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## ADULT CRIMINAL COURT STATISTICS, 1998/99

by Julian V. Roberts<sup>1</sup> and Craig Grimes<sup>2</sup>

### HIGHLIGHTS

- In the fiscal year 1998/99, adult criminal courts in 9 provinces and territories processed 394,884 cases involving 840,539 charges. This represents a decrease of 4% in cases processed over the previous year. Since 1994/95, total cases have declined by 11%.
- *Crimes against the person* (e.g. robbery and sexual assault) accounted for 21% of the cases heard in 1998/99, and *Crimes against property* (e.g., break and enter and theft) accounted for 26%. The two most frequently occurring offences were impaired driving and common assaults, each accounting for 12% of cases.
- Persons aged 18 to 24 accounted for the highest percentage of *Crimes against property*, while the 25-to-34 age group accounted for the highest percentage of cases involving *Crimes against the person*.
- One third of cases (34%) were resolved within a month, and just less than half (45%) took more than one, but no more than eight months to complete in 1998/99. It took more than eight months and no more than twelve months to complete 12% of cases, and the elapsed time was more than one year in 10% of cases heard.
- A term of probation was the most frequently imposed sanction (42% of convicted cases). A fine was imposed in 40% of cases, and a term of imprisonment in 35% of cases.
- The proportion of cases sentenced to prison varies significantly across the country. In Prince Edward Island, almost two-thirds of convictions resulted in a term of imprisonment, while a term of custody was imposed in only one case in four in Saskatchewan.
- Analysis of sentencing trends over a 5-year period reveals that while the proportion of cases sentenced to prison has increased slightly, the lengths of prison sentences have increased substantially. The median length of prison sentence rose from 30 days in 1994/95 to 45 days in 1998/99. The greatest increases in sentence lengths were observed for assault, sexual assault, sexual abuse, and manslaughter.

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**INTRODUCTION**

The court system is the heart of the criminal justice process. Courts are responsible for making a number of critical decisions about a criminal case. These decisions include the vital determination of whether the Crown has established the guilt of the accused beyond a reasonable doubt. For those offenders found guilty (or who plead guilty), the court will conduct a sentencing hearing to determine the nature of the sentence that will be imposed.

This *Juristat* summarizes trends from provincial/territorial courts across Canada which provided data to the Adult Criminal Court Survey (ACCS), for the 1998/99 fiscal year. At the present time, data are collected through the ACCS from seven provincial and two territorial departments of justice (**Box 1**). In this *Juristat*, information is presented on the characteristics of cases and accused persons, the number of appearances, conviction rates, sentencing trends and related issues. As well, for the first time, statistics are presented for a five-year period (1994/95 through 1998/99).

**Box 1  
 About the Survey**

The analysis in this report is based on case characteristics data from the Adult Criminal Court Survey (ACCS). These data on federal statute charges disposed of in 1998/99 are collected by the Canadian Centre for Justice Statistics (CCJS) in collaboration with provincial and territorial government departments responsible for adult criminal courts.

The primary unit of analysis is the case, which is defined as one or more charges laid against an individual and disposed of in court on the same day. All case information is presented by "most serious offence", as described in the methodology section. The individuals involved are persons 18 years or older, companies, as well as youths who have been transferred to adult criminal court.

At the time of this report, adult criminal courts in seven provinces and two territories reported to the ACCS. Reporting jurisdictions include: Newfoundland, Prince Edward Island, Nova Scotia, Quebec, Ontario, Saskatchewan, Alberta, Yukon, and the Northwest Territories. In addition, Alberta reports Superior Court (Court of Queen's Bench) data to the ACCS. These jurisdictions represent approximately 80% of the national adult criminal court caseload. The information presented in this report covers only these nine participating jurisdictions.

**Sentencing Reform in Canada**

In 1996, Bill C-41 was proclaimed. Bill C-41 constitutes the first major reform of sentencing in Canada's history. This Bill was the federal government's response to Commissions of Inquiry in the mid-1980s, including the Canadian Sentencing Commission and the Daubney Committee. Both of these groups produced reports that examined the sentencing process in Canada, and suggested possible reform options.

The sentencing reform Bill introduced a number of significant changes to the sentencing process. For example, the *Criminal Code of Canada* now includes a statement of the purpose and principles of sentencing. This statement is designed to guide trial court judges in their sentencing decisions. Bill C-41 also attempts to promote the greater use of alternative measures, particularly for individuals charged with relatively minor crimes.<sup>3</sup> The use of alternative measures may occur before or after the case comes to court and will include activities such as participating in an educational program or performing community service.

<sup>3</sup> For further information on the nature of the 1996 sentencing reforms, see J.V. Roberts and D. Cole (eds.) (1999) *Making Sense of Sentencing*. Toronto: University of Toronto Press.

As well, the 1996 sentencing reforms included the creation of a new sanction designed to reduce, in a safe and principled way, the number of offenders sentenced to prison. Judges in Canada now have the discretion to allow some offenders sentenced to terms of imprisonment to spend the sentence in the community under supervision. The offender who receives such a *conditional sentence of imprisonment* must abide by certain conditions, and may be sent to prison if he or she violates those conditions. Unfortunately, this *Juristat* does not include information on the use of this new sentence. The ACCS is currently being adapted to include the collection of data on conditional sentences of imprisonment.

## OVERVIEW OF TRENDS

### The number of cases heard in adult criminal court has declined, but the average number of charges per case has increased

In 1998/99, adult criminal courts in 9 provinces and territories processed 394,884 cases involving 840,539 charges. The number of cases processed in 1998/99 represents a 4% decline over the previous year, and a drop of 11% since 1994/95. In part, this decline in prosecuted cases reflects the declining number of incidents reported to police.<sup>4</sup> Over the period 1994 to 1997, there was a 5% decline in the number of incidents reported to police in the same provinces and territories that report to the ACCS.

Almost all of the cases (89%) had a *Criminal Code* charge as the most serious charge in the case.<sup>5</sup> *Crimes against the person* accounted for 21% of the total number of cases in 1998/99, and *Crimes against property* accounted for a further 26% (Table 1). *Traffic-related offences* accounted for 14% of all cases, while the category *Other Criminal Code* (which includes weapons offences and public order offences, among others), accounted for 28% of all cases. The remaining (11%) arose with respect to *Federal statute offences*, which included *Drug-related offences* (5%), and *Other federal statutes* (6%).<sup>6</sup> There has been little change in recent years in the distribution of cases across different categories of crime. In 1994/95, *Crimes against the person* accounted for 20% of all cases, and *Crimes against property*, 27% of all cases.

While the number of adult court cases has declined significantly in recent years, the average number of charges per case has increased 8%, rising from 1.97 in 1994/95 to 2.13 in 1998/99. A majority of the cases (53%) contained a single charge, but the more complex and potentially more serious multiple-charge cases have been increasing over the past five years, from 44% of all cases in 1994/95 to 47% in 1998/99. In 1998/99, 27% of all cases involved two charges and 20% had three or more charges.

### Impaired driving and common assaults are the most frequent offences

In 1998/99, the most frequently occurring offences were common assault<sup>7</sup> and impaired driving (each accounting for 12% of cases). The category of theft accounted for 10% of cases, while major assault accounted for just under 6% of

Table 1

### Cases heard in adult criminal court Selected provinces and territories in Canada, 1998/99

Offence Group	# Cases	%
<b>TOTAL OFFENCES</b>	<b>394,884</b>	<b>100</b>
<b>CRIMINAL CODE OFFENCES</b>	<b>350,850</b>	<b>88.8</b>
<b>Crimes against the person</b>	<b>82,097</b>	<b>20.8</b>
Homicide and related	480	0.1
Attempted murder	362	0.1
Robbery	4,691	1.2
Kidnapping	297	0.1
Sexual assault	6,140	1.6
Sexual abuse	1,360	0.3
Major assault	21,761	5.5
Abduction	147	--
Common assault	46,859	11.9
<b>Crimes against property</b>	<b>101,168</b>	<b>25.6</b>
Break and enter	14,268	3.6
Arson	619	0.2
Fraud	20,835	5.3
Possess stolen property	13,610	3.4
Theft	40,291	10.2
Property damage/mischief	11,545	2.9
<b>Other Criminal Code offences</b>	<b>110,940</b>	<b>28.1</b>
Weapons	7,501	1.9
Administration of justice	40,777	10.3
Public order offences	8,977	2.3
Morals-sexual	5,830	1.5
Morals-gaming	777	0.2
Residual Criminal Code	47,078	11.9
<b>Traffic-related offences</b>	<b>56,645</b>	<b>14.3</b>
Criminal Code traffic	8,488	2.1
Impaired driving	48,157	12.2
<b>FEDERAL STATUTE OFFENCES</b>	<b>44,034</b>	<b>11.2</b>
<b>Drug-related offences</b>	<b>20,166</b>	<b>5.1</b>
Trafficking	7,895	2.0
Possession	12,271	3.1
<b>Other federal statutes</b>	<b>23,868</b>	<b>6.0</b>

-- Amount too small to be expressed.

Note: Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

Source: Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

cases. Taken together, all forms of sexual assault and sexual abuse accounted for less than 2% of the federal statute caseload in adult criminal courts. In general, the less serious crimes account for a higher percentage of court cases. The

<sup>4</sup> See the methodology section for more details on the comparisons between the ACCS and the Uniform Crime Reporting (UCR) Survey.

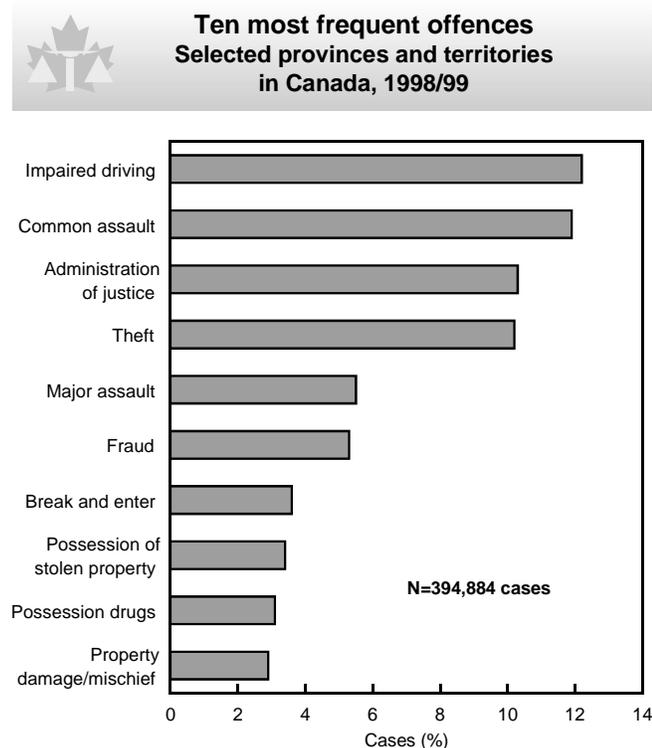
<sup>5</sup> When a case has more than one charge, it is necessary to decide which charge will be used to represent the case. If the case includes a conviction, that charge will always be considered the most serious. The most serious offence in a case with multiple convictions is determined based on the type of convicted offences and the sentences imposed. See the methodology section for more details.

<sup>6</sup> Federal statute offences refer to offences against Canadian federal statutes, such as the Customs Act, the Employment Insurance Act, Firearms Act, Food and Drugs Act (FDA), the Income Tax Act, and the Narcotic Control Act (NCA). This offence category excludes Criminal Code of Canada offences.

<sup>7</sup> There are three levels of assault in the Criminal Code. Common assault (Level 1 Assault, S. 266) is the least serious of the three types of assault in the Criminal Code. A common assault has been committed when an individual intentionally applies force or threatens to apply force to another person, without that person's consent. Major assault is an offence category that includes the higher levels of assault in the Criminal Code, assault with a weapon (Assault Level II, S. 267), aggravated assault (Assault Level III, S. 268), and other assaults (e.g., assaulting a police officer, and unlawfully causing bodily harm).

exceptions to this rule are major assault and break and enter, which are very serious crimes that also account for a significant percentage of total cases – 6% and 4% respectively (see Table 1). **Figure 1** provides a graphic of the distribution of cases for some of the most frequently occurring offences and offence categories.

Figure 1



**Note:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

## DEMOGRAPHIC CHARACTERISTICS OF PERSONS APPEARING IN COURT

### Most adult criminal court cases involve males

Fully 81% of all cases at the adult criminal court level involved male accused persons, while 15% of cases involved a female accused. (The sex of the accused was not recorded in 3% of the cases). In 1998/99, less than 1% of the cases involved a company as the accused.

Accused males accounted for the majority of cases for all crime categories. For *Crimes against the person*, 85% of cases involved males, while accused males were involved in 77% of *Crimes against Property*, and 85% of cases for *Traffic-related offences*. The few offences for which females accounted for significant percentages of cases included: offences against morals (38%, primarily soliciting), abduction (38%, mainly child-related), fraud (28%), and theft (28%, including shoplifting).

### Accused less than 45 years of age in almost all cases

The 25-to-34 age group accounted for the highest percentage of cases heard in adult criminal courts in 1998/99 (32%), closely followed by the 18-to-24 age group (30%) and the 35-to-44 age group (24%). Offenders under 45 years of age accounted for 86% of total cases. (Table 2)

### The accused was between 18 and 24 years of age in almost 40% of *Crimes against property* cases

In 1998/99, 18- to 24-year-olds comprise 12% of the adult population and 30% of all cases in adult criminal court. In contrast, persons over 55 represent 28% of the adult population, but accounted for less than 5% of adult criminal court cases. In 1998/99, the 18-to-24 age group accounted for the highest percentage of *Crimes against property* (37%), while the 25-to-34 age group accounted for the highest percentage of *Crimes against the person* (34%). Robbery is the only exception to this pattern: the younger age category accounted for almost half (46%) of robbery cases, while the 25-to-34 age group accounted for 33% of robbery cases.

## CASE PROCESSING

An important issue for the criminal justice system is the time taken to process a criminal case. The amount of time that elapses between the first and last court appearances will depend on many factors, including the complexity of the case, the number of days in which a judge is sitting in court, the degree of co-ordination of court resources, and lawyers' decisions regarding the appropriate course of action for their clients. **Box 2** contains a brief description of some of the more common elements of the trial process.

### Elapsed time: from the commission of the crime to first appearance in court by the accused

In 1998/99, a very small percentage (3%) of accused persons had their first appearance on the same day that the offence was reported to have occurred. In general, it is a matter of weeks between the commission of the crime and the first appearance of an accused. Thus, 41% of cases had a first appearance within 1 month of the crime being committed. A further 38% appeared in court between one and four months after the occurrence of the crime, and 20% took more than four months. In 93% of cases, the appearance took place within a year of the crime while 7% of accused persons had their first court appearance more than a year after the crime was committed.

### Elapsed time: from first to last appearance in court

Since the 1990 Supreme Court decision in *R. v. Askov*<sup>8</sup>, an important issue for court administrators is the amount of time that it takes to complete the processing of a case. In 1998/99, 19% of cases were dealt with at the first (and only)

<sup>8</sup> 59 C.C.C. (3d) 449. In this decision, the Supreme Court affirmed the right of an accused to be brought to trial without excessive delay. Further clarification of the issue was provided in *R. v. Morin* (1992) 71 C.C.C. (3d) 193 (S.C.C.). The judgement in *Morin* suggested that an eight to ten month delay was tolerable between charges being laid and the subsequent trial in provincial court.

Table 2



### Cases by age of accused Selected provinces and territories in Canada, 1998/99

Offence Group	Total Cases	Age Group									
		18 to 24		25 to 34		35 to 44		45 to 54		55 plus	
		#	%	#	%	#	%	#	%	#	%
<b>TOTAL OFFENCES</b>	<b>379,725</b>	<b>113,485</b>	<b>29.9</b>	<b>121,087</b>	<b>31.9</b>	<b>92,197</b>	<b>24.3</b>	<b>36,358</b>	<b>9.6</b>	<b>16,598</b>	<b>4.4</b>
<b>CRIMINAL CODE OFFENCES</b>	<b>338,250</b>	<b>98,969</b>	<b>29.3</b>	<b>108,438</b>	<b>32.1</b>	<b>83,193</b>	<b>24.6</b>	<b>32,683</b>	<b>9.7</b>	<b>14,967</b>	<b>4.4</b>
<b>Crimes against the person</b>	<b>79,029</b>	<b>20,166</b>	<b>25.5</b>	<b>26,926</b>	<b>34.1</b>	<b>20,840</b>	<b>26.4</b>	<b>7,649</b>	<b>9.7</b>	<b>3,448</b>	<b>4.4</b>
Homicide and related	461	137	29.7	180	39.0	84	18.2	40	8.7	20	4.3
Attempted murder	350	111	31.7	122	34.9	75	21.4	27	7.7	15	4.3
Robbery	4,570	2,101	46.0	1,509	33.0	781	17.1	153	3.3	26	0.6
Kidnapping	283	87	30.7	93	32.9	67	23.7	23	8.1	13	4.6
Sexual assault	5,893	1,136	19.3	1,803	30.6	1,560	26.5	815	13.8	579	9.8
Sexual abuse	1,266	190	15.0	371	29.3	368	29.1	180	14.2	157	12.4
Major assault	21,212	6,514	30.7	7,144	33.7	5,086	24.0	1,723	8.1	745	3.5
Abduction	133	16	12.0	62	46.6	36	27.1	16	12.0	3	2.3
Common assault	44,861	9,874	22.0	15,642	34.9	12,783	28.5	4,672	10.4	1,890	4.2
<b>Crimes against property</b>	<b>98,533</b>	<b>36,867</b>	<b>37.4</b>	<b>30,140</b>	<b>30.6</b>	<b>20,724</b>	<b>21.0</b>	<b>7,495</b>	<b>7.6</b>	<b>3,307</b>	<b>3.4</b>
Break and enter	13,938	7,481	53.7	3,995	28.7	1,945	14.0	443	3.2	74	0.5
Arson	603	223	37.0	157	26.0	122	20.2	70	11.6	31	5.1
Fraud	19,965	5,583	28.0	7,243	36.3	4,805	24.1	1,766	8.8	568	2.8
Possess stolen property	13,247	6,105	46.1	4,000	30.2	2,269	17.1	671	5.1	202	1.5
Theft	39,472	12,811	32.5	11,197	28.4	9,397	23.8	3,872	9.8	2,195	5.6
Property damage/mischief	11,308	4,664	41.2	3,548	31.4	2,186	19.3	673	6.0	237	2.1
<b>Other Criminal Code offences</b>	<b>104,394</b>	<b>31,356</b>	<b>30.0</b>	<b>34,718</b>	<b>33.3</b>	<b>25,327</b>	<b>24.3</b>	<b>9,161</b>	<b>8.8</b>	<b>3,832</b>	<b>3.7</b>
Weapons	7,171	2,291	31.9	2,033	28.4	1,544	21.5	802	11.2	501	7.0
Administration of justice	39,831	13,125	33.0	13,638	34.2	9,234	23.2	2,881	7.2	953	2.4
Public order offences	8,850	3,360	38.0	3,072	34.7	1,716	19.4	517	5.8	185	2.1
Morals-sexual	5,583	1,027	18.4	2,064	37.0	1,552	27.8	590	10.6	350	6.3
Morals-gaming	606	53	8.7	161	26.6	155	25.6	150	24.8	87	14.4
Residual Criminal Code	42,353	11,500	27.2	13,750	32.5	11,126	26.3	4,221	10.0	1,756	4.1
<b>Traffic-related offences</b>	<b>56,294</b>	<b>10,580</b>	<b>18.8</b>	<b>16,654</b>	<b>29.6</b>	<b>16,302</b>	<b>29.0</b>	<b>8,378</b>	<b>14.9</b>	<b>4,380</b>	<b>7.8</b>
Criminal Code traffic	8,392	1,755	20.9	2,880	34.3	2,299	27.4	1,008	12.0	450	5.4
Impaired driving	47,902	8,825	18.4	13,774	28.8	14,003	29.2	7,370	15.4	3,930	8.2
<b>FEDERAL STATUTE OFFENCES</b>	<b>41,475</b>	<b>14,516</b>	<b>35.0</b>	<b>12,649</b>	<b>30.5</b>	<b>9,004</b>	<b>21.7</b>	<b>3,675</b>	<b>8.9</b>	<b>1,631</b>	<b>3.9</b>
<b>Drug-related offences</b>	<b>19,472</b>	<b>7,415</b>	<b>38.1</b>	<b>6,531</b>	<b>33.5</b>	<b>4,248</b>	<b>21.8</b>	<b>1,054</b>	<b>5.4</b>	<b>224</b>	<b>1.2</b>
Trafficking	7,543	2,223	29.5	2,754	36.5	1,893	25.1	535	7.1	138	1.8
Possession	11,929	5,192	43.5	3,777	31.7	2,355	19.7	519	4.4	86	0.7
<b>Other federal statutes</b>	<b>22,003</b>	<b>7,101</b>	<b>32.3</b>	<b>6,118</b>	<b>27.8</b>	<b>4,756</b>	<b>21.6</b>	<b>2,621</b>	<b>11.9</b>	<b>1,407</b>	<b>6.4</b>
<b>Adult Population*</b>	<b>18,566,151</b>	<b>2,304,400</b>	<b>12.4</b>	<b>3,667,836</b>	<b>19.8</b>	<b>4,211,909</b>	<b>22.7</b>	<b>3,266,311</b>	<b>17.6</b>	<b>5,115,695</b>	<b>27.6</b>

\* Annual Demographic Statistics, 1998, Demography Division, Statistics Canada.

Notes: Total Cases excludes cases where the age of the accused was unknown.

Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

Source: Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

appearance. The median elapsed time from first to last appearance, for cases with more than one appearance, was slightly more than four months (124 days). The cases requiring more appearances obviously took longer to complete. The median time for cases with four appearances was 109 days, and for cases with six appearances, 242 days. There was an increase of 14% in the processing time for "six appearance cases" between 1994/95 and 1998/99.

#### 10% of cases took more than 1 year to resolve

One third of cases (34%) were resolved within a month, and just less than half (45%) took more than one, but no more than eight months to complete in 1998/99. It took more than eight months and no more than twelve months to complete 12% of cases, and the elapsed time was more than one year in 10% of cases heard. The distribution of cases across these

elapsed time categories has changed significantly in the last five years. The number of cases in the each of the longest elapsed time categories (i.e., from eight months to twelve months, and more than one year) has increased significantly. The largest increase occurred in the number of cases taking more than one year, which rose 22% since 1994/95, and the number of cases requiring from eight to twelve months increased 9% over the same period.

Some offences take longer to resolve than others. An indication of the complexity of crimes of sexual aggression is that they required a significantly longer time to be resolved than other offences. Sexual assault and sexual abuse cases each had a median elapsed time of 202 days. The median elapsed times for these crimes increased over the previous year. In 1997/98, the median elapsed times for sexual assault cases and sexual abuse cases were, respectively, 189 and

**Box 2  
Case Processing**

There are many paths that a criminal trial can take as it makes its way through adult criminal court in Canada. These variations in case processing depend on several factors including the seriousness of the offences being heard, and the elections made by the Crown and the accused. For most cases, the trial process in adult provincial/territorial criminal courts will include some or all of the elements listed below.

**First Appearance:** The first appearance in court is usually a bail hearing in provincial court, where the court must determine if the accused should be released pending trial. Most offences require the Crown to show that the accused is either a danger to the community or a risk to flee prosecution before a remand order is given. However, several offences are classified as reverse onus offences, where the accused must show cause why his detention is not justified – CCC s.515 (6).

**Crown Elections:** The Crown is eligible to elect the type of proceeding for hybrid offences, which are also known as “dual procedure” offences. The defining Criminal Code sections for hybrid offences specify that the Crown may try the case in one of two ways; (1) as a summary conviction offence — the least serious offence type, which also carries a lower maximum penalty, or (2) as the more serious indictable offence. If the Crown elects to try the case as an indictable offence the accused faces the possibility of a prison sentence that, depending on the offence, ranges between no minimum sentence to life in prison.

**Defence Elections:** Where permitted under the *Criminal Code*, the accused may elect to be tried in adult provincial/territorial criminal court or in Superior Court – with or without a jury. If the accused elects to be tried in Superior Court, a preliminary inquiry may be held. (See preliminary hearings below). The defence is not eligible to elect the mode of trial for summary conviction offences, or offences identified under *Criminal Code* section 469 or 553. These *Criminal Code* sections identify offences that are the absolute jurisdiction of a single court level, Superior Court and provincial/territorial court respectively.

**Preliminary Hearings:** The purpose of the preliminary inquiry process is to determine if there is sufficient evidence in the case

to proceed to trial in a higher court level, Superior Court. The provincial court judge will commit the case for trial in Superior Court if the evidence is compelling and there is a reasonable expectation of a judgement against the accused. However, if the evidence is not convincing, the judge must stop the proceedings against the accused – and the court finding will be recorded as “discharged at preliminary”.

The preliminary inquiry process is a way for the accused to review all of the Crown’s evidence before proceeding to the higher court. The defence is permitted to question all of the Crown witnesses and to review any prosecution exhibits related to the charges, which helps the accused’s council prepare for trial.

**Fitness Hearings:** When the accused’s mental health is brought into question, the court will order a psychiatric examination. In the fitness hearing that results, the accused will be found fit for trial or remanded in custody until the lieutenant governor of the province permits release.

**Trial:** The trial begins with the accused entering a plea of guilty, guilty of a lesser charge, not guilty, or special plea (i.e., previous conviction, previous acquittal, or pardon — C.C.C. s.607). In some cases, the accused may refuse to enter a plea, and the court will enter a plea of not guilty on behalf of the accused. A guilty plea will usually result in an immediate conviction, but the court may also refuse to accept a guilty plea if that plea is given with conditions, or if the court feels that the accused does not understand that the plea is an admission of guilt.

A plea of not guilty will result in a trial, where the evidence against the accused is heard and the court will make a judgment on that evidence. The final disposition, or decision, of the court will be either 1) guilty of the offence charged, 2) guilty of an included offence, 3) not guilty of the charged offence, or 4) not guilty on account of insanity. The court may sentence the accused immediately following a finding of guilt; however, the court may also delay the sentencing to a later date so that all relevant factors can be considered prior to imposing a sentence on the accused.

182 days. These medians can be compared to the overall median elapsed time for *Crimes against the person*, which was 126 days in 1998/99.

In addition, the proportion of sexual assault and sexual abuse cases that required more than one year to complete was slightly more than 20% in 1998/99. This is double the proportion taking more than one year for the *Crimes against the person* category (10%), and significantly greater than the proportion reported for sexual assault and sexual abuse in 1994/95 (13% and 17% respectively).

**Cases have become more complex since 1994/95**

In 1998/99, the percentage of cases taking six or more appearances (30% of cases heard) increased one percentage point over the previous year, and has now increased seven percentage points over the past five years. This suggests that although the number of cases being processed by the courts have been falling since 1994/95, the demand on court

resources has increased. The number of cases-appearances<sup>9</sup> has increased 2% over the five-year period, and the mean number of appearances per cases has increased 15%, from 4.1 appearances in 1994/95 to 4.7 appearances in 1998/99. The composition of cases being heard is one factor that has contributed to this increase. From 1994/95 to 1998/99, multiple-charge cases have increased from 44% to 47% of cases heard in court, and not surprisingly, cases involving multiple charges require a higher mean number of appearances to be resolved than cases involving a single charge (5.2 appearances versus 4.3). In addition, the proportion of cases with three or more charges has increased steadily, from 17% of all cases in 1994/95 to 20% in 1998/99. The number of multiple charge cases with six or more appearances increased dramatically (23%) during this same period.

<sup>9</sup> One case appearance is counted for each day the case appears in court. For example, if two charges from the same case appear in court on the same day then one case appearance is recorded.

### Complex cases take longer to process

The growing proportion of multiple charge cases is having an impact on the time required to process cases in adult criminal court. Between 1994/95 and 1998/99, the median elapsed time from first to last appearance in court has increased 15% from 73 to 84 days, and the processing time for the most complex cases (i.e., multiple-charge cases) have increased 10%, from 89 to 98 days. Surprisingly, there was a similar increase in the median processing time for single charge cases during the same period. The median processing time for the least complex cases, those with a single charge, increased 11%, from 63 to 70 days.

This latter finding may be an indication of the demand placed on court resources by the changes in case complexity (i.e., the increasing number of charges per case and the number of additional appearances these cases require). The number of additional appearances required by multiple-charge cases may be making it more difficult to schedule and complete all cases, thus increasing the processing time for single-charge cases as well.

## OVERVIEW OF CASE OUTCOMES

Box 3 provides a summary description of the possible dispositions in provincial/territorial adult criminal courts.

Figure 2 shows the pyramid of case processing from the number of charges laid to the number and nature of the sanctions imposed in cases which resulted in a conviction<sup>10</sup>. Thus 840,539 charges were associated with 394,884 cases. A conviction was recorded in 62% of these cases. Almost one-third of the cases were resolved by the charges being

stayed or withdrawn. Only 3% of the cases in 1998/99 resulted in the acquittal of the accused.

### Conviction rates

#### Conviction rates stable over the period 1994/95 to 1998/99

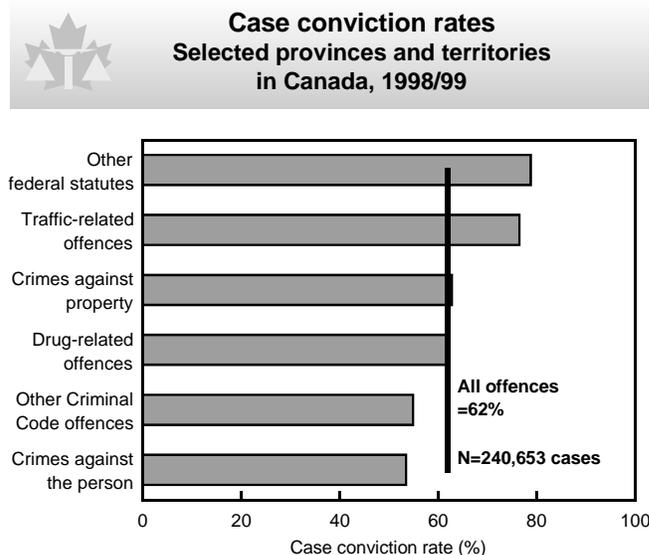
The overall conviction rate has changed little over the past five years. In 1998/99, a conviction was recorded in 62% of all cases, the same percentage as in 1997/98. The proportion of cases resulting in a conviction has varied by less than 2 percentage points over the past five years.

#### Almost two-thirds of criminal cases result in a conviction

In 1998/99, the conviction rate was highest (79%) for *Other Federal Statute* offences, and lowest for the category of *Crimes against the person* (53%) (Figure 3). Many factors impact on the variable conviction rates for different categories of offences. Some crimes may be easier to prove than others as a result of a number of factors, including the number and availability of witnesses and the complexity of evidence presented by the Crown.

<sup>10</sup> The calculation of conviction rates excludes cases where the last available disposition is a change in court level (i.e., Committed for Trial in Superior Court, and Re-election to Provincial Court). Dispositions of this type indicate an incomplete criminal trial process, where the guilt or innocence of the accused has not been determined.

Figure 3



**Notes:** The calculation of conviction rates excludes cases with final dispositions of 'Commit for Trial in Superior Court' and 'Re-elect to Provincial Court'.

Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

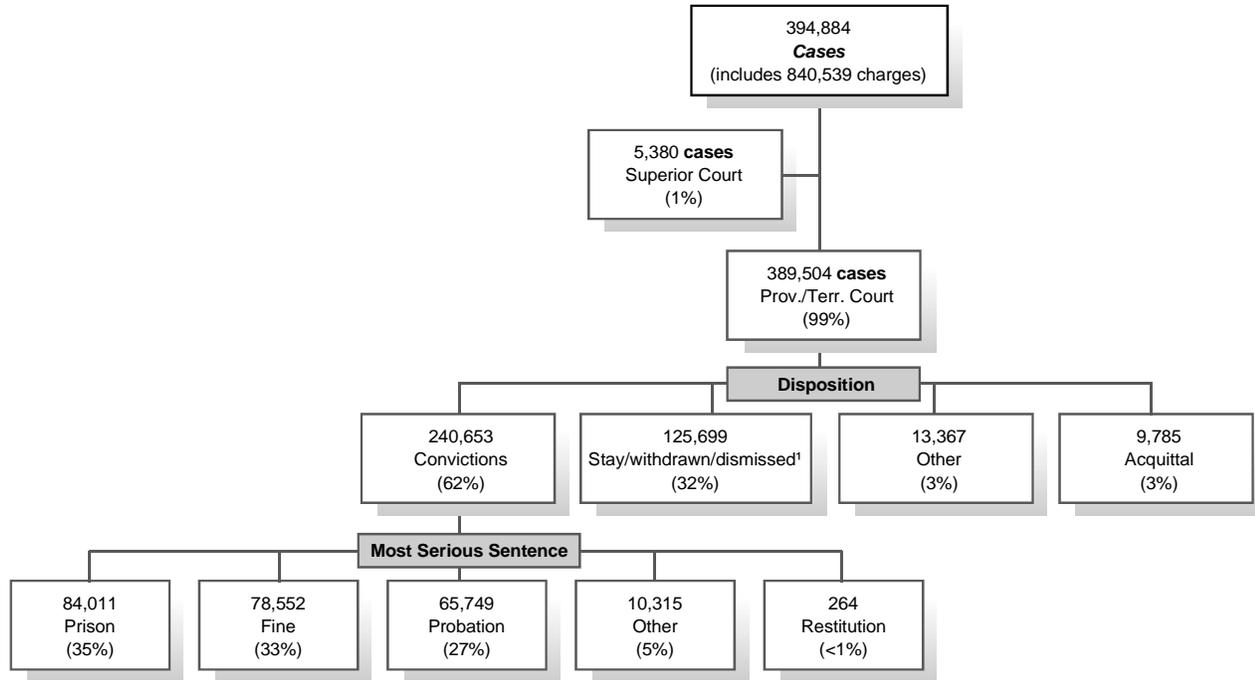
**Box 3**  
**Dispositions in Adult Provincial/Territorial Criminal Court**

The disposition categories in this report are as follows:

- **Guilty** includes guilty of the charged offence, of an included offence, of an attempt of the charged offence, or of an attempt of an included offence.
- **Superior Court** represents criminal proceedings that have been transferred to another level of court. This includes cases in provincial/territorial criminal court that are transferred to Superior Court, and Superior Court cases that have re-elected back to provincial court. In 1998/99, Alberta is the only jurisdiction supplying criminal trial data from Superior court, and the only jurisdiction reporting data on the re-election of cases back to provincial court.
- **Stay/Withdrawn/Dismissed** includes stay of proceedings, and withdrawn/dismissed at preliminary inquiry. These dispositions all refer to the court stopping criminal proceedings against the accused.
- **Acquitted** means that the accused has been found not guilty of the charges presented before the court.
- **Other Disposition** includes found not criminally responsible, waived in province/territory, and waived out of province/territory. This category also includes any order that does not carry a conviction, the court's acceptance of a special plea, cases which raise Charter arguments and cases where the accused was found unfit to stand trial.

Figure 2

**Adult court processing of Federal Statute cases  
Selected provinces and territories in Canada, 1998/99**



<sup>1</sup> The stay/withdrawn/dismissed category includes stayed, withdrawn, dismissed, and discharged at preliminary.

**Notes:** The sentence was not known in 1,762 convicted cases in 1998/99.

Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba and British Columbia for all years and Northwest Territories for 1996/97.

**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Figure 4 shows the conviction rates for a number of *Crimes against the person*. On average, 53% of all cases involving violence (or the threat of violence) resulted in a conviction. As can be seen, there was considerable variability, with the conviction rates ranging from a low of 25% for aggravated assault to over 60% for unlawfully causing bodily harm (76%), robbery (61%) and sexual abuse (60%).

Figure 5 provides conviction rates for a number of *Crimes against property*. In contrast to Figure 4, this figure shows considerable uniformity with all property offences having conviction rates very close to the property offence category average of 64%.

**Comparisons of conviction rates across jurisdictions**

As can be seen in Table 3, the overall conviction rate was highest in Quebec (76%), Prince Edward Island (75%) and the Northwest Territories (75%), and significantly lower in Nova Scotia (55%) and Ontario (56%).

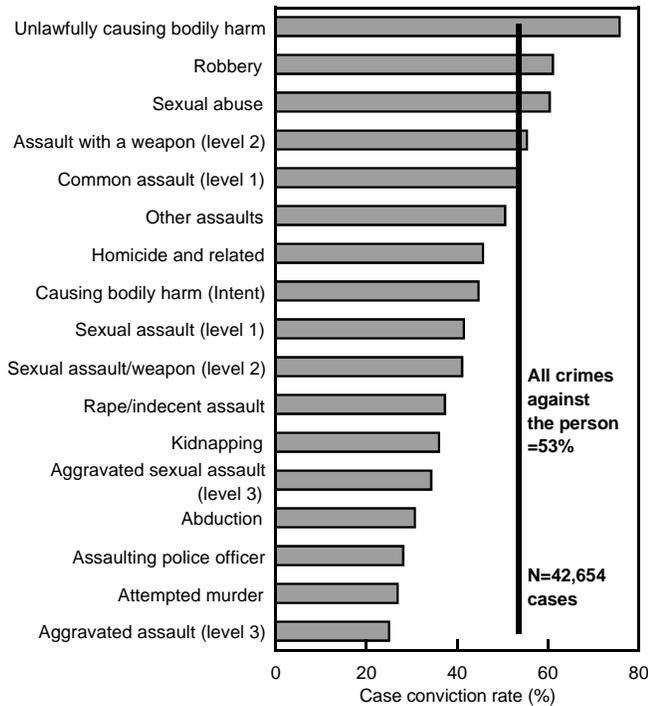
There are several possible factors that influence these variations in the conviction rates and other dispositions across

the jurisdictions. Firstly, some jurisdictions use diversion and alternative measures to a greater extent, which affects the number and types of cases that proceed to court. Secondly, the use of stays and withdrawals of charges also varies across the country, and this will have an impact on the percentage of cases in which a conviction is recorded. For example, fully 41% of cases were stayed or withdrawn in Ontario, whereas 10% were terminated in this way in Quebec. Thirdly, the use of pre-charge or post-charge screening by the police or the Crown, which occurs in Quebec, may also affect the percentage of convictions. Finally, the number of charges laid against an individual in relation to similar incidents may vary from one jurisdiction to another.

These variations in charging practices will have an impact on the composition of cases proceeding to court, which will affect the proportion of convictions. Serious criminal incidents have a greater likelihood of receiving multiple charges by the police, and these charges will initially be processed as part of the same case in court. For example, the same criminal incident may result in one charge (e.g., major assault) in one jurisdiction, and two charges (e.g., major assault and attempted murder) in another jurisdiction.

Figure 4

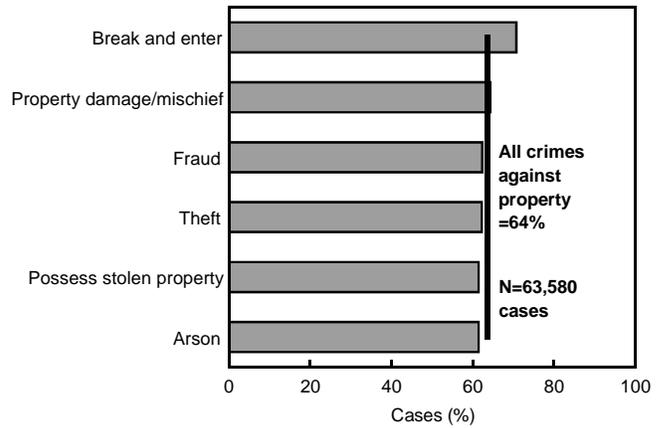
**Conviction rates for cases with a crime against the person as the most serious offence in the case  
Selected provinces and territories in Canada, 1998/99**



**Notes:** The calculation of conviction rates excludes cases with final dispositions of 'Commit for Trial in Superior Court' and 'Re-elect to Provincial Court'.  
Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.  
**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Figure 5

**Conviction rates for cases with a property offence as the most serious offence in the case  
Selected provinces and territories in Canada, 1998/99**



**Notes:** The calculation of conviction rates excludes cases with final dispositions of 'Commit for Trial in Superior Court' and 'Re-elect to Provincial Court'.  
Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.  
**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Table 3



**Cases by disposition  
Selected provinces and territories in Canada, 1998/99**

Jurisdiction	Total Cases	Guilty	Stay/withdrawn/dismitted <sup>3</sup>	Acquitted	Other
		%	%	%	%
<b>TOTAL</b>	<b>389,504</b>	<b>61.8</b>	<b>32.3</b>	<b>2.5</b>	<b>3.4</b>
Newfoundland	7,466	73.9	23.1	0.1	2.9
Prince Edward Island	1,521	75.0	23.6	0.9	0.5
Nova Scotia	16,398	54.8	36.2	3.4	5.6
Quebec <sup>1</sup>	74,221	75.7	9.6	9.3	5.4
Ontario	196,828	56.5	41.0	0.5	2.1
Saskatchewan	26,709	63.9	31.8	1.1	3.2
Alberta <sup>2</sup>	61,472	60.5	32.9	1.6	5.0
Yukon	1,594	58.6	31.2	1.1	9.2
Northwest Territories	3,295	75.4	22.2	1.5	0.9

<sup>1</sup> Municipal courts are not included.

<sup>2</sup> Includes superior court.

<sup>3</sup> The stay/withdrawn/dismitted category includes stayed, withdrawn, dismissed, and discharged at preliminary.

**Note:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97. The calculation of conviction rates excludes cases with final dispositions of 'Commit for Trial in Superior Court' and 'Re-election to Provincial Court'.

**Source:** Statistics Canada, Canadian Centre for Justice Statistics, Adult Criminal Court Survey.

When the Crown is presented with multiple charges, it may choose to proceed with all the charges, or with the charge(s) with the strongest evidence. If this decision is made in court, it may result in more than one case against the same accused for the ACCS. The charges that proceed to court are combined into a case based on the last court date, and therefore any charge that has been completed early, (i.e., stayed or withdrawn due to alternative measures, or charge selection by the Crown) may appear as a different case for the ACCS. For example, the low conviction rate for some *Crimes against the person* cases may be a reflection of some charges being stayed or withdrawn by the Crown in favour of proceeding to trial for charges with the strongest evidence.

## SENTENCING PATTERNS

Determining the sentence to be imposed is one of the most complex and challenging decisions for a judge (see **Box 4**). At sentencing, the court will seek to impose a sentence that is a reflection of the purpose, objectives and principles of the sentencing process. As noted earlier, the *Criminal Code* now contains a section which outlines these purposes and principles (Section 718).

### Box 4 Principal Sentencing Options in Canada

**Fines:** When a fine is imposed, the offender is ordered to pay a certain amount to the province, territory or the federal government. An offender may be fined in lieu of another punishment, (unless the offender has been convicted of an offence which carries a minimum term of imprisonment, or a maximum penalty of more than 5 years).

**Probation:** An offender sentenced to a term of probation remains in the community, but is subject to a number of conditions for the duration of the probation order. Some conditions are compulsory and apply to all offenders on probation. These include keeping the peace and appearing before the court when required to do so. The optional conditions vary from case to case, and can include performing community service, abstaining from the consumption of alcohol and providing for the support of dependants. Violating the conditions of a probation order is a criminal offence<sup>1</sup>.

**Imprisonment:** This involves a term of custody served in a provincial/ territorial or federal institution. Sentences of two years or more are served in a federal penitentiary, while terms of less than two years are served in provincial correctional facilities. Sentences of 90 days or less can be served intermittently, which usually means on weekends.<sup>2</sup>

In addition to these three principal sanctions, judges have many other sentencing options<sup>3</sup>, such as conditional and absolute discharges, compensation orders, restitution orders, and orders to prohibit the offender from driving or possessing a weapon. Judges may impose more than one sanction per charge, but there are rules governing the specific combinations of sanctions that may be imposed.

<sup>1</sup> Criminal Code, Section 733.1 (1).

<sup>2</sup> As noted earlier, there is now a conditional sentence of imprisonment. Information about this sanction is not yet available from the ACCS.

<sup>3</sup> For more information on sentencing options, see A. Edgar (1999) *Sentencing Options in Canada*. In: *Making Sense of Sentencing*. Toronto: University of Toronto Press.

In addition to the purpose and principles provided in the *Criminal Code*, other considerations are taken into account at sentencing, including: the criminal record of the offender, whether the accused pleaded guilty, the nature of information contained in a victim impact statement and many other mitigating and aggravating factors relating to the offence or the offender.<sup>11</sup> In determining the relative importance of these variables, the judge will be guided by the fundamental principle of sentencing, namely that “a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender”.<sup>12</sup>

Information on variables such as the amount of damage, the extent of the injury to the victim and the criminal history of the offender is not collected by the ACCS. Nevertheless, the survey does provide important information about sentencing patterns in provincial/territorial criminal court.

### Types of sentences

#### Probation was the most common sentence in 1998/99

As in previous years, a term of probation was the most frequently occurring sentence, imposed in 42% of all cases with a conviction. A fine was imposed in 40% of all cases, while a prison term was imposed in 35% of cases.<sup>13</sup> The relative frequency of the principal sentencing options is presented graphically in **Figure 6**. A high percentage of cases (47%) received what are classified as “other sentences”. This category of sentence includes the following: absolute discharges, conditional discharges, suspended sentences, licence suspensions, prohibitions against the ownership of firearms, and other court-ordered sanctions. The data in Figure 6 include multiple sentences per case.

### Use of prison

#### The number of cases sentenced to prison declined between 1994/95 and 1998/99

The number of cases sentenced to prison declined by 5%, from 88,690 cases in 1994/95 to 84,011 cases in 1998/99. The explanation for the decline in the number of prison sentences is to be found in the following; (i) the decline in the number of crimes reported to the police, (ii) the decline in the number of cases heard in court, and (iii) the decline in the number of convictions recorded. There was an 11% decline in the number of convicted cases over the five-year period 1994/95 to 1998/99. This is consistent with the decline in sentenced admissions to provincial/territorial custody between 1994/95 and 1997/98.<sup>14</sup>

<sup>11</sup> See C. Ruby (1999) *Sentencing*. Fifth Edition. Toronto: Butterworths.

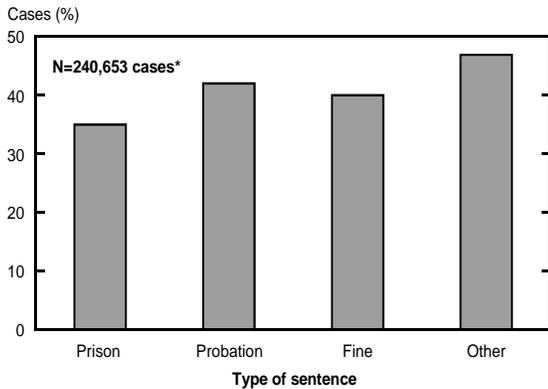
<sup>12</sup> Criminal Code, section 718.1.

<sup>13</sup> Cases can have more than one sentence. Therefore, sanctions are mutually exclusive and will not add to 100%.

<sup>14</sup> See the methodology section for more details on the comparisons between the ACCS and the Adult Correctional Services (ACS) Survey.

Figure 6

**Cases by type of sentence for the most serious offence  
Selected provinces and territories in Canada, 1998/99**



\* The type of sentence was unknown in 1,762 cases where a sentence was imposed.

**Notes:** Many cases result in more than one sentence, and therefore sentence totals will not add up to 100%.  
Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

**Incarceration used most frequently in cases of Crimes against property and Other Criminal Code**

Table 4 provides information relating to the use of incarceration for selected offence categories in 1998/99. This table shows that incarceration was the sentence for slightly more than one third (35%) of all cases, and that this percentage was in the order of 40% for three of the four major components of Criminal Code offences (i.e., Crimes against the person, Crimes against property, and Other Criminal Code violations).

In 1998/99, 39% of convicted Crimes against the person cases were sentenced to prison. One factor to be considered when examining the use of incarceration in this category is that common assault — the least serious form of assault with a relatively low use of incarceration (29%) — represents the majority (59%) of convicted cases in the Crimes against the person category. When common assault is removed, the remainder of the Crimes against the person category has a much higher use of incarceration, with 55% all convicted cases sentenced to prison in 1998/99.

Offenders were sentenced to prison in 41% of the convicted Crimes against property cases. These offences tend to have longer criminal histories, and after the seriousness of the crime of conviction, an offender's criminal history is one of the most important factors considered by the court when determining the sanction imposed. Prison was frequently used as a sanction in convicted cases of several high volume property offences. Fully 63% of convicted break and enter cases were

sentenced to prison, 38% of theft convictions, and more than a third (35%) of fraud convictions resulted in a prison sentence. The relatively high use of imprisonment in these cases may be associated with the prior criminal history of the accused, which may be related to the repeat nature of this offence type.

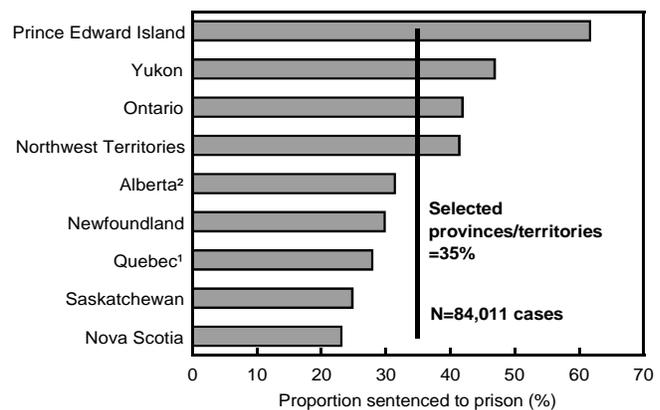
Similarly, Other Criminal Code cases, which were sentenced to prison in 44% of convicted cases, are dominated by offences related to the criminal history of the accused. This offence category includes administration of justice offences, which are high frequency offences related to case processing (e.g., failure to appear in court, and failure to comply with a probation order). The courts consider these administration of justice offences to be very serious, and the majority (57%) of these cases were sentenced to prison.

**Use of imprisonment varies considerably across the country**

As in previous years, considerable variation emerged in the use of different sanctions across the country. For example, almost two-thirds (62%) of cases with convictions in Prince Edward Island resulted in a term of imprisonment, while prison was imposed in only one-quarter of cases in Saskatchewan (25%) and Nova Scotia (23%) (see Figure 7). This variation in the use of incarceration reflects the influence of several factors. Firstly, the mix of offences being sentenced can vary from jurisdiction to jurisdiction. If a particular jurisdiction has a higher than average percentage of the more serious crimes, it may also have a higher than average overall percentage of cases being sent to prison. Secondly, judges in different parts of the country may use incarceration in different ways. In Prince Edward Island, for example, first offenders convicted of Impaired Driving are frequently sent to prison (although for a brief period). Since this

Figure 7

**Proportion of cases sentenced to prison for the most serious offence in the case  
Selected Provinces and Territories in Canada, 1998/99**



<sup>1</sup> Municipal courts are not included.

<sup>2</sup> Includes superior court.

**Note:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Table 4



### Cases by type of sentence for the most serious offence in the case Selected provinces and territories in Canada, 1994/95 to 1998/99

Fiscal Year	Case convictions	Type of sentence for most serious offence					
		#	Prison %	#	Probation %	#	Fine %
<b>1994/95 Total</b>	<b>270,874</b>	<b>88,690</b>	<b>32.7</b>	<b>98,891</b>	<b>36.5</b>	<b>127,541</b>	<b>47.1</b>
<b>Criminal Code offences</b>	<b>233,709</b>	<b>82,378</b>	<b>35.2</b>	<b>93,546</b>	<b>40.0</b>	<b>100,262</b>	<b>42.9</b>
Crimes against the person	40,194	15,710	39.1	26,707	66.4	9,862	24.5
Crimes against property	73,398	26,823	36.5	36,871	50.2	23,814	32.4
Other Criminal Code offences	59,636	24,769	41.5	18,793	31.5	21,682	36.4
Traffic-related offences	60,481	15,076	24.9	11,175	18.5	44,904	74.2
<b>Federal Statute offences</b>	<b>37,165</b>	<b>6,312</b>	<b>17.0</b>	<b>5,345</b>	<b>14.4</b>	<b>27,279</b>	<b>73.4</b>
Drug-related offences	16,733	5,092	30.4	4,541	27.1	8,752	52.3
Other federal statutes	20,432	1,220	6.0	804	3.9	18,527	90.7
<b>1995/96 Total</b>	<b>270,204</b>	<b>88,586</b>	<b>32.8</b>	<b>103,368</b>	<b>38.3</b>	<b>121,499</b>	<b>45.0</b>
<b>Criminal Code offences</b>	<b>232,102</b>	<b>81,992</b>	<b>35.3</b>	<b>96,717</b>	<b>41.7</b>	<b>94,366</b>	<b>40.7</b>
Crimes against the person	42,576	16,969	39.9	28,765	67.6	9,806	23.0
Crimes against property	72,895	27,077	37.1	36,993	50.7	21,909	30.1
Other Criminal Code offences	59,358	23,902	40.3	19,878	33.5	20,538	34.6
Traffic-related offences	57,273	14,044	24.5	11,081	19.3	42,113	73.5
<b>Federal Statute offences</b>	<b>38,102</b>	<b>6,594</b>	<b>17.3</b>	<b>6,651</b>	<b>17.5</b>	<b>27,133</b>	<b>71.2</b>
Drug-related offences	18,531	5,521	29.8	5,841	31.5	9,360	50.5
Other federal statutes	19,571	1,073	5.5	810	4.1	17,773	90.8
<b>1996/97 Total</b>	<b>261,644</b>	<b>86,026</b>	<b>32.9</b>	<b>106,872</b>	<b>40.8</b>	<b>115,034</b>	<b>44.0</b>
<b>Criminal Code offences</b>	<b>225,322</b>	<b>79,844</b>	<b>35.4</b>	<b>99,805</b>	<b>44.3</b>	<b>89,338</b>	<b>39.6</b>
Crimes against the person	41,383	16,309	39.4	29,522	71.3	8,553	20.7
Crimes against property	71,870	26,599	37.0	38,174	53.1	20,162	28.1
Other Criminal Code offences	57,792	24,287	42.0	20,972	36.3	19,000	32.9
Traffic-related offences	54,277	12,649	23.3	11,137	20.5	41,623	76.7
<b>Federal Statute offences</b>	<b>36,322</b>	<b>6,182</b>	<b>17.0</b>	<b>7,067</b>	<b>19.5</b>	<b>25,696</b>	<b>70.7</b>
Drug-related offences	18,515	5,143	27.8	6,229	33.6	9,585	51.8
Other federal statutes	17,807	1,039	5.8	838	4.7	16,111	90.5
<b>1997/98 Total</b>	<b>250,073</b>	<b>82,668</b>	<b>33.1</b>	<b>106,438</b>	<b>42.6</b>	<b>103,498</b>	<b>41.4</b>
<b>Criminal Code offences</b>	<b>218,583</b>	<b>76,877</b>	<b>35.2</b>	<b>99,295</b>	<b>45.4</b>	<b>82,550</b>	<b>37.8</b>
Crimes against the person	42,105	15,847	37.6	30,506	72.5	7,629	18.1
Crimes against property	65,643	24,670	37.6	35,978	54.8	16,688	25.4
Other Criminal Code offences	59,204	24,898	42.1	22,443	37.9	18,323	30.9
Traffic-related offences	51,631	11,462	22.2	10,368	20.1	39,910	77.3
<b>Federal Statute offences</b>	<b>31,490</b>	<b>5,791</b>	<b>18.4</b>	<b>7,143</b>	<b>22.7</b>	<b>20,948</b>	<b>66.5</b>
Drug-related offences	11,490	3,159	27.5	4,210	36.6	5,718	49.8
Other federal statutes	20,000	2,632	13.2	2,933	14.7	15,230	76.2
<b>1998/99 Total</b>	<b>240,653</b>	<b>84,011</b>	<b>34.9</b>	<b>100,897</b>	<b>41.9</b>	<b>95,989</b>	<b>39.9</b>
<b>Criminal Code offences</b>	<b>209,923</b>	<b>77,918</b>	<b>37.1</b>	<b>93,783</b>	<b>44.7</b>	<b>75,825</b>	<b>36.1</b>
Crimes against the person	42,654	16,787	39.4	30,786	72.2	7,190	16.9
Crimes against property	63,580	26,098	41.0	33,571	52.8	15,370	24.2
Other Criminal Code offences	60,453	26,381	43.6	22,209	36.7	18,865	31.2
Traffic-related offences	43,236	8,652	20.0	7,217	16.7	34,400	79.6
<b>Federal Statute offences</b>	<b>30,730</b>	<b>6,093</b>	<b>19.8</b>	<b>7,114</b>	<b>23.2</b>	<b>20,164</b>	<b>65.6</b>
Drug-related offences	12,004	3,455	28.8	3,411	28.4	6,004	50.0
Other federal statutes	18,726	2,638	14.1	3,703	19.8	14,160	75.6

Notes: The sentence types presented are not mutually exclusive and will not total 100%.

Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

Source: Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

offence category accounts for a large number of convictions, this will mean that the overall proportion of cases sentenced to prison in that province will be higher than the national average.

#### Prison sentences imposed more often for cases with multiple charges

Overall, in 1998/99, 29% of convicted cases facing a single charge were sentenced to prison. Of all cases involving multiple charges, 40% were sentenced to a term of custody. As we have seen earlier, multiple charge cases are an

indication of more serious criminal incidents — they take longer to process, and the courts sanction them more severely.

#### Trends in the use of incarceration

##### Slight increase in the proportion of cases sentenced to prison from 1994/95 to 1998/99

While the number of cases sentenced to prison actually decreased, the proportion of cases where prison was used as a sanction increased slightly, from 33% in 1994/95 to 35%

in 1998/99.<sup>15</sup> (Table 4) This table presents sentencing information according to the "Type of Sentence"; thus, if an offender were sentenced to serve a period of imprisonment to be followed by a term of probation, this case would be coded as imprisonment and probation.

The pattern is similar for *Criminal Code* infractions, where 37% of convictions in 1998/99 resulted in a term of custody, up slightly from 35% in 1994/95. This slight increase in the use of imprisonment is not observed within all offence categories. In 1994/95 and again in 1998/99, 39% of cases resulting in a conviction for a *Crime against the person* were sentenced to a term of custody. During this same period, the proportion of convicted cases sentenced to prison increased for *Crimes against property*, *Other Criminal Code*, and *Other federal statutes*. *Drug-related offences* and *Traffic-related offences* each experienced a decline in the proportion sentenced to prison between 1994/95 and 1998/99. *Traffic-related offences* had the largest decline in the use of imprisonment, from 25% in 1994/95 to 20% in 1998/99.

### The use of imprisonment has changed significantly for some offences

The minor changes with respect to the use of incarceration for the larger offence categories masks considerably variation for specific crimes. For some offences, the proportion receiving a sentence of incarceration has declined over the five-year period. For example, in 1994/95, 22% of cases of impaired driving resulted in a term of custody. The percentage sentenced to prison for this offence declined to 19% in 1997/98, and then to 15% in 1998/99. Similarly, the percentage sentenced to prison for sexual assault declined from 65% in 1994/95 to 57% in 1998/99. Trafficking convictions also had a significantly lower proportion of cases sentenced to prison in 1998/99; the proportion sentenced to prison for this offence declined from 77% to 58% between 1994/95 and 1998/99. Of all convictions for robbery, 78% resulted in imprisonment in 1998/99, down from 89% in 1994/95.

In contrast to these trends, other offences were more likely to result in imprisonment in 1998/99 than in 1994/95. The percentage of cases sentenced to prison for a theft conviction

rose from 30% to 38% from 1994/95 to 1998/99, and the use of prison sentences rose from 19% to 31% for Public Order offences over the same period. Without longer-term data, it is hard to determine whether these changing patterns in the use of imprisonment represent a significant change in judicial sentencing practices, or are simply short-term fluctuations.

### Length of prison sentences imposed

#### Most terms of imprisonment were relatively short in 1998/99

Almost half (47%) of all custodial sentences imposed in 1998/99 were 1 month or less, while an additional 35% were for periods of from 1 month to six months. Four percent of custodial sentences were for a term of two years or longer (Table 5).

#### The length of prison sentences increased from 1994/95 to 1998/99

The median length of prison sentences imposed increased significantly between 1994/95 and 1998/99. In 1994/95, the median sentence length for convicted cases receiving prison was 30 days. It rose to 40 days in 1995/96 and remained unchanged until 1998/99 when it increased to 45 days. The increase in sentence lengths can be seen in greater detail in Table 6.

The percentage of sentences in the shortest category (sentence lengths of one month or less) declined by over three percentage points, while the percentage of sentences falling in the longest category (2 years or more) increased by over 1 percentage point (see Table 5). In addition, the number of offenders sentenced to two years or more rose from 2,417

<sup>15</sup> The trend in actual admissions to correctional facilities indicates that the proportion going into custody is decreasing. It is important to note however that many cases not involving supervision do not form part of the correction caseload, while they are integral components of court caseload (e.g., fines). Given that the rate of decrease of unsupervised dispositions is substantially higher than supervised dispositions, adult criminal court caseload can indicate an increased proportion of sentences to prison, while adult correctional caseload indicates the opposite.

Table 5

		Cases by length of prison Selected provinces and territories in Canada, 1998/99											
Fiscal Year	Case convictions with prison	Length of prison sentence											
		1 month or less		>1 to 6 months		>6 to 12 months		>1 to <2 years		2 years or more		Unknown	
		#	%	#	%	#	%	#	%	#	%	#	%
1994/95	88,690	44,340	50.0	31,921	36.0	4,999	5.6	2,426	2.7	2,417	2.7	2,587	2.9
1995/96	88,586	43,096	48.6	32,891	37.1	5,345	6.0	2,726	3.1	2,741	3.1	1,787	2.0
1996/97	86,026	41,922	48.7	31,664	36.8	5,405	6.3	2,733	3.2	2,746	3.2	1,556	1.8
1997/98	82,668	39,959	48.3	30,135	36.5	5,369	6.5	2,676	3.2	2,649	3.2	1,880	2.1
1998/99	84,011	39,415	46.9	29,569	35.2	5,272	6.3	2,788	3.3	3,162	3.8	3,805	4.3

Notes: Percentages may not total 100% due to rounding. Excludes cases with unknown prison length

Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

Source: Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Table 6

**Cases by median length of sentence, probation and fine amount  
Selected provinces and territories in Canada, 1994/95 - 1998/99**

TOTAL Offence Group	1994/95			1995/96			1996/97			1997/98			1998/99		
	Prison <sup>1</sup>	Probation	Fine	Prison	Probation	Fine									
	Median days	Median days	Median \$ amount	Median days	Median days	Median \$ amount	Median days	Median days	Median \$ amount	Median days	Median days	Median \$ amount	Median days	Median days	Median \$ amount
<b>TOTAL OFFENCES</b>	<b>30</b>	<b>365</b>	<b>300</b>	<b>40</b>	<b>365</b>	<b>300</b>	<b>40</b>	<b>365</b>	<b>300</b>	<b>40</b>	<b>365</b>	<b>300</b>	<b>45</b>	<b>365</b>	<b>300</b>
<b>CRIMINAL CODE OFFENCES</b>	<b>30</b>	<b>365</b>	<b>300</b>	<b>30</b>	<b>365</b>	<b>300</b>	<b>30</b>	<b>365</b>	<b>300</b>	<b>30</b>	<b>365</b>	<b>350</b>	<b>31</b>	<b>365</b>	<b>350</b>
<b>Crimes against the person</b>	<b>60</b>	<b>365</b>	<b>300</b>	<b>69</b>	<b>365</b>	<b>300</b>	<b>90</b>	<b>365</b>	<b>300</b>	<b>90</b>	<b>365</b>	<b>300</b>	<b>90</b>	<b>365</b>	<b>300</b>
Homicide and related	1,825	730	300	2,555	1,095	450	2,190	730	250	2,555	730	275	2,190	913	525
Attempted murder	2,190	725	-	1,825	1,095	-	900	1,080	500	1,148	730	-	1,080	1,095	11,750
Robbery	728	730	250	600	730	200	540	730	300	540	730	350	540	730	300
Kidnapping	210	730	500	150	730	500	180	730	1,500	180	730	425	270	730	350
Sexual assault	240	730	500	240	730	500	270	730	500	270	730	500	360	730	500
Sexual abuse	180	730	500	165	730	500	180	730	500	240	730	500	210	730	500
Major assault	90	540	350	90	540	300	90	540	300	90	540	300	90	540	350
Abduction	135	365	625	75	540	250	180	730	125	89	720	450	30	730	600
Common assault	30	365	299	30	365	300	30	365	250	45	365	300	45	365	300
<b>Crimes against property</b>	<b>60</b>	<b>365</b>	<b>200</b>	<b>60</b>	<b>365</b>	<b>200</b>									
Break and enter	180	730	300	180	730	300	180	730	300	180	720	300	180	540	300
Arson	180	730	500	270	730	500	270	730	500	270	730	325	285	730	300
Fraud	60	365	200	60	450	200	60	450	200	60	365	200	70	365	200
Possess stolen property	60	365	300	60	365	300	60	365	300	60	365	300	60	365	300
Theft	30	365	150	30	365	200	30	365	200	30	365	200	30	365	200
Property damage/mischief	30	365	200	30	365	200	30	365	200	30	365	200	30	365	200
<b>Other Criminal Code offences</b>	<b>30</b>	<b>365</b>	<b>150</b>	<b>30</b>	<b>365</b>	<b>175</b>	<b>30</b>	<b>365</b>	<b>200</b>	<b>30</b>	<b>365</b>	<b>200</b>	<b>30</b>	<b>365</b>	<b>200</b>
Weapons	60	365	250	60	540	200	60	365	200	90	365	200	60	365	250
Administration of justice	21	365	100	20	365	145	20	365	150	20	365	150	20	365	150
Public order offences	15	360	200	15	360	200	15	360	200	15	360	200	30	360	200
Morals-sexual	15	365	200	15	365	200	15	365	200	10	365	200	12	365	200
Morals-gaming	1	360	500	..	360	500	3	360	750	7	360	750	16	360	1,000
Residual Criminal Code	30	365	200	30	365	200	30	365	200	30	365	200	30	365	200
<b>Traffic-related offences</b>	<b>30</b>	<b>360</b>	<b>500</b>	<b>30</b>	<b>360</b>	<b>500</b>									
Criminal Code traffic	30	360	500	30	360	500	30	360	500	35	360	500	30	360	500
Impaired driving	30	360	500	30	360	500	30	360	500	30	360	500	30	360	500
<b>FEDERAL STATUTE OFFENCE</b>	<b>60</b>	<b>365</b>	<b>125</b>	<b>60</b>	<b>365</b>	<b>130</b>	<b>70</b>	<b>365</b>	<b>150</b>	<b>80</b>	<b>365</b>	<b>150</b>	<b>90</b>	<b>365</b>	<b>200</b>
<b>Drug-related offences</b>	<b>60</b>	<b>365</b>	<b>200</b>	<b>90</b>	<b>365</b>	<b>200</b>	<b>90</b>	<b>365</b>	<b>200</b>	<b>90</b>	<b>365</b>	<b>200</b>	<b>90</b>	<b>365</b>	<b>250</b>
Trafficking	120	730	750	120	730	600	120	730	650	150	730	500	120	365	700
Possession	15	365	200	20	365	200	20	360	200	15	360	200	15	360	200
<b>Other federal statutes</b>	<b>30</b>	<b>365</b>	<b>100</b>	<b>30</b>	<b>365</b>	<b>100</b>	<b>30</b>	<b>365</b>	<b>100</b>	<b>30</b>	<b>365</b>	<b>150</b>	<b>90</b>	<b>365</b>	<b>150</b>

- nil or zero

.. figures not available

<sup>1</sup> Revised figures for 1994/95, 1995/96, 1996/97, and 1997/98. Revisions were made to the calculation of median prison sentence lengths in 1998/99, and the previous four years were recalculated using the same formula. The calculation of median sentence length and median fine amount excludes unknowns.

**Note:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

in 1994/95 to 3,162 in 1998/99, an increase of 31%.<sup>16</sup> The number of offenders in the next longest category of sentence length (over 1 but less than two years) increased by 15%. Over the same period, the total number of offenders sentenced to prison declined by 5% (from 88,690 to 84,011). Clearly then, there has been a shift towards the imposition of longer sentences.

This trend toward longer sentences is reflected by the Adult Correctional Services (ACS) Survey. From 1994/95 to 1997/98 there was a decline in sentenced admissions to adult correctional institutions, while the daily count of inmates remained stable. This relative stability in the daily counts indicates that offenders are in custody longer, which would be partly influenced by the sentences imposed by the courts.<sup>17</sup>

Another way of conveying a sense of the increase in the use of longer sentences involves the calculation of "prison-years". The total annual number of prison-years is the sum of the

<sup>16</sup> The extent to which consecutive sentencing is used is currently not available, and as a result it is not possible to accurately calculate the aggregate prison sentence from ACCS data. For this reason the number of sentences of two years or more should not be used as a total count of cases with federal term sentences.

<sup>17</sup> The maximum time an offender stays in a correctional facility is based on the sentence imposed, but the actual length of incarceration are governed by the Corrections and Conditional Release Act (CCRA). Under this Act, most offenders will serve one-third to one-half of the imposed sentence, and after their release they will be expected to follow any additional sanctions imposed by the court at the time of sentencing. Thus, any increase in sentencing would impact the possible parole of the offender by raising the minimum incarceration time, but the impact this would have on the actual time served is not known.

length of prison sentences imposed, which is then converted into years. There has been a steady increase over the past five years in the number of prison-years imposed. In 1994/95, 27,000 prison-years were imposed by the adult criminal courts in the nine participating provinces and territories. This figure rose steadily over the next five years, to a peak of 30,000 in 1998/99. This represents an increase of more than 11% over the five-year period.

### Some offences show more dramatic increases in prison sentence lengths

As with many other variables examined in this *Juristat*, the increase in sentence lengths is not uniform across all offences. Some offences show a more marked increase than do others. The median sentence for the homicide offences rose from 1,825 days in 1994/95 to 2,190 in 1998/99, an increase of 20% (see Table 6). The median term imposed for sexual abuse cases rose 17%. The greatest increase for a high-frequency offence was for Sexual Assault and Common Assault. The median sentence increased by 50% over the five-year period, from 240 to 360 days for sexual assault, and from 30 to 45 days for common assault. In contrast to these trends, the median term imposed for some offences actually declined. For robbery, for example, the median sentence declined from 728 to 540 days.

### Factors contributing to longer sentences

#### Factors influencing sentence lengths

The median prison sentence length imposed against cases of *Federal statute offences* has increased between 1994/95 and 1998/99. One factor affecting this trend may be the reduced tolerance of drug-related offences, by police and the courts, and the recent introduction of the *Controlled Drugs and Substances Act* (CDA). Since 1994/95, there has been a steady increase in the median length of prison sentences imposed for *Federal statute offences*. (see **Table 6**) This includes drug offences in the offence categories *Drug-related offences* and *Other federal statutes*. There was a 50% increase in the median length of prison sentence from 60 to 90 days for *Drug-related offences* (i.e., possession and trafficking) between 1994/95 and 1995/96. All other drug offences — e.g., cultivation and importation sections of the NCA, FDA, and CDA — would be included under *Other federal statutes*. This offence category experienced a dramatic increase in the median length of prison from 30 to 90 days between 1997/98 and 1998/99. This increase corresponds with the enactment of the CDA.<sup>18</sup>

From 1994/95 to 1998/99, the median prison sentence length imposed for *Crimes against the person* has increased. The trend toward longer sentences in this category may be influenced by the criminal justice community's reduced tolerance toward crimes of violence, and in particular the zero tolerance policies towards crimes of domestic violence. In the last five years there has been a 50% increase in the median length of prison imposed for *Crimes against the person*, and the offences having the greatest impact were sexual assault, sexual abuse, and common assault.

### Effects of mandatory minimum sentences

In 1996, mandatory minimum prison sentences were attached to ten offences committed with a firearm. If a firearm is used in the commission of one of these offences, the court is obliged to send the offender to prison for at least four years. Prior to 1996, these offences carried no minimum punishment, even if a firearm was used. For example, before the creation of the mandatory minimum penalty for robbery, the average sentence length imposed for this offence was less than two years.<sup>19</sup> After the new law was passed, the minimum sentence that could be imposed (if a firearm was used) was four years imprisonment.

The mandatory minimum for these offences has had little impact on overall sentencing patterns. Statistics for robbery provide a good illustration. Despite the mandatory minima, the percentage of persons convicted of robbery and sentenced to imprisonment for at least four years was unchanged from 1994/95 to 1998/99 (17%). Overall, the percentage of cases receiving a prison sentence of four years or more actually declined slightly from 19% to 18% over the period 1994/95 to 1998/99.

A closer examination of firearms cases for 1998/99 shows that sentencing practices respect the four year minimum sentence, but that the number of cases is too low to dramatically impact the sentencing statistics for the larger offence category. For example, robbery had the largest number of cases with a firearm — 114 convicted cases in 1998/99 where robbery with a firearm was the most serious offence in the case. This represents 6% of all robbery cases sentenced to prison for this year (1,833), which is a proportion of total convictions that is too small to dramatically influence the median prison sentence length. Since the enactment of the mandatory minimum legislation in 1996, the median length of prison sentence for robbery cases have remained stable (540 days). Clearly, the effects of the mandatory minimum sentences of imprisonment require more detailed analysis.

### Use of probation

In 1998/99, as can be seen in Figure 14, *Crimes against the person* were most likely to attract a sentence of probation: almost three-quarters (72%) of convicted cases in this category were sentenced to a term of probation, compared to 53% of offenders convicted of a *Crime against property*. It should also be recalled that a substantial proportion of cases involving a *Crime against the person* received probation in addition to a term of imprisonment.

The offences with the highest proportion of probation sentences, ordered as the only sanction or in combination with other sanctions, were sexual abuse and abduction - 81%

<sup>18</sup> With the introduction of new drug legislation, some drug offences have been coded to the "Other Federal Statutes" category. This inflates the OFS group and undercounts drug offences. This will be corrected with changes to data collection programs.

<sup>19</sup> A. Birkenmayer and J. Roberts (1997) *Sentencing in Adult Provincial Courts*. Juristat, Volume 17, Number 1.

of cases involving this crime were sentenced to a term of probation. The “homicide and related” and impaired driving offences were least likely to receive a term of probation as a sanction, 16% and 15% respectively. Since the murder offences carry a mandatory sentence of life imprisonment (which rules out the possibility of probation), the “homicide and related” cases which received probation would be limited to manslaughter and infanticide.

**Trends in the use of probation**

**Use of probation has been increasing**

Judges in adult criminal courts are using probation more often as a sanction. As can be seen in **Table 4**, the percentage of all cases receiving a term of probation was 37% in 1994/95, 38% the following year, 41% in 1996/97, 43% in 1997/98, and 42% in 1998/99.

The same pattern emerges when examining specific offence categories. The percentage of cases attracting probation rose six percentage points for *Crimes against the person*, three for *Crimes against property*, five for the category *Other Criminal Code*, and nine for all *Federal statute offences*. The category *Other federal statutes* displayed the greatest increase in the use of probation, rising from 4% in 1994/95 to 20% in 1998/99.

Some individual offences showed increases in the use of probation that exceeded the increases of the aggregate categories. For example, the use of probation in cases of major assault rose from 61% in 1994/95 to 69% in 1998/99. Certain offences displayed a different pattern. The percentage of Trafficking cases that resulted in a term of probation declined from 47% to 39% between 1994/95 and 1998/99. Similarly, the use of probation for cases of impaired driving declined from 18% in 1994/95 to 15% in 1998/99.

**Length of probation terms stable over past five years**

While the use of probation has increased over the past five years, there has been no change in the length of probation orders. The median length of all probation orders in 1998/99 was 365 days, unchanged from 1994/95 (see **Table 6**).

In 1998/99, the most common length for a term of probation was “greater than six months but less than one year” (43% of convicted cases). Slightly more than a third (34%) were between 12 months and two years. Sixteen per cent were for less than six months. Only 7% of probation terms were for a period of more than two years. (The statutory limit on a term of probation is three years). The distribution of probation terms is presented in **Figure 8**.

**Use of fines**

Almost 100,000 offenders were sentenced to pay a fine in 1998/99. A large majority of cases receiving a fine (77%) were given fines of \$500 or less. The value exceeded \$1,000 in only 4% of all fines imposed (**Figure 9**).

Figure 8

**Cases by length of probation for the most serious offence**  
Selected provinces and territories in Canada, 1998/99



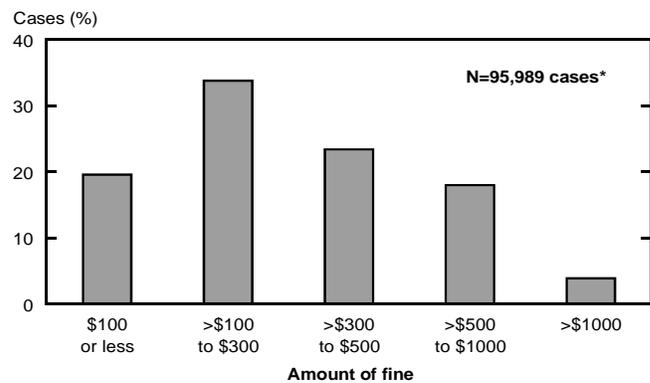
\* The length of probation was unknown in 77 cases where probation was ordered.

**Note:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

Figure 9

**Cases by amount of fine for the most serious offence**  
Selected provinces and territories in Canada, 1998/99



\* The amount of the fine was unknown in 1,299 or 1% of cases where a fine was imposed.

**Note:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

**Table 4** presents a breakdown of the offence categories receiving a fine in 1998/99. The offence category resulting in the most frequent use of fines was *Traffic-related offences* (80% of cases). The reason for this is that the offence of impaired driving, which represents 86% of the convicted cases in this category, carries a mandatory penalty of a fine of at least \$300 for first-time offenders.<sup>20</sup> A fine was rarely imposed for cases involving a *Crime against the person*. For example, only 4% of cases involving sexual abuse and 2% of robbery cases resulted in the imposition of a fine.

Fines were more frequently imposed when the offence involved property loss or damage. Thirty percent of cases involving damage to property resulted in the imposition of a fine. Fines were also often imposed in drug cases, particularly those involving simple possession.

**Use of Fines declined over the period 1994/95 to 1998/99**

The historical pattern for fines is quite different from the trends for prison and probation. Over the same five-year period in which the imprisonment rate increased only slightly and the probation rate increased significantly, the use of fines declined dramatically. As can be seen in **Table 4**, fines were imposed in 47% of all cases in 1994/95, but only 40% in 1998/99.

The downward trend was observed in all of the major offence categories, with the exception of *Traffic-related offences*. The use of fines for *Traffic-related offences* increased by 6 percentage points. For all other offence categories, there was a decline. Cases resulting in a fine declined by 8 percentage points for *Crimes against the person* and *Crimes against property*, 5 for *Other Criminal Code*, 2 for *Drug-related offences* and 15 for *Other federal statutes* (see **Table 4**).

There was a tendency for the value of the fine imposed to increase over the five years. As can be seen in **Table 7**, the percentage of cases in the lowest fine category (\$100 or less) decreased, while the percentage of fines in the higher categories increased. Thus the percentage of all fines in the \$100 or less category declined by over 3 percentage points. The percentage of cases with fines in the \$500 to \$1,000 category increased by almost 2 percentage points and those with fines in excess of \$1,000 increased by almost 1 percentage point.

The tendency of fines to increase in value was counter-acted by a larger decline in the absolute number of fines imposed. Thus the total sum of money ordered to be paid to the state declined over the past five years. In 1994/95, the total amount of money ordered to be paid as a fine was 63.8 million dollars.<sup>21</sup> This total has declined steadily over the past five years (reflecting the decline in the number of fines imposed); in 1998/99, the total dollar amount was 54.2 million dollars. This represents a decline of 15% and almost 10 million dollars.

**Summary**

The five-year analyses reported here for the first time reveal an interesting combination of stability and change in terms of the adult provincial/territorial criminal court system. The total number of processed cases declined by 4% in 1998/99 compared to the previous year, and by 11% over the five-year period. This parallels the reduction in the number of incidents reported to police over the same time period.

There was little change in the variables which measured the processing of cases by the courts. Nineteen percent of cases were dealt with in a single appearance, a statistic which has not changed in recent years. Over the last five years, there has been a slight increase in the percentage of cases requiring 6 or more appearances – a suggestion that it is taking longer for some cases to be resolved in criminal courts.

The overall conviction rate, 62% in 1998/99, has changed very little over five years.

However, the five-year span of data presented here shows important changes in sentencing patterns. As can be seen in **Figure 10**, three different trends emerge in terms of the use of the three principal sanctions (i.e., prison, probation, and fines). Provincial/territorial court judges are using probation more often, and imposing fewer fines upon adult offenders. Interpreting the use of incarceration is somewhat more complex.

<sup>20</sup> Criminal Code, section 255(1) ai.

<sup>21</sup> The total fine amount imposed has been converted into constant dollars using the CPI (1992=100).

Table 7

Fiscal Year	Case convictions with a fine	Amount of fine									
		\$100 or less		>\$100 to \$300		>\$300 to \$500		>\$500 to \$1000		>\$1000	
		#	%	#	%	#	%	#	%	#	%
1994/95	126,118	29,204	23.2	43,224	34.3	28,705	22.8	20,972	16.6	4,013	3.2
1995/96	120,219	27,133	22.6	41,267	34.3	27,915	23.2	19,857	16.5	4,047	3.4
1996/97	113,383	24,798	21.9	38,564	34.0	26,643	23.5	19,247	17.0	4,131	3.6
1997/98	101,886	19,935	19.6	34,292	33.7	24,870	24.4	18,991	18.6	3,798	3.7
1998/99	94,690	18,782	19.8	32,411	34.2	22,492	23.8	17,243	18.2	3,762	4.0

Notes: Percentages may not total 100% due to rounding.

Excludes cases with unknown fine amount

Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

Source: Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

The number of offenders sentenced to prison has declined. This is partly a result of the decline in the number of convictions, which itself reflects the fact that fewer crimes are being reported to, and recorded by the police. The more important measure of incarceration patterns is the percentage of cases sentenced to prison, which increased from 33% to 35% over the 5-year period. As well, the length of custodial terms increased significantly. As one indication of this, between 1994/95 and 1998/99, there was a 31% increase in the number of offenders receiving a sentence of incarceration greater than two years. The median sentence length for cases was 30 days in 1994/95 and 45 days in 1998/99. The increase in sentence length is not uniform across all offences. It is specific to certain personal injury offences, particularly crimes of sexual and physical aggression. Judges are imposing harsher sentences in these types of cases.

It would be overly simplistic to suggest that judicial attitudes alone are responsible for an increase in the use of incarceration. Many factors contribute to the court's decision to impose a sanction, and then on the decision to set the duration of that sentence. For example, the trial process is governed by legislation, which as we have seen may result in the creation of mandatory sentencing provisions. Such legislative changes could influence both the type and magnitude of the sentence imposed following a conviction. In addition, other criminal justice professionals may also influence the sanction imposed. For example, judges who receive a joint submission on sentence from defence and Crown counsel will generally be guided by that submission. As well, if Crown counsel have advocated harsher sentences for specific offences – such as sexual assault or child sexual abuse – this will have an impact on the sentencing patterns for these offences. Thus, although the judge alone imposes the sentence, the nature and severity of the disposition will reflect much more than simply the individual judge's perceptions of the case.

Explaining the recent drift towards more frequent use of longer sentences of imprisonment will require further analysis, conducted over a longer period of time, and involving more than simply the sentencing patterns themselves. Nevertheless, these findings demonstrate that Canada is using incarceration to a greater extent than in the past. This trend comes at a time when crime rates are declining and when most western nations are attempting to expand the use of alternatives to incarceration.

## METHODOLOGY

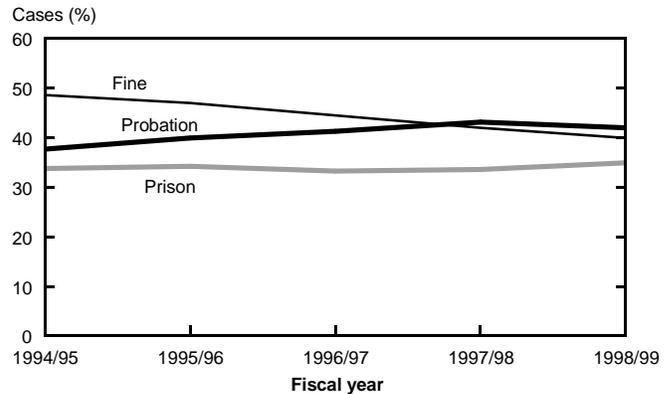
The purpose of the Adult Criminal Court Survey (ACCS) is to provide a national database of statistical information on the processing of cases through the adult criminal court system. The survey consists of a census of *Criminal Code* and other federal statute charges dealt with in provincial/territorial adult criminal courts.

### Coverage

Some limitations on coverage of the survey should be noted. First, three provinces (New Brunswick, Manitoba and British Columbia) are not included in the survey at this time. Second,

Figure 10

### Cases by type of sentence Selected provinces and territories in Canada, 1994/95-1998/99



**Note:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97.

**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

some court locations in Quebec are not included. Information from Quebec's 140 municipal courts (which account for approximately 20% of federal statute charges in that province) are not yet collected. Finally, with the exception of Alberta, no data are provided from the superior courts.

The consequence of this last limitation is that the sentencing trends reported in this *Juristat* may slightly underestimate the severity of sentences imposed across Canada. The reason for this is that some of the most serious cases, which are likely to result in the most severe sanctions, will be processed in superior courts. While these limitations are important, they have existed for several years, and this means that it is possible to make comparisons from one year to another using the ACCS.

### Counting Procedures

The Adult Criminal Court Survey counts a charge more than once under any of the following circumstances:

- a charge is stayed in one time period and restarted in another time period;
- a charge is stayed and subsequently restarted with different case identifiers;
- a charge is transferred from one court location to another; and
- a charge is transferred to superior court but subsequently returns to provincial court with different case identifiers.

### Most Serious Offence and Disposition Rules

When a case has more than one charge, it is necessary to decide which charge will be used to represent the case (since a case is identified by a single charge). In such multiple charge

cases, the “most serious disposition” rule is applied. Dispositions are ranked from the most to the least serious as follows: 1) guilty, 2) guilty of a lesser offence, 3) committed for trial in a superior court, 4) other dispositions were imposed, 5) stay of proceeding, 6) acquitted, withdrawn, dismissed.

In cases where two or more offences have resulted in the same disposition (e.g., guilty), the “most serious offence” rule is applied. All charges are ranked according to a seriousness scale based on the average length of prison sentence. If two charges are tied according to this criterion, information about the sentence type (e.g., prison, probation, and fine) is considered. If a tie still exists, the magnitude of the sentence is considered.

### **Factors influencing the number of charges laid**

Charging policies are determined individually by provinces and territories. In Quebec, for example, the police must obtain the approval of the Crown prosecutor before a charge is laid. In other provinces and territories, the police have exclusive responsibility for the laying of a charge. This variability may affect the number and nature of charges laid across the country.

### **Comparisons with other sectors of the justice system**

#### **Policing:**

CCJS conducts the Uniform Crime Reporting Survey (UCR). This survey collects data on the crimes reported to the police.

Counts from the UCR for offences cleared by charge are not comparable to ACCS figures for charges disposed of. There are many reasons for this. In part, it is the result of scoring rules used by the UCR survey. The UCR counts violent offences in terms of the number of victims in the incident; non-violent offences are counted in terms of the number of separate incidents. Furthermore, the UCR figures include offences involving youths, while the ACCS case counts only include youth offences that have been transferred to adult court.

#### **Corrections:**

The number of cases sentenced to prison, as reported by the ACCS, will differ from the number of actual admissions to correctional facilities. CCJS conducts the Adult Correctional Services (ACS) Survey, which measures, among other things, the number of persons admitted to correctional facilities in Canada. Prison sentences and sentenced admissions to correctional facilities differ for the following reasons: (i) the number of sentenced admissions reported by the ACS includes persons sentenced to prison in superior courts and fine default admissions. Only one jurisdiction, Alberta, reports Superior Court data to the Adult Criminal Court Survey and prison sentences for reason of fine defaults are excluded, and (ii) any accused sentenced to prison-time-served would be counted differently in each survey. The ACCS does not have any data on the duration of the time already served, and the correctional data would identify these sentences as a remand prior to the completion of the trial.

## Canadian Centre for Justice Statistics

For further information, please contact the Canadian Centre for Justice Statistics, 19th floor, R.H. Coats Building, Ottawa, Ontario K1A 0T6 at (613) 951-9023 or call toll-free 1 800 387-2231. To order a publication, you may telephone (613) 951-7277 or fax (613) 951-1584 or internet: [order@statcan.ca](mailto:order@statcan.ca). You may also call 1 800 267-6677 (Canada and United States) toll-free. If you order by telephone, written confirmation is not required.

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