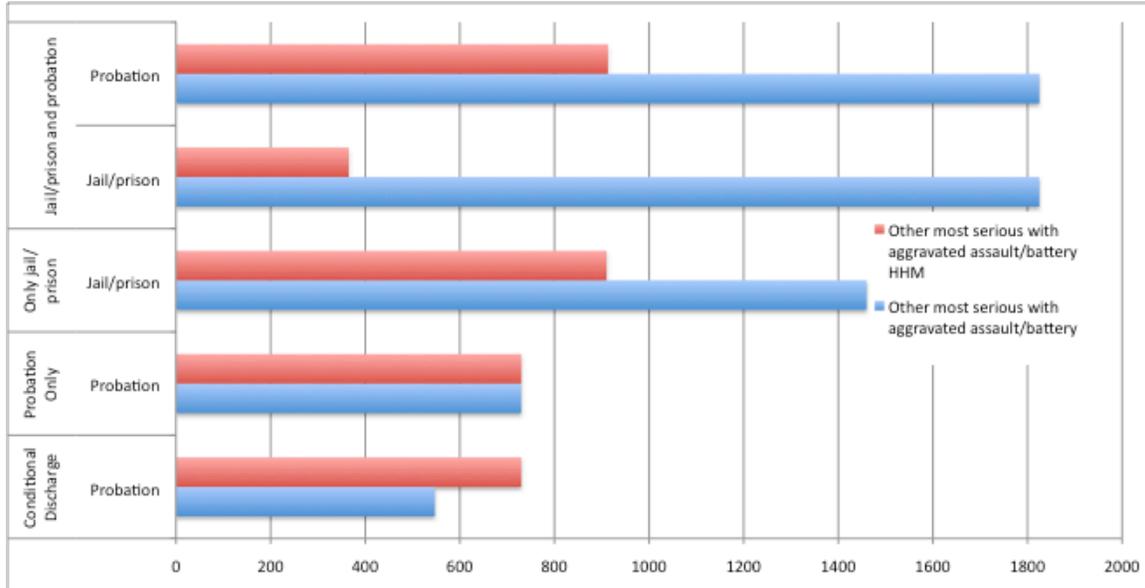
Cases with more serious charges and lesser included assault/battery HHM charges had longer probation sentences in cases where the the offender got jail/prison and probation and shorter jail sentences in cases where the offender just got jail. Figure 4 compares median sentences for cases with more serious charges and lesser included assault/battery charges.

**Figure 4. Median Sentence Length in Days Other Most Serious Charge with Assault/battery**



Cases with more serious charges and lesser included aggravated assault/battery HHM charges had lower probation and jail sentences in cases where the the offender got jail/prison and probation and shorter jail sentences in cases where the offender just got jail. Figure 5 compares median sentences for cases with more serious charges and lesser included aggravated assault/battery charges.

**Figure 5. Median Sentence Length in Days Other Most Serious Charge with Aggravated Assault/battery Cases**



## Conclusion

In many ways, the result of this preliminary examination of HHM and non-HHM assault and battery case outcomes brings up more questions than it provides answers. Constructing the court dataset and verifying sentencing was very labor intensive and while one of the strength of the analyses is that we were able to compare outcomes for the entire state for a year, we also lacked the time and resources to collect criminal history information on the defendants.

HHM cases had an overall lower conviction rate in all four types of cases we looked at in this study. HHM cases also had a higher conditional discharge rate. While a conditional discharge is not technically a conviction, it brings the defendant under the supervision of the New Mexico Corrections Department Probation and Parole Division. Defendants are required to report and in most cases receive various types of services including counseling and anger management. If the defendant violates the conditions, the court can enter an adjudication of guilt. Conditional discharges are not available to defendants who have previous felony convictions.

There were also statistically significant differences in the median sentence lengths in HHM and non-HHM cases in each type of case. Cases with conditional discharges had the most similar median probation sentence lengths.

While this study cannot explain the reasons for the differences in the case outcomes or the median sentence lengths, this study does make a first step by specifying areas where differences appear to exist.