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## ADULT CRIMINAL COURT STATISTICS, 1999/00

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### HIGHLIGHTS

- In the fiscal year 1999/00, adult criminal courts in 9 provinces and territories (not including New Brunswick, Manitoba, British Columbia and Nunavut) processed 378,586 cases involving 811,382 charges, a 4% decrease from the previous year. Since 1994/95, total cases have declined by 15% in these jurisdictions.
- *Crimes against the person* (e.g., homicide, robbery, assaults) accounted for 20% of the cases heard in 1999/00, *Crimes against property* (e.g., break and enter, theft, fraud) accounted for 25%, and *Other Criminal Code Violations* (e.g., administration of justice and weapons) accounted for 29%. Six percent of all cases were *other federal statute* cases (e.g. Fisheries Act, Income Tax Act), with *Traffic* and *Drug related offences* representing 14% and 6% respectively of the total cases in 1999/00.
- The two offences most frequently heard in court were impaired driving and common assaults, each accounting for 12% of cases.
- While impaired driving was the most frequent offence heard in court in many jurisdictions, the proportion of impaired driving cases has decreased from 15% of all cases in 1994/95 to 12% of all cases in 1999/00.
- One third of adult criminal cases were resolved within a month, and just under half (45%) took more than one, but no more than eight months to complete in 1999/00. It took more than eight months but no more than twelve months to complete 12% of cases, and more than one year to dispose of 10% of total cases.
- Since 1994/95, adult criminal courts have seen a steady increase in both the proportion of multiple-charge cases and the average number of charges per case.
- In 1999/00, the conviction rate in adult criminal courts was 61%, a rate that has remained relatively stable since 1994/95.
- A term of probation was the most frequently imposed sanction (42% of convicted cases). A fine was imposed in 39% of cases, and a term of imprisonment in 34% of cases.
- The proportion of cases sentenced to prison varies significantly across the country. In Prince Edward Island, more than half of convictions resulted in a term of imprisonment, while a term of custody was imposed in just under one case in four convicted cases in Saskatchewan.

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## INTRODUCTION

Courts are responsible for making a number of critical decisions about a criminal case. These decisions include the determination of whether the Crown has established the guilt of the accused beyond a reasonable doubt, and for those offenders found guilty (or who plead guilty), the court must determine the nature of the sentence that will be imposed.

This *Juristat* summarizes trends from provincial/territorial courts in the seven provincial and two territorial departments of justice (**Box 1**), which provided data to the Adult Criminal Court Survey (ACCS) for the 1999/00 fiscal year. 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.

### Box 1

#### About the Survey

The analysis in this report is based on case characteristic data from the Adult Criminal Court Survey (ACCS). Data on federal statute charges disposed of in 1999-00 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 and the Yukon report Superior Court 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.

## 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 1999/00, adult criminal courts in 9 provinces and territories processed 378,586 cases involving 811,382 charges. The number of cases processed in 1999/00 represents a 4% decline over the previous year, and a drop of 15% since 1994/95. This decline in prosecuted cases reflects the declining number of charges reported to police.<sup>2</sup> Over the period 1994 to 1999, there was a 12% decline in the number of charges laid by police in the same provinces and territories that report to the ACCS.

The large majority of the cases (88%) had a *Criminal Code* charge as the most serious charge in the case.<sup>3</sup> *Crimes against the person* accounted for 20% of the total number of cases, and *Crimes against property* accounted for a further 25%

<sup>2</sup> See the methodology section for more details on the comparisons between the ACCS and the Uniform Crime Reporting (UCR) Survey.

<sup>3</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.

(Table 1). *Traffic-related offences* comprised 14% of all cases, while the category *Other Criminal Code* (which includes weapons offences and public order offences, among others), represented 29% of all cases. The remaining 12% of cases dealt with *Federal statute offences*, which included *Drug-related offences* (6%), and *Other federal statutes* (6%).<sup>4</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.

The average number of charges per case has increased 9%, rising from 1.97 in 1994/95 to 2.14 in 1999/00. Multiple-charge cases, which are more complex and often serious, increased from 44% of all cases in 1994/95 to 48% in 1999/00. In 1999/00, 27% of all cases involved two charges and 21% had three or more charges.

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

In 1999/00, the most frequently occurring offences were impaired driving and common assault<sup>5</sup> (each accounting for 12% of cases). Administration of justice offences represented 11% of all cases, theft offences represented 10% of cases, while major assault comprised just under 6% of 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, violent crimes account for a lower percentage of cases. Homicide, attempted murder and kidnapping together accounted for 0.3% of total cases. In addition to common assault, an exception to this rule is major assault, which accounts for 6% of total cases. (Table 1).

Since 1994/95 the distribution of cases across the offence categories has remained relatively stable. The most notable exceptions include the change in the proportion of impaired driving cases, which has decreased from 15 to 12 percent of total cases, and offences against the administration of justice, which has increased from 9 to 11 percent. Figure 1 illustrates the distribution of cases for some of the most frequently occurring offences and offence categories.

## DEMOGRAPHIC CHARACTERISTICS OF PERSONS APPEARING IN COURT

### Most adult criminal court cases involve males

Fully 82% of all cases at the adult criminal court level involved male accused, while 15% of cases involved a female accused. (The sex of the accused was not recorded in 2% of the cases). In 1999/00, less than 1% of the cases involved a company as the accused.

Although males accounted for the majority of cases, the distribution varied by type of offence. For *Crimes against the person*, 85% of cases involved males, while males were involved in 78% of *Crimes against Property*, and 86% of cases for *Traffic-related offences*. The few offences for which females

Table 1

Cases heard in Adult Criminal Court Nine Provinces and Territories in Canada, 1999/00		
Offence Group	# Cases	%
<b>Total Offences</b>	<b>378,586</b>	<b>100.0</b>
<b>Criminal Code Total</b>	<b>334,414</b>	<b>88.3</b>
<b>Crimes Against The Person</b>	<b>77,441</b>	<b>20.5</b>
Homicide and Related	419	0.1
Attempted Murder	325	0.1
Robbery	4,435	1.2
Kidnapping	275	0.1
Sexual Assault	5,388	1.4
Sexual Abuse	1,276	0.3
Major Assault	21,018	5.6
Abduction	125	< 0.1
Common Assault	44,180	11.7
<b>Crimes Against Property</b>	<b>94,707</b>	<b>25.0</b>
Break and Enter	12,719	3.4
Arson	575	0.2
Fraud	19,799	5.2
Possess Stolen Property	12,932	3.4
Theft	37,461	9.9
Property Damage/Mischief	11,221	3.0
<b>Other Criminal Code Violations</b>	<b>109,013</b>	<b>28.8</b>
Weapons	7,219	1.9
Administration of Justice	40,375	10.7
Public Order Offences	8,875	2.3
Morals-Sexual	4,801	1.3
Morals-Gaming	888	0.2
Unspecified Criminal Code	46,855	12.4
<b>Traffic</b>	<b>53,253</b>	<b>14.1</b>
Criminal Code Traffic	7,510	2.0
Impaired Driving	45,743	12.1
<b>Federal Statute Total</b>	<b>44,172</b>	<b>11.7</b>
<b>Drug Related Offences</b>	<b>21,458</b>	<b>5.7</b>
Trafficking	7,742	2.0
Possession	13,716	3.6
<b>Other Federal Statutes</b>	<b>22,714</b>	<b>6.0</b>

**Notes:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years.

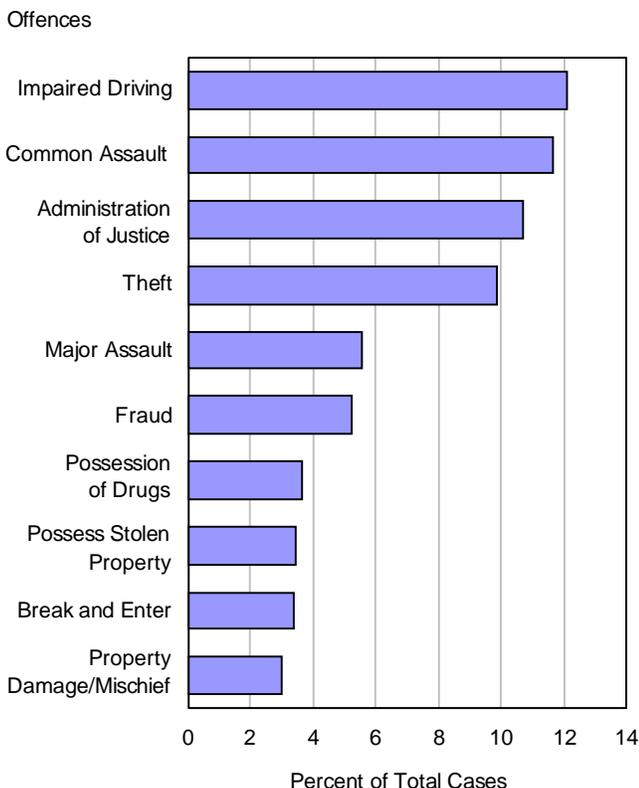
**Source:** Adult Criminal Court Survey, Canadian Centre for Justice Statistics, Statistics Canada.

<sup>4</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>5</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).

Figure 1

**Ten Most Frequent Offences Heard in Adult Criminal Court  
Nine provinces and territories in Canada, 1999/00**



**Notes:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years.

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

accounted for significant percentages of cases included: offences against morals (40%, primarily soliciting), abduction (42%, mainly child related), fraud (28%), and theft (27%, including shoplifting). While the proportion of fraud and theft cases against females remained stable between 1998/99 and 1999/00, cases for abduction increased by 4 percentage points.

**Younger adults are over represented in court cases**

Younger adults were over represented in court when comparing the age distribution of the offender to the age distribution of the adult population. In 1999/00, 18 to 24 year olds comprised 12% of the adult population, but accounted for 30% of all cases in adult criminal court. Offenders under 45 years of age accounted for 86% of the total cases heard in adult criminal court and only 54% of the adult population. In contrast, persons over 55 represented 28% of the adult population, but accounted for less than 5% of adult criminal court cases (Table 2).

**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.

**First court appearance is within 4 months of the offence date for 80% of the cases**

In 1999/00, 41% of cases had a first appearance within 1 month of the crime being committed, and 80% had their first appearance within the first 4 months. Only 3% of the cases appeared in court on the same day as the alleged offence. Six percent of the cases had a first court appearance more than a year after the crime was committed.

**Sexual assault and sexual abuse cases take longer to get to court**

The elapsed time between the offence date and the first appearance varies greatly depending on the particular offence.<sup>6</sup> While at the total offence level, 6% of accused persons had their first appearance more than a year after the crime was committed, in the Sexual Assault and Sexual Abuse offence categories, 25% and 35% of the cases (respectively) had their first appearance more than one year after the offence date. Twenty-three percent of fraud cases were heard for the

<sup>6</sup> Many factors can affect elapsed times, such as long delays in certain offences being reported to police (e.g., Sexual Assault), more extensive police investigations prior to the laying of charges or the accused avoiding apprehension.

Table 2


**Cases by Age of Accused,  
Nine Provinces and Territories in Canada, 1999/00**

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>366,327</b>	<b>110,139</b>	<b>30.1</b>	<b>112,434</b>	<b>30.7</b>	<b>91,544</b>	<b>25.0</b>	<b>36,150</b>	<b>9.9</b>	<b>16,060</b>	<b>4.4</b>
<b>Criminal Code Total</b>	<b>324,365</b>	<b>94,578</b>	<b>29.2</b>	<b>100,366</b>	<b>30.9</b>	<b>82,607</b>	<b>25.5</b>	<b>32,416</b>	<b>10.0</b>	<b>14,398</b>	<b>4.4</b>
<b>Crimes Against The Person</b>	<b>74,804</b>	<b>19,026</b>	<b>25.4</b>	<b>24,340</b>	<b>32.5</b>	<b>20,621</b>	<b>27.6</b>	<b>7,593</b>	<b>10.2</b>	<b>3,224</b>	<b>4.3</b>
Homicide and Related	398	148	37.2	118	29.6	80	20.1	34	8.5	18	4.5
Attempted Murder	306	123	40.2	87	28.4	65	21.2	19	6.2	12	3.9
Robbery	4,313	1,996	46.3	1,352	31.3	778	18.0	168	3.9	19	0.4
Kidnapping	262	85	32.4	83	31.7	64	24.4	22	8.4	8	3.1
Sexual Assault	5,231	928	17.7	1,556	29.7	1,491	28.5	734	14.0	522	10.0
Sexual Abuse	1,225	193	15.8	327	26.7	350	28.6	204	16.7	151	12.3
Major Assault	20,516	6,187	30.2	6,655	32.4	5,155	25.1	1,772	8.6	747	3.6
Abduction	120	18	15.0	57	47.5	31	25.8	11	9.2	3	2.5
Common Assault	42,433	9,348	22.0	14,105	33.2	12,607	29.7	4,629	10.9	1,744	4.1
<b>Crimes Against Property</b>	<b>92,779</b>	<b>34,232</b>	<b>36.9</b>	<b>28,061</b>	<b>30.2</b>	<b>20,236</b>	<b>21.8</b>	<b>7,187</b>	<b>7.7</b>	<b>3,063</b>	<b>3.3</b>
Break and Enter	12,502	6,425	51.4	3,541	28.3	2,010	16.1	444	3.6	82	0.7
Arson	570	185	32.5	157	27.5	141	24.7	55	9.6	32	5.6
Fraud	19,197	5,394	28.1	7,012	36.5	4,581	23.9	1,686	8.8	524	2.7
Possess Stolen Property	12,692	5,602	44.1	3,859	30.4	2,307	18.2	731	5.8	193	1.5
Theft	36,829	12,131	32.9	10,231	27.8	8,902	24.2	3,606	9.8	1,959	5.3
Property Damage/Mischief	10,989	4,495	40.9	3,261	29.7	2,295	20.9	665	6.1	273	2.5
<b>Other Criminal Code Violations</b>	<b>103,871</b>	<b>31,295</b>	<b>30.1</b>	<b>33,161</b>	<b>31.9</b>	<b>26,101</b>	<b>25.1</b>	<b>9,498</b>	<b>9.1</b>	<b>3,816</b>	<b>3.7</b>
Weapons	6,930	2,282	32.9	1,858	26.8	1,498	21.6	826	11.9	466	6.7
Administration of Justice	39,710	13,199	33.2	13,016	32.8	9,446	23.8	3,044	7.7	1,005	2.5
Public Order Offences	8,803	3,391	38.5	2,867	32.6	1,799	20.4	540	6.1	206	2.3
Morals-Sexual	4,723	824	17.4	1,664	35.2	1,451	30.7	524	11.1	260	5.5
Morals-Gaming	771	47	6.1	214	27.8	210	27.2	169	21.9	131	17.0
Unspecified Criminal Code	42,934	11,552	26.9	13,542	31.5	11,697	27.2	4,395	10.2	1,748	4.1
<b>Traffic</b>	<b>52,911</b>	<b>10,025</b>	<b>18.9</b>	<b>14,804</b>	<b>28.0</b>	<b>15,649</b>	<b>29.6</b>	<b>8,138</b>	<b>15.4</b>	<b>4,295</b>	<b>8.1</b>
Criminal Code Traffic	7,438	1,599	21.5	2,474	33.3	2,049	27.5	907	12.2	409	5.5
Impaired Driving	45,473	8,426	18.5	12,330	27.1	13,600	29.9	7,231	15.9	3,886	8.5
<b>Federal Statute Total</b>	<b>41,962</b>	<b>15,561</b>	<b>37.1</b>	<b>12,068</b>	<b>28.8</b>	<b>8,937</b>	<b>21.3</b>	<b>3,734</b>	<b>8.9</b>	<b>1,662</b>	<b>4.0</b>
<b>Drug Related Offences</b>	<b>20,883</b>	<b>8,572</b>	<b>41.0</b>	<b>6,440</b>	<b>30.8</b>	<b>4,419</b>	<b>21.2</b>	<b>1,227</b>	<b>5.9</b>	<b>225</b>	<b>1.1</b>
Trafficking	7,446	2,372	31.9	2,552	34.3	1,800	24.2	584	7.8	138	1.9
Possession	13,437	6,200	46.1	3,888	28.9	2,619	19.5	643	4.8	87	0.6
<b>Other Federal Statutes</b>	<b>21,079</b>	<b>6,989</b>	<b>33.2</b>	<b>5,628</b>	<b>26.7</b>	<b>4,518</b>	<b>21.4</b>	<b>2,507</b>	<b>11.9</b>	<b>1,437</b>	<b>6.8</b>

**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 do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years and Northwest Territories for 1996/97.

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

**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 to custody order is given. However, several offences are classified as reverse onus offences, where the accused must show cause why his detention is not justified – C.C.C. 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 and territory 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.

first time after more than one year had passed. Conversely, 41% of total cases had a first appearance within one month of the crime being committed. For some offences, the proportion of cases being heard within one month were even higher: Kidnapping (68%), Attempted Murder (66%), Robbery (64%), Major Assault (58%), Common Assault (51%), Arson (50%), Weapons (54%), Public Order Offences (51%) and Drug Trafficking (53%) all had over one-half of the cases heard within the first four weeks after the date of the offence.

### Median elapsed time from first to last court appearance just over 4 months

The amount of time it takes to complete the processing of a case has always been an important issue for court administrators, but since the 1990 Supreme Court decision in *R. v. Askov*<sup>7</sup>, the case elapsed time issue is even more visible. In 1999/00, 18% of cases were dealt with at the first (and only) appearance. The median elapsed time from first to last appearance, for cases with more than one appearance, was slightly more than four months (123 days). Cases requiring more appearances took longer to complete. The median time for cases with four appearances was 105 days, and for cases with six or more appearances, 238 days (Table 3).

Table 3

 <b>Median Elapsed Time by Number of Appearances Nine Provinces and Territories in Canada, 1999/00</b>		
# of Appearances	# Cases	Median (days)
One Appearance	69,658	-
Two Appearances	59,271	28
Three Appearances	52,909	67
Four Appearances	44,483	105
Five Appearances	35,339	140
Six or more Appearances	116,926	238
<b>Total</b>	<b>378,586</b>	<b>84</b>

**Notes:** Median elapsed time is measured from first to last court appearance. Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years.

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

### Ten percent of cases took more than 1 year to resolve

One third of cases were resolved within a month, and just less than half (45%) took more than one, but no more than eight months to complete in 1999/00. 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 six years. The number of cases in each of the longest elapsed time categories (i.e., from eight months to twelve months, and more

than one year) has increased significantly since 1994/95. The largest increase occurred in the number of cases taking more than one year, which rose 16% since 1994/95, and the number of cases requiring from eight to twelve months which increased 6% over the same period.

Some offences take longer to resolve than others such as sexual abuse, sexual assault, gaming and homicide. Sexual assault and sexual abuse cases had a median elapsed time of 209 and 210 days respectively in 1999/00. In 1994/95, the median elapsed time for these types of cases was, respectively, 151 and 158 days. These median values can be compared to the overall median elapsed time for *Crimes against the person*, 99 days in 1994/95 and 126 days in 1999/00. Two of the shortest median elapsed times in 1999/00 occurred for administration of justice cases (27 days), possession of drugs (56 days) and the cases falling under *Other federal statutes* where the median elapsed time was 48 days.

Across all offences, 10% of cases needed more than one year to complete. At least twenty percent of the cases of sexual assault, sexual abuse, homicide and gaming offences required more than one year to complete. Drug trafficking required one year to complete in 19% of the cases. In 1994/95, only 7% of total cases needed more than one year to complete.

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

The percentage of cases taking six or more appearances increased from 23% to 31% over the past six years. This suggests that although the total number of cases being processed by the courts have been falling since 1994/95, the demand on court resources of these complex cases has increased. The number of case-appearances<sup>8</sup> has not declined with the declining number of cases being processed, and the mean number of appearances per case has increased 17%, from 4.1 appearances in 1994/95 to 4.8 appearances in 1999/00.

The composition of cases being heard is one factor that has contributed to this increase. Cases involving multiple charges require a higher mean number of appearances to be resolved than cases involving a single charge (5.2 appearances versus 4.4). From 1994/95 to 1999/00, multiple-charge cases have increased from 44% to 48% of cases heard in court. The largest increase in the proportion of multiple-charge cases occurred for public order offences, rising from 25% in 1994/95 to 51% in 1999/00. The percentage of multiple-charge cases declined for drug possession, impaired driving and gaming offences.

<sup>7</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.

<sup>8</sup> One case appearance is counted for each day (e.g., 3 days in a row, continuous, equals 3 appearances) the most serious offence in the case appeared in court.

The proportion of cases with three or more charges has increased steadily, from 17% of all cases in 1994/95 to 21% in 1999/00. The number of multiple-charge cases with six or more appearances increased significantly from 27% of all cases to 35% of all cases during this same period.

**Cases are taking more time to process**

The trend toward an increasing number of case appearances is having an impact on the time required to process cases in adult criminal court. Between 1994/95 and 1999/00, the overall median elapsed time from first to last appearance in court has increased 15% from 73 to 84 days, and the processing time for more complex cases (i.e., multiple-charge cases) has increased 10%, from 89 to 98 days. The median processing time for the least complex cases, those with a single charge, increased 17%, from 63 to 74 days.

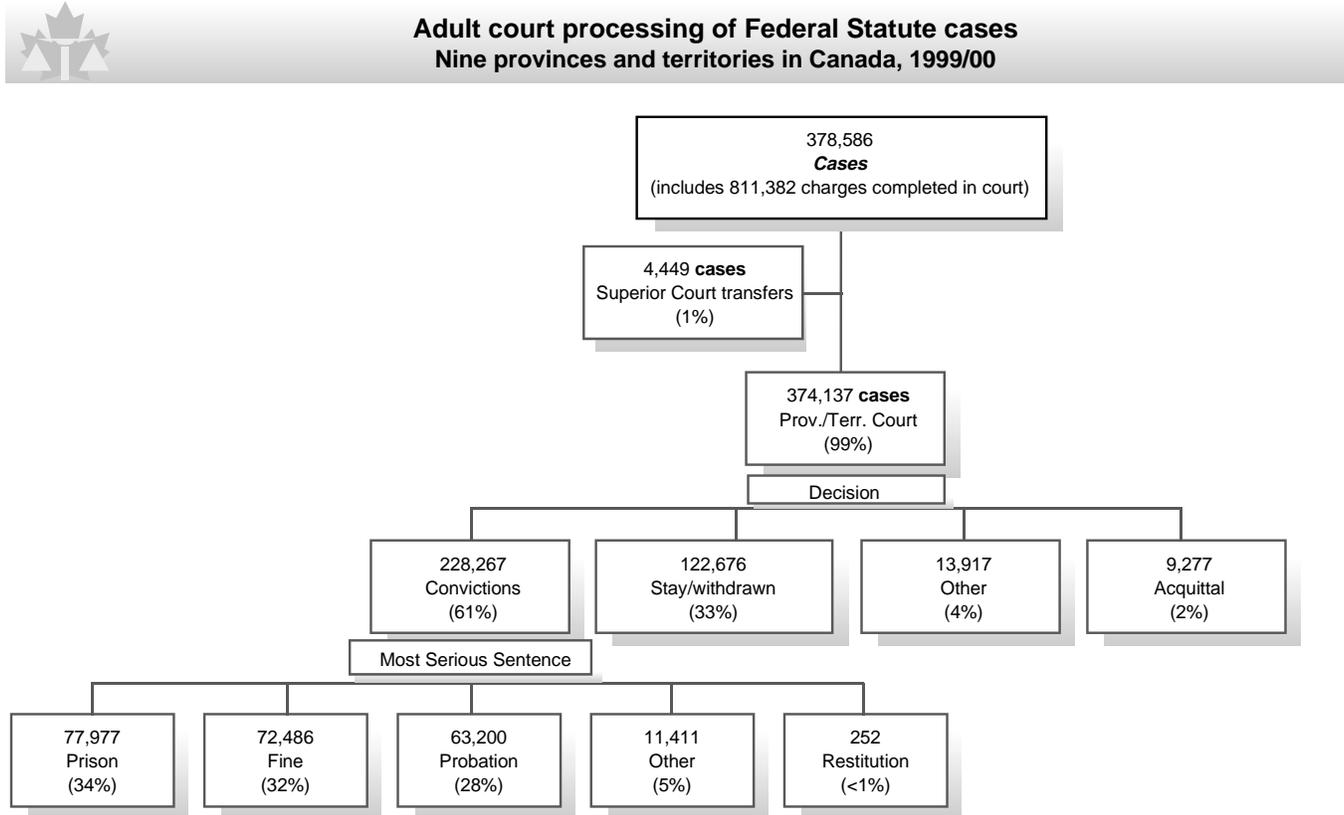
**OVERVIEW OF CASE OUTCOMES**

**Conviction rates stable over the period 1994/95 to 1999/00**

A conviction was recorded in 61% of the 378,586 cases heard in court (**Figure 2**). One-third of the cases were resolved by the charges being stayed or withdrawn and only 2 % of the cases in 1999/00 resulted in the acquittal of the accused. The proportion of cases resulting in a conviction has varied by 3 percentage points over the past six years.<sup>9</sup>

<sup>9</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 2



**Notes:** The sentence was not known in 2,941 (1.3%) convicted cases in 1999/00. Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba and British Columbia and Nunavut for all years. Superior Court transfers represent 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.

**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 as their final appearance a re-election back to provincial court. In 1999/00, Alberta and the Yukon were the only jurisdictions supplying criminal trial data from Superior court, and the only jurisdictions 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.

**Conviction rates vary by offence group**

Traffic offences had the highest conviction rate (76%) in 1999/00. (Figure 3). Several factors impact on changing conviction rates for different categories of offences. For example, some crimes may be easier to prove than others, depending on the number and availability of witnesses and the complexity of evidence presented by the Crown. As well, the number of charges the police lay for each incident will influence the number of charges coming into court and may have an impact on the distribution of case dispositions if some charges are dropped.

On average, 53% of all cases involving violence (or the threat of violence) resulted in a conviction (Figure 4). As can be seen, there was considerable variability, with the conviction rates ranging from a low of 28% for attempted murder to over 61% for robbery and 60% for sexual abuse. In contrast to Crimes against the person, there was considerable uniformity in the conviction rates for property offences (63%) (Figure 5).

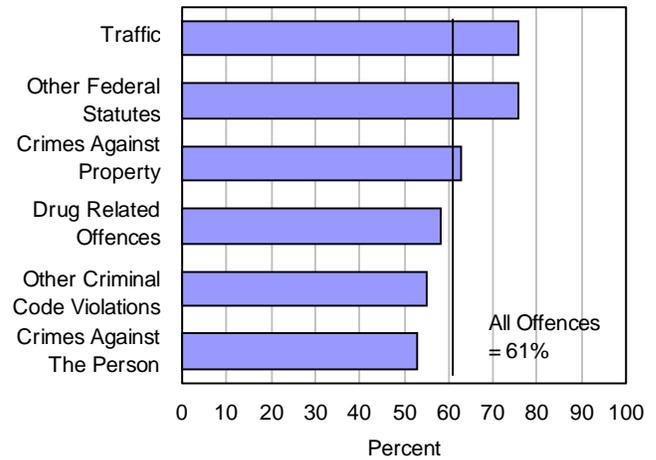
**Prince Edward Island, Quebec and Newfoundland have higher conviction rates**

As can be seen in Table 4, the overall conviction rate was highest in Prince Edward Island<sup>10</sup> (76%), Quebec (74%), and Newfoundland (73%), and significantly lower in Nova Scotia (54%), Ontario (56%) and the Yukon (57%).

<sup>10</sup> During 1999/00, Prince Edward Island was in the process of changing its justice information system, and some court information was not entered prior to the extraction of data for the ACCS. The level of under coverage resulting from late data capture is not known at this time.

Figure 3

**Case conviction rates  
Nine provinces and territories in Canada, 1999/00**  
Offences

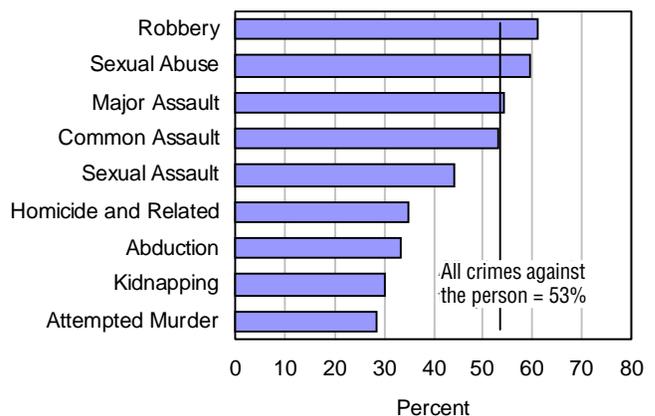


**Notes:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years.

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

Figure 4

**Conviction rate for cases with a crime against the person as the most serious offence in the case**  
Nine provinces and territories in Canada, 1999/00



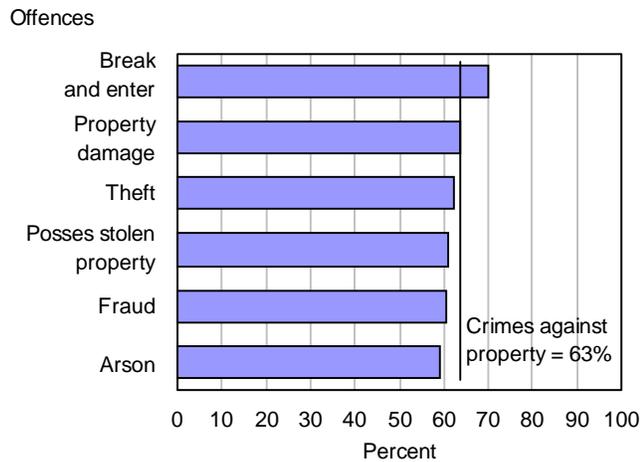
**Notes:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years.

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

Figure 5

**Conviction rate for cases with a property offence as the most serious offence in the case**

**Nine provinces and territories in Canada, 1999/00**



**Notes:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years.

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

There are several possible factors that influence the variations in the conviction rates between the provinces with high conviction rates and the provinces with lower conviction rates. First, 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, 41% of cases were stayed or withdrawn in Ontario, whereas only 11% were terminated in this way in Quebec. Thirdly, the use of pre-charge screening by the Crown, which occurs in Quebec, may also affect the percentage of convictions through increased vetting of charges.<sup>11</sup> Finally, the number of charges laid against an individual in relation to similar incidents may vary from one jurisdiction to another. 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.

When presented with multiple charges for a single incident, the Crown may choose to proceed with all the charges, or with the charge(s) having the strongest evidence. If the Crown chooses to drop one or more charges against the accused prior to the completion of all charges, the result may be a second case for the accused.<sup>12</sup> For example, the police may lay two or three charges for a single incident, and the Crown may choose to proceed with one charge and drop the others. Thus, the low conviction rate in some jurisdictions may be influenced by multiple charging by police, combined with the Crown's discretion on how to proceed in trying the charges against the accused.

<sup>11</sup> New Brunswick and British Columbia also have pre-charge screening, but these jurisdictions do not report to the Adult Criminal Court Survey.

<sup>12</sup> 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 one case against the accused, and all charges completed at trial would form a second case for the ACCS.

Table 4

Jurisdiction	Total Cases	Disposition							
		Guilty		Other		Stay/Withdrawn		Acquitted	
		#	%	#	%	#	%	#	%
<b>Total</b>	<b>374,137</b>	<b>228,267</b>	<b>61.0</b>	<b>13,917</b>	<b>3.7</b>	<b>122,676</b>	<b>32.8</b>	<b>9,277</b>	<b>2.5</b>
Newfoundland	6,511	4,730	72.6	181	2.8	1,590	24.4	10	0.2
Prince Edward Island	1,544	1,177	76.2	7	0.5	342	22.2	18	1.2
Nova Scotia	16,196	8,669	53.5	859	5.3	6,117	37.8	551	3.4
Quebec	71,598	52,724	73.6	4,423	6.2	7,877	11.0	6,574	9.2
Ontario	188,418	106,186	56.4	4,462	2.4	76,868	40.8	902	0.5
Saskatchewan	26,501	16,114	60.8	863	3.3	9,223	34.8	301	1.1
Alberta	60,449	36,851	61.0	3,008	5.0	19,704	32.6	886	1.5
Yukon	1,384	786	56.8	96	6.9	476	34.4	26	1.9
Northwest Territories	1,536	1,030	67.1	18	1.2	479	31.2	9	0.6

**Notes:** The calculation of conviction rates excludes cases with final dispositions of 'Commit for Trial in Superior court' and 'Re-election to Provincial Court'. Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years.

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

## SENTENCING PATTERNS

Determining the sentence to be imposed is one of the most complex and challenging decisions for a court (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. Since 1996, the *Criminal Code* contains a section that outlines these purposes and principles of sentencing. (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.

*Conditional sentence of imprisonment:* This sentencing option came into effect under Bill C-41 in September 1996. When a conditional sentence is imposed, the offender serves their sentence in the community under supervision. Among the prerequisites for the imposition of a conditional sentence, the offence must not have a prescribed minimum sentence, the sentence of imprisonment must be under 2 years and the court needs to be satisfied that the offender would not endanger the safety of the community. As part of the sentence the court may apply other sanctions such as the abstention of drinking alcohol, performing community service or attending treatment programs.

In addition to these principal sanctions, judges have many other sentencing options<sup>2</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> For more information on sentencing options, see A. Edgar (1999) *Sentencing Options in Canada*. In: *Making Sense of Sentencing*. Toronto: University of Toronto Press.

### Probation was the most common sentence in 1999/00

A term of probation was the most frequent sentence, imposed in 42% of all cases with a conviction. A fine was imposed in 39% of all cases, while a prison term was imposed in 34% of cases.<sup>13</sup> A high percentage of cases (43%) received what are classified as "other sentences". This category of sentence includes: conditional sentences, absolute discharges, conditional discharges, suspended sentences, licence suspensions, prohibitions against the ownership of firearms, and other court-ordered sanctions.

### Incarceration used most frequently for *Crimes against property*

Incarceration was imposed as a sentence for slightly more than one third (34%) of all cases. In 1999/00, 38% 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 (28%) — represents the majority (58%) 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 (53%). **Table 5** provides information relating to the type of sentence for the most serious offence from 1994/95 to 1999/00.

### Majority of offenders convicted of break and enter were sentenced to prison

Offenders were sentenced to prison in 40% of the convicted *Crimes against property* cases. Persons committing these offences tend to have longer criminal histories, and after the seriousness of the crime, an offender's criminal history is one of the most important factors considered by the court when determining the sanction to be imposed. Prison was frequently used as a sanction for convictions in several high volume property offences. For example, 61% of convicted break and enter cases were sentenced to prison, 38% of theft convictions, and more than a third (34%) of fraud convictions resulted in a prison sentence.

Similarly, *Other Criminal Code* cases, which were sentenced to prison in 43% of convicted cases, were 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 administration of justice offences to be very serious, and the majority (56%) of such cases were sentenced to prison.

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

Table 5


**Convicted Cases by Type of Sentence for the Most Serious Offence in the Case  
Nine Provinces and Territories in Canada, 1994/95 to 1999/00**

Fiscal Year	Convicted Cases	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 Total</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 Violations	59,636	24,769	41.5	18,793	31.5	21,682	36.4
Traffic	60,481	15,076	24.9	11,175	18.5	44,904	74.2
<b>Other Federal Statutes</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 Total</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 Violations	59,358	23,902	40.3	19,878	33.5	20,538	34.6
Traffic	57,273	14,044	24.5	11,081	19.3	42,113	73.5
<b>Other Federal Statutes</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 Total</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 Violations	57,792	24,287	42.0	20,972	36.3	19,000	32.9
Traffic	54,277	12,649	23.3	11,137	20.5	41,623	76.7
<b>Other Federal Statutes</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 Total</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 Violations	59,204	24,898	42.1	22,443	37.9	18,323	30.9
Traffic	51,631	11,462	22.2	10,368	20.1	39,910	77.3
<b>Other Federal Statutes</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 Total</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 Violations	60,453	26,381	43.6	22,209	36.7	18,865	31.2
Traffic	43,236	8,652	20.0	7,217	16.7	34,400	79.6
<b>Other Federal Statutes</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
<b>1999/00 Total</b>	<b>228,267</b>	<b>77,977</b>	<b>34.2</b>	<b>96,761</b>	<b>42.4</b>	<b>89,556</b>	<b>39.2</b>
<b>Criminal Code Total</b>	<b>199,066</b>	<b>72,349</b>	<b>36.3</b>	<b>89,587</b>	<b>45.0</b>	<b>71,095</b>	<b>35.7</b>
Crimes Against The Person	40,055	15,312	38.2	29,144	72.8	6,587	16.4
Crimes Against Property	58,959	23,532	39.9	31,542	53.5	14,076	23.9
Other Criminal Code Violations	59,796	25,847	43.2	22,325	37.3	18,223	30.5
Traffic	40,256	7,658	19.0	6,576	16.3	32,209	80.0
<b>Other Federal Statutes</b>	<b>29,201</b>	<b>5,628</b>	<b>19.3</b>	<b>7,174</b>	<b>24.6</b>	<b>18,461</b>	<b>63.2</b>
Drug Related Offences	12,097	3,008	24.9	3,170	26.2	6,338	52.4
Other Federal Statutes	17,104	2,620	15.3	4,004	23.4	12,123	70.9

**Notes:** The sentence types presented are not mutually exclusive, and will not add to 100. Data from this 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.

### 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, 57% of cases with convictions in Prince Edward Island resulted in a term of imprisonment, while prison was imposed in only about one-quarter of cases in Saskatchewan (23%) and Nova Scotia (24%) (see **Figure 6**). This variation in the use of incarceration reflects the influence of several factors. First, 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, courts 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. Since this offence category accounts for almost 30% of convicted cases in the province, the overall proportion of cases sentenced to prison in Prince Edward Island will be higher than the national average. Ninety-one percent of all impaired driving convictions in Prince Edward Island resulted in incarceration. This is by far the highest in Canada followed by Ontario with 21%. The lowest rate of incarceration occurred in Nova Scotia where 4% of the convicted impaired drivers were incarcerated.

### Little change in proportion of cases sentenced to prison between 1994/95 and 1999/00

The proportion of cases where prison was used as a sanction remained virtually unchanged, at 33% in 1994/95 and 34% in 1999/00.<sup>14</sup> (**Table 5**) However, some variability was evident at the offence level. For example, in the *Crimes against the*

*person* category, the largest decrease in the incarceration rate occurred for robbery offences where 77% of convicted cases resulted in a prison sentence in 1999/00, down from 89% in 1994/95. The incarceration rate for major assaults dropped from 58% to 47% during the same period. The only offence showing an increased incarceration rate was homicide, where prison was ordered in 89% of cases, up from 86% six years earlier.

In the *Crimes against property* category, two offences showed notable change between 1994/95 and 1999/00. The largest changes occurred for break and enter, where the proportion of cases being sentenced to prison dropped from 67% to 61%. In contrast, theft offences saw an increase in the incarceration rate, growing from 30% in 1994/95 to 38% in 1999/00.

### Most terms of imprisonment are relatively short

Almost half (48%) of all custodial sentences imposed in 1999/00 were one month or less, while an additional 34% were for periods from one month to six months. Four percent of custodial sentences were for a term of two years or longer (**Table 6**).

### Some offences show significant increases in prison sentence lengths

The median prison sentence length for *Criminal Code* offences has been 30 days for five of the past 6 years. Only in 1998/99 did the median prison length increase, moving up slightly to 31 days. While the overall prison sentence length has remained stable, there has been movement in median sentence lengths for some offences. For instance, the median prison sentence for homicide offences rose by 20%, from 1,825 days in 1994/95 to 2,190 in 1999/00. (see **Table 7**). However, the largest increases during this period were for Sexual Assault and Common Assault offences. The median prison sentence increased from 240 to 300 days for sexual assault, and from 30 to 45 days for common assault.

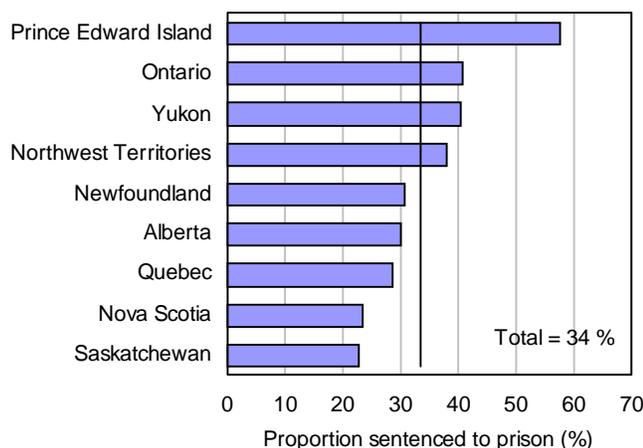
### Effects of mandatory minimum sentences

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 designated offences, the court is obliged to sentence the offender to a prison term of at least four years. Prior to 1996, these offences carried no minimum punishment, even if a firearm was used.

The mandatory minimum for these offences has had little impact on overall sentencing patterns. Statistics for robbery provide a good illustration. Despite the mandatory minimum, the percentage of persons convicted of robbery and sentenced to imprisonment for at least four years was almost unchanged since 1994/95 (17% from 1994/95 to 1998/99, and 16% in 1999/00).

Figure 6

**Proportion of convicted cases sentenced to prison for the most serious offence in the case  
Nine provinces and territories in Canada, 1999/00**



**Notes:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years.

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

<sup>14</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 6

Fiscal Year	Cases With Prison	Cases by Length of Prison Nine Provinces and Territories in Canada, 1994/95 to 1999/00											
		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
1999/00	77,977	37,389	47.9	26,815	34.4	4,620	5.9	2,396	3.1	2,911	3.7	3,846	4.9

**Notes:** Due to rounding, percentages may not add to 100. Data from this 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.

A closer examination of firearms cases for 1999/00 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 — 81 cases sentenced to prison in 1999/00 where robbery with a firearm was the most serious offence in the case. This represents 4% of all robbery cases sentenced to prison for this year (1,898), which is a proportion of total convictions that is too small to 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 has remained stable at 540 days.

### The number of cases sentenced to prison declined between 1994/95 and 1999/00

During the last six years, the number of cases sentenced to prison has declined 12%, from 88,690 in 1994/95 to 77,977 cases in 1999/00. The reasons for this decrease may include: (i) the decline in the number of crimes reported to the police, (ii) the fall in the number of cases heard in court, and (iii) the decrease in the number of recorded convictions (-16%). Further, the decline in cases sentenced to prison is reflected in the declining number of sentenced admissions to provincial/territorial custody between 1994/95 and 1999/00.<sup>15</sup>

### Use of probation

In 1999/00, as can be seen in **Table 5**, *Crimes against the person* were most likely to attract a sentence of probation. Almost three-quarters (73%) of convicted cases in this category were sentenced to a term of probation, compared to 54% of offenders convicted of a *Crime against property*. It should be noted that a substantial proportion of cases involving a *Crime against the person* received probation in addition to a term of imprisonment.

### Trends in the use of probation

In recent years, adult criminal courts have been using probation more often as a sanction. Between 1994/95 and 1998/99, the rate of guilty cases receiving a probation sentence increased from 37% to 42%. This rate remained stable in 1999/00. Among all offence groups, the largest increase between 1994/95 and 1999/00 occurred for *Crimes against the person* where the rate of probation for guilty cases increased from 66% to 73%. Within this and all categories, attempted murder offences showed the largest change, with the proportion of convicted cases receiving probation increasing from 11% to 35%. *Morals-sexual* (mainly prostitution related crimes), showed the second largest change, where 45% of convicted cases received probation in 1999/00 compared to 30% in 1994/95.

### Length of probation terms stable over past six years

While the relative use of probation has increased over the past six years, there has been little change in the length of probation orders. The overall median length of all probation orders in 1999/00 was 365 days. (see **Table 7**).

<sup>15</sup> Many sentences imposed by the courts do not involve supervision, and as a result do not form part of the correctional caseload (e.g., fines). Furthermore, the proportion of cases sentenced to prison is a function of the number of cases with a finding of guilt. This includes cases requiring no supervision after sentencing, which would not necessarily be a part of the correctional workload. It is also possible that a single conviction could result from more than one convicted court case. For these reasons, the adult criminal court caseload can indicate an increased proportion of sentences to prison, while adult correctional caseload indicates the opposite. See the methodology section for more details on the comparisons between the ACCS and the Adult Correctional Services (ACS) Survey.

Table 7

Offence Group	1994/95			1995/96			1996/97			1997/98			1998/99			1999/00		
	Prison <sup>1</sup>		Fine	Prison	Probation	Fine	Prison	Probation	Fine									
	median (days)	median (days)	median (\$)	median (days)	median (days)	median (\$)	median (days)	median (days)	median (\$)	median (days)	median (days)	median (\$)	median (days)	median (days)	median (\$)	median (days)	median (days)	median (\$)
<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>30</b>	<b>365</b>	<b>300</b>
<b>Criminal Code Total</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>30</b>	<b>365</b>	<b>400</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>	<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	2,190	725	500
Attempted Murder	2,190	725	-	1,825	1,095	-	900	1,080	500	1,148	730	-	1,080	1,095	11,750	1,620	1,095	1,000
Robbery	728	730	250	600	730	200	540	730	300	540	730	350	540	730	300	540	730	300
Kidnapping	210	730	500	150	730	500	180	730	1,500	180	730	425	270	730	350	180	730	500
Sexual Assault	240	730	500	240	730	500	270	730	500	270	730	500	360	730	500	300	730	500
Sexual Abuse	180	730	500	165	730	500	180	730	500	240	730	500	210	730	500	240	730	500
Major Assault	90	540	350	90	540	300	90	540	300	90	540	300	90	540	350	90	450	325
Abduction	135	365	625	75	540	250	180	730	125	89	720	450	30	730	600	180	453	50
Common Assault	30	365	299	30	365	300	30	365	250	45	365	300	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>	<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	180	540	300
Arson	180	730	500	270	730	500	270	730	500	270	730	325	285	730	300	300	730	500
Fraud	60	365	200	60	450	200	60	450	200	60	365	200	70	365	200	60	365	250
Possess Stolen Property	60	365	300	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	30	365	200
Property Damage/Mischief	30	365	200	30	365	200	30	365	200	30	365	200	30	365	200	30	365	200
<b>Other Criminal Code</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>	<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	60	365	250
Administration of Justice	21	365	100	20	365	145	20	365	150	20	365	150	20	365	150	17	365	150
Public Order Offences	15	360	200	15	360	200	15	360	200	15	360	200	30	360	200	30	360	200
Morals-Sexual	15	365	200	15	365	200	15	365	200	10	365	200	12	365	200	10	365	200
Morals-Gaming	1	360	500	..	360	500	3	360	750	7	360	750	16	360	1,000	90	360	1,000
Unspecified Criminal Code	30	365	200	30	365	200	30	365	200	30	365	200	30	365	200	30	365	200
<b>Traffic</b>	<b>30</b>	<b>360</b>	<b>500</b>	<b>30</b>	<b>360</b>	<b>500</b>	<b>30</b>	<b>360</b>	<b>600</b>									
Criminal Code Traffic	30	360	500	30	360	500	30	360	500	35	360	500	30	360	500	45	360	500
Impaired Driving	30	360	500	30	360	500	30	360	500	30	360	500	30	360	500	30	360	600
<b>Federal Statute Total</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>60</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>	<b>60</b>	<b>360</b>	<b>250</b>
Trafficking	120	730	750	120	730	600	120	730	650	150	730	500	120	365	700	90	365	650
Possession	15	365	200	20	365	200	20	360	200	15	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>	<b>90</b>	<b>365</b>	<b>150</b>

<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. Median prison sentence lengths in this table exclude unknowns.

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

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

In 1999/00, the most common probation term length was "greater than six months to one year" (44% of convicted cases) (Figure 7). One-third (34%) of cases were greater than 12 months to two years. Fifteen per cent were for six months or less. 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).

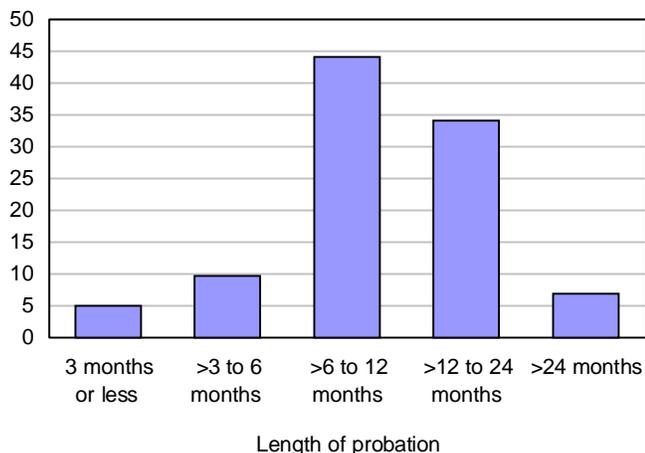
### Use of fines

Almost 90,000 offenders were sentenced to pay a fine in 1999/00. A large majority of cases receiving this sanction (66%) were given fines of \$500 or less. The value exceeded \$1,000 in only 5% of all cases receiving a fine. Fines were most frequently imposed in impaired driving cases (85%), drug possession cases (63%), gaming cases (51%), and public order offences (45%).

Figure 7

**Cases by length of probation for the most serious offence  
Nine provinces and territories in Canada, 1999/00**

Cases (%)

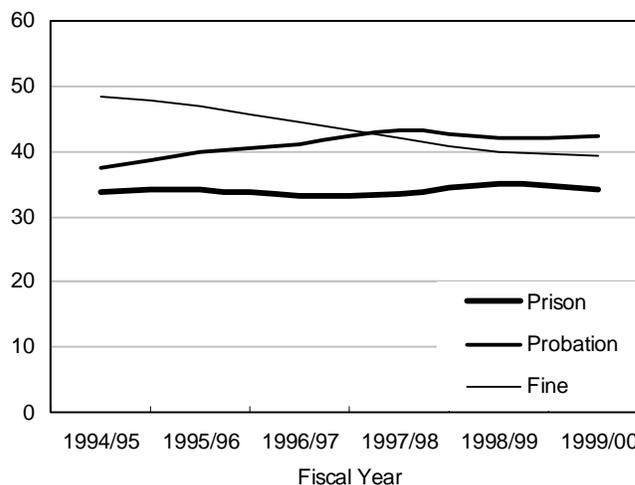


**Notes:** Data from the Adult Criminal Court Survey are not nationally comprehensive as they do not include New Brunswick, Manitoba, British Columbia and Nunavut for all years.

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

Figure 8

**Type of Sentence, 1994/95 to 1999/00  
Nine provinces and territories in Canada, 1994/95 to 1999/00**



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

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

Since 1994/95, the imposition of fine sentences has been steadily decreasing (**Figure 8**). In 1999/00, 39% of convicted cases were given a fine, compared to 47% in 1994/95. During the same period, there has been a trend towards imposing higher fines. In 1994/95, 20% of all fines were for amounts over \$500, whereas by 1999/00, 31% of all fines were for amounts over \$500 (**Table 8**).

**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.

Table 8

		<b>Cases by Amount of Fine Nine Provinces and Territories in Canada, 1994/95 to 1999/00</b>									
		Amount of Fine									
Fiscal Year	Cases With A 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
1999/00	86,981	16,218	18.6	27,584	31.7	15,715	18.1	23,347	26.8	4,117	4.7

**Notes:** Due to rounding, percentages may not add to 100.

Data from this survey are not nationally comprehensive as they exclude New Brunswick, Manitoba, and British Columbia for all years and Northwest Territories for 1996/97. Excludes Cases with unknown fine amount

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

## Coverage

Some limitations on coverage of the survey should be noted. First, three provinces (New Brunswick, Manitoba and British Columbia) and Nunavut are not included in the survey at this time. Second, 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 and the Yukon, 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<sup>16</sup>. 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:

The Canadian Centre for Justice Statistics conducts the Uniform Crime Reporting (UCR) survey. This survey collects data on the crimes reported to the police. Counts from the UCR survey 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 survey 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. The 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 survey 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.

<sup>16</sup> *New Brunswick and British Columbia also have pre-charge screening, but these jurisdictions do not report to the Adult Criminal Court Survey.*

## 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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