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CASE PROCESSING IN CRIMINAL COURTS, 1999/00

by Jennifer Pereira and Craig Grimes

Highlights

- In 1999/00, adult criminal courts in 9 provinces and territories processed 378,600 cases involving 811,400 charges. During this period, the overall median case elapsed time from first court appearance to case completion was 84 days.
- Case elapsed times are directly related to the number of court appearances. In 1999/00, each additional adult court appearance increased the median case elapsed time by approximately 30 days.
- In 1999/00, adult cases with a preliminary inquiry (6% of all cases) had a median elapsed time from first to last court appearance of 233 days, whereas those without a preliminary inquiry took 77 days to complete. The preliminary inquiry process, an option only for more serious offences, grants a hearing to determine whether the evidence assembled by the Crown is sufficient to proceed with trial in the higher court (i.e., Superior Court).
- The median processing time in adult court for trial cases was 150 days, compared to 77 days for non-trial cases. In trial cases, the guilt or innocence of the accused is determined based on the presentation of evidence and the testimony of witnesses, and as a result, these cases tend to have more court appearances and longer median case elapsed times.
- Adult court cases with a bench warrant had a median processing time of 253 days in 1999/00, compared to 70 days for cases without a bench warrant. Bench warrants (i.e., arrest warrants) are usually issued by the court when an individual fails to attend court, creating a situation where the court is simply unable to proceed with the case.
- Over the past five years, the number of adult court cases has declined 13% while the number of appearances in court has grown by 3%. During this period, the average number of appearances per case has increased from 4.2 appearances in 1995/96, to 4.8 appearances in 1999/00.
- In 1999/00, 102,000 cases were processed in the youth courts of Canada. Almost one-half of all cases (48%) were processed in two months or less (from the time of the youth's first court appearance to the date of decision or sentencing), one-third (33%) required between two months and six months, and 19% took longer than six months. The median elapsed time for all youth cases was 63 days.
- The median processing time for youth court cases decided through a trial process was 77 days, compared to 54 days for non-trial cases. Trial cases have a final decision of acquitted or guilty, where the conviction is not the result of a guilty plea.
- The number of cases processed in youth court has decreased 4% since 1998/99 and 8% since 1995/96. The number of cases per 10,000 youths has also decreased 10% from 465 cases in 1995/96 to 417 cases in 1999/00.



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INTRODUCTION

An offender's right to be brought to trial in a timely manner is a fundamental principle within the Canadian criminal justice system. Preparations for each case commence in the court registry with the scheduling of the first court appearance, and continue with further co-ordination of judicial resources throughout the criminal court process. There are a variety of factors, many of which are not under the direct control of the courts, that affect both case management and processing. Such factors include: the volume of cases being processed by a court; the complexity of cases; the types of offences being prosecuted; issues related to the co-ordination and availability of various participants within the criminal justice process; lawyers' decisions on the most appropriate course of action for their clients; and accused failing to appear in court.

The primary focus of this *Juristat* is the nature and extent of case processing time (elapsed time), with emphasis on those factors which have the greatest impact on the length of time it takes a case to be processed in the court system.¹ In the 1990 Supreme Court decision *R. v. Askov*,² the issue of reasonable elapsed time between charges being laid and the accused being brought to trial was considered, and then further examined in *R. v. Morin*[1992]. While the Supreme Court did not prescribe a strict time limit within which all criminal cases must be completed, it did indicate that most cases should be processed within an eight-to-ten month period.

The reference year for this report is 1999/00, with trend data covering a five-year period included to provide additional context. Data were collected through the Adult Criminal Court Survey (ACCS) and the Youth Court Survey (YCS) (See **Box 1**).

Box 1 – About the Surveys

The analysis in this report is based on data from the Adult Criminal Court Survey (ACCS) and the Youth Court Survey (YCS). Data on disposed federal statute charges are collected by the Canadian Centre for Justice Statistics (CCJS) in collaboration with provincial and territorial government departments responsible for adult and youth criminal courts.

The primary unit of analysis is the case, which the ACCS defines as one or more charges presented against an individual and disposed of in court on the same day. All case information that is used to define the case, is determined by the "most serious offence", as described in the methodology section. The ACCS includes cases involving persons 18 years or older at the time of the offence, youths who have been transferred to adult criminal court, and companies.

The YCS collects data from youth courts on persons aged 12 to 17 (at the time of the offence) appearing on federal statute offences. The primary unit of analysis for YCS data is also the case, but the definition differs from the case definition used by the ACCS. A case for the YCS is defined as one or more charges against an individual that are first presented in court on the same day.

The start date case definition used by the YCS aggregates charges into cases differently than the end date case definition used by the ACCS. This difference in counting procedures produces different case counts and as a result, no direct comparisons should be made between ACCS and YCS case elapsed time data. For more information on the counting procedures used by the ACCS and YCS, please see the methodology section at the end of this *Juristat*.

At the time of this report, adult criminal courts in seven provinces and two territories reported to the ACCS. Reporting jurisdictions include: Newfoundland and Labrador, 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 adult court information presented in this report covers only these nine participating jurisdictions.

All youth courts in Canada representing all provinces and territories have reported to the YCS since 1992/93.

¹ *Processing time, or elapsed time, refers to the time (expressed in days) required to process a case from first to last court appearance. Elapsed time statistics are presented in time ranges or as the median number of days to process a case.*

² *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.*

CASE PROCESSING IN ADULT COURTS

The number of charges and cases processed is one indicator of the demand being placed on a court. In 1999/00, adult criminal courts in 9 provinces and territories processed 378,586 cases involving 811,382 charges. During this period, the overall median case elapsed time from first court appearance to case completion was 84 days.

Almost all cases (88%) had a *Criminal Code* offence as the most serious charge in the case.³ *Crimes against the person* accounted for 20% of the total number of cases in 1999/00, with *Crimes against property* accounting for a further 25%. *Traffic-related offences* represented 14% of all cases, while the category *Other Criminal Code* (including weapons and public order offences, among others), accounted for 29% of all cases. The remaining 12% of cases arose with respect to *Other federal statute offences*, which comprises *Drug-related offences*, and *Other federal statutes*.⁴

The type of case being heard by the court is important because some offences take longer to process than others. For example, with a median elapsed time of 126 days, cases dealing with *Crimes against the person* took 50% longer to complete than *Crimes against property* cases, which had a median elapsed time of 84 days in 1999/00. The offences with the longest median elapsed times were sexual abuse (210 days) and sexual assault (209 days), followed by homicide and related (178 days) and drug trafficking (174 days) (See **Figure 1**).

In 1999/00, the most frequently occurring offences were common assault and impaired driving, each accounting for 12% of all cases. The median elapsed times for these offences were 111 days and 91 days respectively. Offences involving theft were also very common (10% of cases), with a median elapsed time of 63 days.

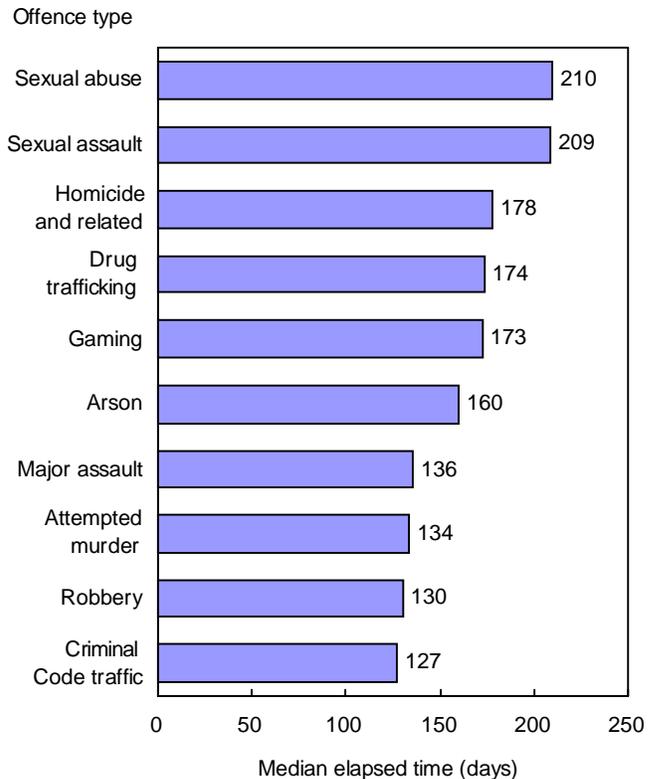
Case elapsed times are directly related to the number of court appearances

In 1999/00, adult courts in participating jurisdictions processed 1.8 million case appearances.⁵ The number of case appearances is an excellent overall indicator of court workload because it relates directly to the activity consuming the most court resources. Further, the number of court appearances needed to dispose of a criminal case is the primary factor in determining the case elapsed time. Generally, each additional court appearance increases the median case elapsed time by approximately 30 days (See **Box 2**).

During the reference year, cases needing two appearances to reach completion had an overall median elapsed time of 28 days. Cases needing three appearances required 67 days to complete, while cases needing four appearances took 105 days to complete. At five appearances, cases needed 140 days to reach completion, and for cases needing six or more appearances, the median elapsed time was 238 days. While this pattern holds for total cases, the impact of additional appearances on elapsed times is even more significant for some offences. For example, the median elapsed time for sexual assault and sexual abuse cases rises much faster with additional appearances (See **Table 1**).

Figure 1

Median elapsed time from first to last adult criminal court appearance
Case types with the longest processing times
Nine provinces and territories in Canada, 1999/00



Notes: Combined, the ten offences listed in the chart, with the longest median case elapsed times represent 13% of the cases heard in adult criminal court. Data do not include New Brunswick, Manitoba, British Columbia and Nunavut.

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

³ For statistical purposes, 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 or refer to the publication Adult Criminal Court Data Tables, 1999/00 (Catalogue 85F0033XIE) for more details.

⁴ Federal statute offences refer to offences against Canadian federal statutes, such as the Customs Act, the Employment Insurance Act, Firearms Act, the Income Tax Act, and the Controlled Drugs and Substances Act (CDA). This offence category excludes Criminal Code of Canada offences.

⁵ One case appearance is counted for each day in court for the most serious offence in the case (e.g., an accused having court appearances on three different days equals 3 case appearances).

Table 1



**Median case elapsed time in adult criminal court by number of appearances,
Nine provinces and territories in Canada, 1999/00**

Offence group	Median elapsed time (days)													
	TOTAL		1 appearance (One Day)		Cases with 2 appearances		Cases with 3 appearances		Cases with 4 appearances		Cases with 5 appearances		Cases with 6 plus appearances	
	#	median	#	median	#	median	#	median	#	median	#	median	#	median
Total Offences	378,586	84	69,658	-	59,271	28	52,910	67	44,482	105	35,339	140	116,926	238
Criminal Code Total	334,414	87	57,567	-	51,616	25	47,791	66	40,451	105	32,207	140	104,782	235
Crimes Against the Person	77,441	126	6,308	-	9,086	29	11,267	77	10,681	109	8,910	139	31,189	231
Homicide and related	419	178	46	-	27	28	27	56	27	98	37	130	255	280
Attempted murder	325	134	20	-	18	22	25	56	19	44	23	90	220	192
Robbery	4,435	130	283	-	257	8	361	32	392	58	414	97	2,728	209
Kidnapping	275	112	19	-	28	5	31	64	27	132	41	112	129	221
Sexual assault	5,388	209	273	-	361	43	473	105	551	140	534	180	3,196	298
Sexual abuse	1,276	210	88	-	84	44	117	91	133	120	117	173	737	309
Major assault	21,018	136	1,407	-	2,096	27	2,794	75	2,788	111	2,446	139	9,487	238
Abduction	125	127	20	-	12	77	12	130	17	155	13	169	51	228
Common assault	44,180	111	4,152	-	6,203	33	7,427	77	6,727	107	5,285	139	14,386	216
Crimes Against Property	94,707	84	15,282	-	16,105	28	13,156	62	10,990	98	8,650	131	30,524	232
Break and enter	12,719	90	1,332	-	1,565	16	1,725	47	1,526	77	1,347	115	5,224	208
Arson	575	160	35	-	44	21	51	66	48	87	66	120	331	254
Fraud	19,799	119	3,104	-	2,679	28	2,385	68	2,162	112	1,854	148	7,615	274
Possess stolen property	12,932	100	1,609	-	1,734	21	1,664	57	1,592	91	1,292	125	5,041	229
Theft	37,461	63	7,430	-	8,067	28	5,464	62	4,192	98	3,005	128	9,303	223
Property damage/mischief	11,221	84	1,772	-	2,016	28	1,867	70	1,470	105	1,086	138	3,010	217
Other Criminal Code Violations	109,013	56	23,813	-	18,121	16	15,584	55	12,362	90	9,488	125	29,645	213
Weapons	7,219	112	894	-	836	27	997	65	874	101	752	133	2,866	230
Administration of justice	40,375	27	10,167	-	7,059	7	5,473	29	4,278	64	3,220	97	10,178	182
Public order offences	8,875	67	1,652	-	1,730	25	1,403	64	1,024	101	805	133	2,261	217
Morals-sexual	4,801	104	657	-	839	37	770	79	563	105	437	146	1,535	256
Gaming	888	173	76	-	93	21	87	84	65	102	105	103	462	329
Unspecified Criminal Code	46,855	67	10,367	-	7,564	24	6,854	67	5,558	99	4,169	136	12,343	226
Traffic	53,253	98	12,164	-	8,304	28	7,784	91	6,418	145	5,159	187	13,424	294
Criminal Code traffic	7,510	127	1,001	-	920	28	1,076	77	944	125	840	162	2,729	259
Impaired driving	45,743	91	11,163	-	7,384	28	6,708	91	5,474	148	4,319	191	10,695	302
Other Federal Statute Total	44,172	67	12,091	-	7,655	35	5,119	70	4,031	113	3,132	147	12,144	264
Drug Related Offences	21,458	90	3,941	-	3,321	28	2,552	57	2,075	98	1,646	126	7,923	242
Drug trafficking	7,742	174	547	-	594	28	686	58	797	105	645	144	4,473	267
Drug possession	13,716	56	3,394	-	2,727	28	1,866	57	1,278	95	1,001	119	3,450	219
Other Federal Statutes	22,714	48	8,150	-	4,334	46	2,567	84	1,956	128	1,486	174	4,221	306

- zero (i.e., the case was completed in a single appearance)

Notes: Data do not include New Brunswick, Manitoba, British Columbia and Nunavut.

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.

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

Multiple-charge cases take one-third longer to process

The number of charges in a case affects the time needed to process the case. In 1999/00, single-charge cases had an overall median elapsed time of 74 days compared to a median of 98 days for multiple-charge cases. Cases with two charges had a median elapsed time that was almost 20 days longer (92 days) than single-charge cases, and the processing time for adult cases with three or more charges was over 30 days longer (105 days).

Additional charges in a case generally add to the processing complexity and may indicate more serious criminal activity, which appears to lengthen the court process. This is reflected in the average number of appearances needed to complete the two case types. Single-charge cases required an average of 4.4 case appearances to reach completion compared to an average of 5.2 appearances for multiple-charge cases (See **Table 2**).

Box 2 – Case Processing

There are many paths that a criminal trial can take as it makes its way through an 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 court appearance elements listed below.

First Appearance: In many cases, the accused will appear in court, plead guilty and receive sentence on the first appearance. For more serious offences, the first court appearance is often a bail hearing where the court must determine if the accused should be released pending trial.

Crown Elections: The Crown is eligible to elect the type of proceeding for hybrid offences, which are also known as “dual procedure” offences. Hybrid offences account for approximately 80% of infractions in the *Criminal Code*. 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, or (2) as the more serious indictable offence.

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

inquiries below). The defence is not eligible to elect the mode of trial for offences that are either the absolute jurisdiction of provincial/territorial court or Superior Court. Summary conviction offences, and indictable offences identified under *Criminal Code* section 553 are the absolute jurisdiction of provincial/territorial court, and indictable offences identified under *Criminal Code* section 469 are the absolute jurisdiction of Superior Court.

Preliminary Inquiries: 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 (i.e., Superior Court), and provide the accused an opportunity to review the Crown's evidence before proceeding to the higher court.

Fitness Hearings: When the accused's mental health is brought into question, the court may 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 or territory permits release.

Trial: A trial becomes necessary when the accused enters a plea of not guilty. 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.

Table 2

Case Characteristic	Cases		Average appearances per case	Case elapsed time (median days)
	#	%		
Total Cases	378,586	100	4.8	84
Single-charge cases	198,602	52	4.4	74
Multiple-charge cases	179,984	48	5.2	98
Total with a known procedure	312,108	100	4.9	86
Summary conviction cases	251,977	81	4.6	78
Indictable cases	60,131	19	6.1	125
Trial Cases	35,310	9	5.5	150
Trial convictions	26,033	7	5.5	135
Trial acquittals	9,277	2	5.5	183
Non-trial Cases	343,276	91	4.7	77
Non-trial decisions without conviction	141,042	37	4.9	103
Non-trial convictions total	202,234	53	4.6	62
Cases with initial plea of guilty	62,255	31	2.0	1
Cases with plea change to guilty	139,979	69	5.7	103
Preliminary inquiry				
Cases with a preliminary inquiry	21,245	6	8.1	233
Cases without a preliminary inquiry	357,341	94	4.6	77
Bench warrants				
Cases with a bench warrant	41,875	11	7.5	253
Cases without a bench warrant	336,711	89	4.4	70

Notes: The type of procedure was not known in 66,478 (18%) of cases heard in adult criminal courts.

Data do not include New Brunswick, Manitoba, British Columbia and Nunavut.

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

Summary versus indictable offences

Summary conviction cases are the least serious type of case heard in court and the most frequently occurring case type.⁶ Summary cases are afforded fewer procedural options in court, which reduces the number of appearances required to reach completion. In 1999/00, summary conviction cases required an average of 4.6 appearances to be completed, compared to an average of 6.1 appearances for indictable offences.

Indictable cases are more serious than summary conviction cases, and offer the potential of much longer sentences.⁷ For this type of case, the accused is permitted to elect the mode of trial (i.e., provincial/territorial court, superior court judge alone, or superior court with judge and jury, for certain offences), and the option of a preliminary inquiry is available.

Given that procedures related to indictable cases are more extensive, these cases can be expected to require the most time to resolve. In 1999/00, indictable cases had a median elapsed time of 125 days and comprised 19% of cases with a known procedure.⁸ Conversely, summary conviction cases had a median elapsed time of 78 days, and accounted for 81% of cases heard (See **Figure 2**).

Cases with preliminary inquiries take three times longer to complete

The preliminary inquiry process, an option only for more serious offences, grants a hearing to determine whether the evidence accumulated by the Crown is sufficient for trial in the higher court. This procedure significantly increases case processing times.

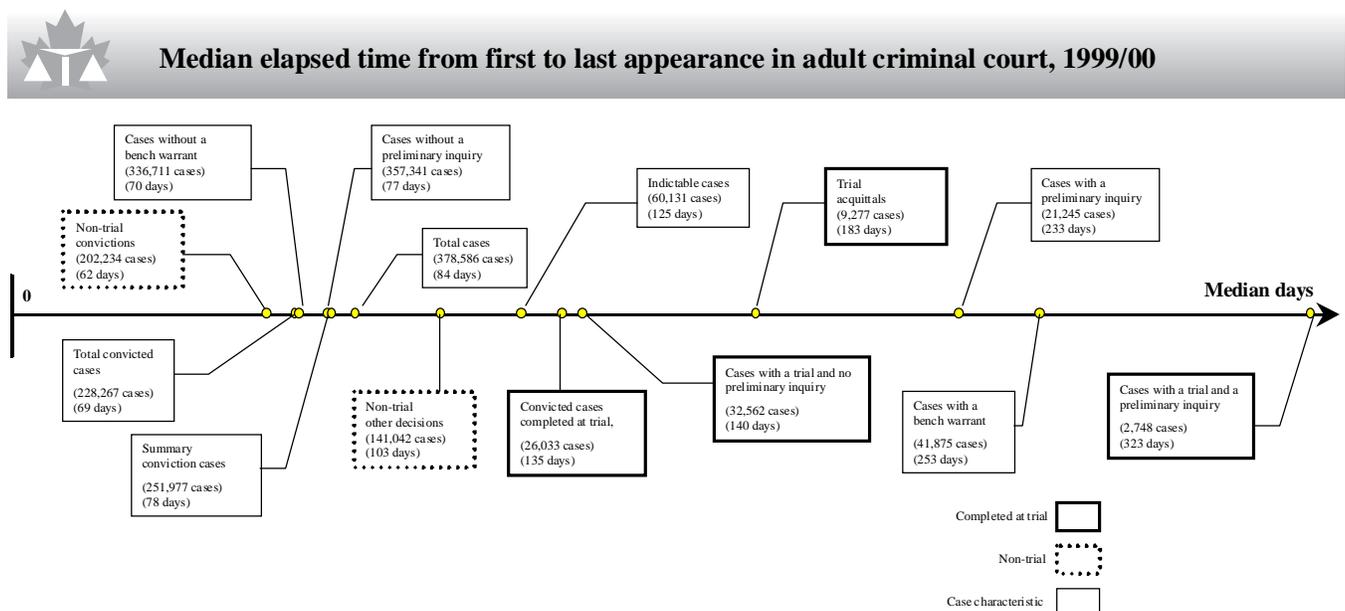
In 1999/00, there were far fewer cases with a preliminary inquiry (6%) than there were without one (94%). Cases with a preliminary inquiry had a median elapsed time from first to last court appearance of 233 days, whereas those cases without a preliminary inquiry had a median of 77 days to reach completion. Contributing to the difference between the median elapsed times for these cases are additional appearances at the Superior Court level, where the defense often selects the option of re-electing back to provincial court, resulting in additional months of pre-trial process (see **Box 3**).

The type of case being heard by the court is important because some of the more serious offences have the highest proportion of preliminary inquiries. In 1999/00, every offence category had some cases with a preliminary inquiry, and seven of the ten offences with the largest proportion of preliminary inquiries were for *Crimes Against the Person* (See **Table 3**).

During the reference year, the addition of a preliminary inquiry resulted in much longer elapsed times for most offences. While the most common offence types with a preliminary inquiry took over 8 months to complete, the longest elapsed time was over 13 months (401 days) for drug trafficking. In contrast, the longest median elapsed time for cases without a preliminary

⁶ Summary conviction cases include cases defined as summary, and hybrid cases that proceed by way of summary conviction.
⁷ Indictable cases include cases defined as indictable, and hybrid cases that proceed by way of indictment.
⁸ Analysis of case procedure (i.e., summary and indictable) excludes cases where the procedure was unknown. In 1999/00 the type of procedure was not reported in 18% of cases completed in adult criminal court.

Figure 2



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

Scale: 1mm=1.75day

Box 3 – Superior Court cases not a significant factor in overall median case elapsed time

In 1999/00, the addition of Superior Court data from Alberta and the Yukon added 0.4% to the total caseload reported by the ACCS. There were 1,351 cases added to the total cases completed in adult criminal court, with no discernible change to the overall median case elapsed time in 1999/00. The median case elapsed time was 84 days for cases completed in provincial/territorial criminal court, and was unchanged with the inclusion of cases completed in Superior Court.

inquiry was just over 6 months (189 days for sexual assault) (See Figure 3).

Plea changes add significantly to elapsed times

In the majority of all convicted cases (89%) in 1999/00, a guilty plea was the final plea entered in the case. The median time to process convicted cases with a guilty plea was 62 days. Since there is no need to conduct a trial to hear evidence against the accused, these cases can be completed more promptly.

Table 3

Offence group	Cases with a preliminary			Cases without a preliminary		
	#	% total cases	median	#	% total cases	median
Total Offences	21,245	6	233	357,341	94	77
Criminal Code Total	17,458	5	225	316,956	95	81
Crimes Against the Person	6,953	9	224	70,488	91	118
Homicide and related	174	42	258	245	58	121
Attempted murder	125	38	176	200	62	113
Robbery	1,418	32	223	3,017	68	93
Kidnapping	52	19	266	223	81	98
Sexual assault	1,326	25	294	4,062	75	189
Sexual abuse	307	24	364	969	76	171
Major assault	2,183	10	217	18,835	90	127
Abduction	15	12	176	110	88	124
Common assault	1,353	3	160	42,827	97	109
Crimes Against Property	6,452	7	226	88,255	93	76
Break and enter	2,667	21	184	10,052	79	67
Arson	197	34	302	378	66	94
Fraud	1,447	7	305	18,352	93	105
Possess stolen property	856	7	252	12,076	93	91
Theft	1,070	3	217	36,391	97	59
Property damage/mischief	215	2	182	11,006	98	83
Other Criminal Code Violations	3,459	3	210	105,554	97	52
Weapons	687	10	231	6,532	90	98
Administration of justice	442	1	137	39,933	99	26
Public order offences	127	1	212	8,748	99	64
Morals-sexual	103	2	304	4,698	98	100
Gaming	5	1	155	883	99	173
Unspecified Criminal Code	2,095	4	213	44,760	96	63
Traffic	594	1	306	52,659	99	97
Criminal Code traffic	223	3	315	7,287	97	125
Impaired driving	371	1	300	45,372	99	91
Other Federal Statute Total	3,787	9	281	40,385	91	56
Drug Related Offences	1,271	6	397	20,187	94	77
Drug trafficking	1,153	15	401	6,589	85	146
Drug possession	118	1	372	13,598	99	56
Other Federal Statutes	2,516	11	224	20,198	89	28

Data do not include New Brunswick, Manitoba, British Columbia and Nunavut.

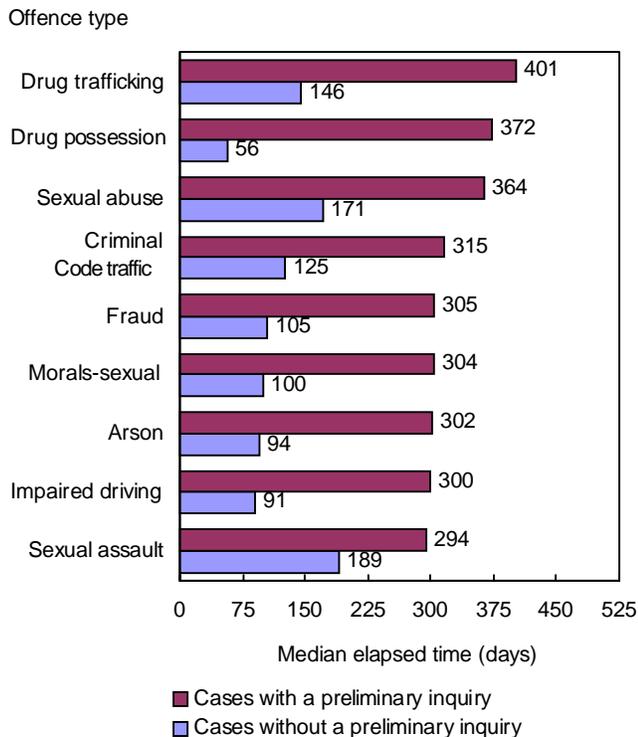
With the introduction of new drug legislation, some drug offences have been coded to the "Other Federal Statutes" category.

This inflates the OFS group and undercounts drug offences. This will be corrected with changes to data collection programs.

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

Figure 3

Median elapsed time from first to last adult court appearance
Selected cases with and without a preliminary inquiry
Nine provinces and territories in Canada, 1999/00



Notes: Includes offences with the longest median elapsed times for cases with a preliminary inquiry. Combined, these offences represent 28% of the cases heard in adult criminal court. Data do not include New Brunswick, Manitoba, British Columbia and Nunavut.

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

In 1999/00, convicted cases with an initial plea of guilty (i.e., no plea changes) accounted for almost one-third (31%) of convicted cases with a guilty plea. Convicted cases of this type had a median case elapsed time of a single appearance, and one-quarter (24%) required more than two appearances to reach completion.

The plea of record at the time of the court's decision is not always the first plea entered by the accused. In 1999/00, 69% of convictions with a guilty plea reached completion following a plea change to guilty. These cases had a higher average number of appearances and a longer median case processing time than convictions with an initial plea of guilty (See Table 2). In addition, 82% of convictions with a plea change to guilty required more than two appearances to reach completion.

Trial cases require almost twice as much time to complete as Non-Trial cases

The need to conduct a trial influences the processing time in court. In cases with a trial, the guilt or innocence of the accused is determined based on the presentation of evidence and the testimony of witnesses, and as a result, these cases tend to

have more court appearances and longer median case elapsed times.⁹ Trial cases constituted 9% of cases in 1999/00, compared to cases which were convicted with a guilty plea (53%), or otherwise terminated by the court without a trial (37%).

In 1999/00, the median processing time for cases decided through a trial process was 150 days. In contrast, non-trial cases required 77 days to complete. Of the two types of trial cases, convictions had a median processing time of 135 days, while acquittals required 183 days (See Table 2).

Bench Warrants have the largest impact on elapsed time

Bench warrants (i.e., arrest warrants) are usually issued when an individual fails to attend court, creating a situation where the court is simply unable to proceed with the case. Because it can often take a considerable amount of time to find and re-apprehend the accused, such cases can experience extensive processing delays that are entirely outside the control of the courts.

In the 1999/00 fiscal year, 11% of completed cases had a bench warrant. Almost half (45%) of all cases with a bench warrant were processed within 32 weeks, 20% took between 32 and 52 weeks, and more than one-third (35%) required more than one year to be completed. Conversely, most cases without a warrant (83%) were processed within 32 weeks, 11% reached completion between 32 and 52 weeks, and 6% requiring more than one year to process.

During the reference year, cases with a bench warrant had a median processing time of 253 days, compared to 70 days for cases without a bench warrant. As such, the addition of a bench warrant added at least 6 months to the median case processing time of most cases (See Figure 4).

Some offences have a higher proportion of bench warrants, including *Morals-sexual* (primarily soliciting), *Theft*, and *Fraud* (See Table 4).

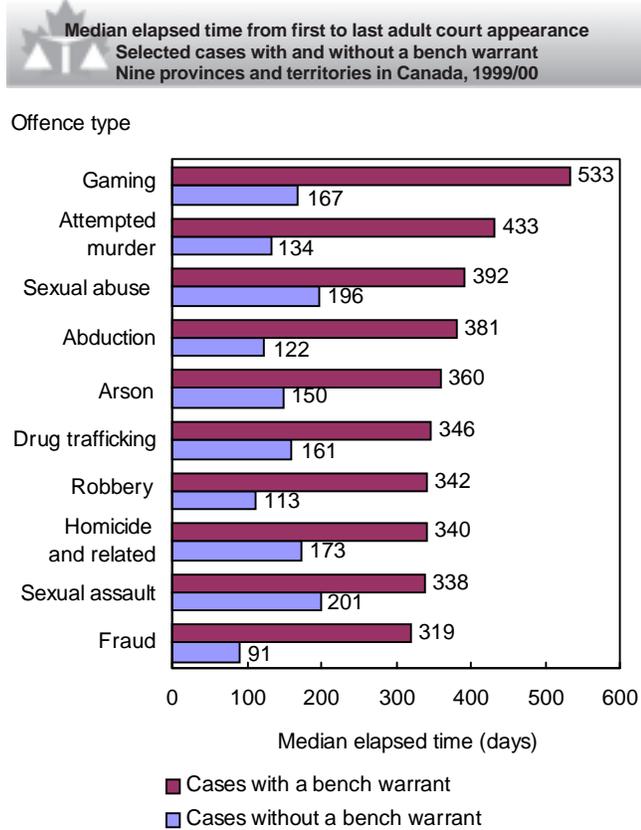
Fourteen percent of cases took more than ten months to resolve

The right to be tried in a reasonable time is guaranteed under the *Canadian Charter of Rights and Freedoms*.¹⁰ The determination of what is reasonable is not defined in the *Charter*, but this issue has been examined by the Supreme Court of Canada in a number of rulings since the *Charter* was proclaimed in force in 1982. Notable rulings among these cases are *R. v. Askov* (1990) and *R. v. Morin* (1992).

⁹ Trial cases have a final decision of acquitted or guilty, where the conviction is not the result of a guilty plea. Non-trial cases do not require the court to hear witnesses or evidence, and therefore include convicted cases with a guilty plea, and decisions by the court that result in the case being stayed, withdrawn, dismissed or discharged. Non-trial cases also include other court decisions, such as committal for trial in Superior Court, re-election to provincial/territorial court, and other decisions that do not result in a conviction or acquittal of the accused.

¹⁰ The Canadian Charter of Rights and Freedoms, section 11(b).

Figure 4



Notes: Includes offences with the longest median elapsed times for cases with a bench warrant. Combined, these offences represent 11% of the cases heard in adult criminal court. Data do not include New Brunswick, Manitoba, British Columbia and Nunavut.

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

Table 4

**Adult cases with the largest proportion of bench warrants
Nine provinces and territories in Canada, 1999/00**

Offence Group	Proportion of cases with a bench warrant	Proportion of cases without a bench warrant
Morals - sexual	17.6	82.4
Theft	17.1	82.9
Fraud	16.8	83.2
Posses stolen property	15.7	84.3
Public order offences	14.9	85.1
Break and enter	14.0	86.0
Property damage/mischief	13.8	86.2
Drug possession	12.3	87.7

Notes: Data do not include New Brunswick, Manitoba, British Columbia and Nunavut.

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

In *R. v. Askov* (1990), the Supreme Court identified four factors that must be considered when determining if a delay has been reasonable. These factors are the length of the delay, the explanation for the delay, waiver of the delay by the accused, and any prejudice to the accused. These issues were clarified further by the Supreme Court, in its ruling in *R. v. Morin* (1992), when the scope of the guideline was expanded to include items such as the inherent time requirements of the case, actions of both the defence and the prosecution, and availability of institutional resources. In short, the court indicated that some delays in case processing may not be unreasonable, but the reasons behind the delays and the circumstances surrounding cases were very important in assessing whether delays were problematic.¹¹

To better understand the nature of court processing time and what is reasonable in adult criminal courts, this section examines the characteristics of those cases with an elapsed time greater than the ten-month administrative guideline established by the Supreme Court. While it is not possible to examine all relevant factors using ACCS data, it is possible to examine some accused and defense actions that have been shown to contribute to longer case elapsed times. As discussed earlier, the existence of bench warrants, the use of preliminary inquiries, plea changes by the accused, the need for a trial, and the requirement in some cases to have numerous court appearances, can all significantly affect case processing times.

In 1999/00, 51,688 cases (14% of all cases) had an elapsed time from the first to last court appearance of more than 300 days (ten months). However, as indicated in **Figure 5**, most of these cases possessed one or more attributes shown earlier to be related to longer case elapsed times. Furthermore, some of these characteristics reflect the actions of the accused, and may be considered by the court in assessing if the processing time is unreasonable.

More than one-third (35%) of all cases requiring more than ten months to process had a bench warrant. In such cases, the court was unable to proceed until the accused was apprehended and a new trial date set. The accused's decision to enter plea and later change that plea occurred in 54% of cases taking longer than ten months. Earlier analysis indicates that the accused's delay in choosing the final plea added 41 days to the median processing time of convicted cases.

Sixteen percent of cases requiring more than ten months had a preliminary inquiry. These cases are known to be associated with longer court processing times as a result of appearances to examine evidence before transferring cases to a higher court, and because of the movement of these cases between provincial/territorial and superior court.

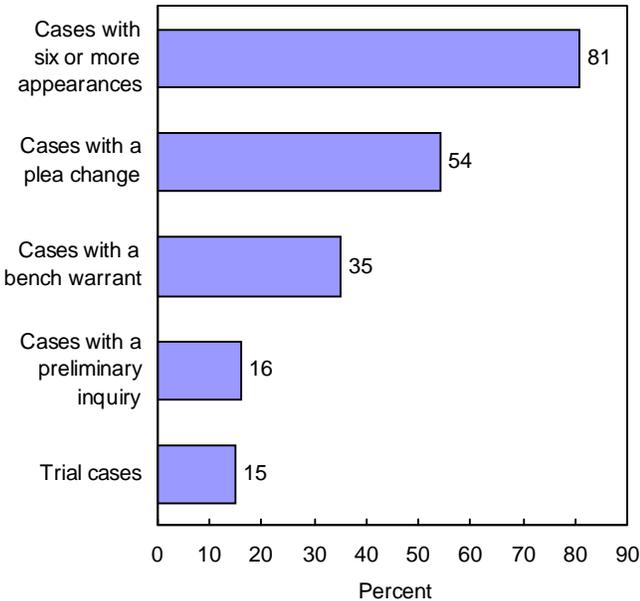
In the *R. v. Morin* ruling, the Supreme Court suggested that an additional six to eight months of processing time was appropriate in cases committed to trial. Fifteen percent of cases requiring at least ten months to conclude involved a trial, and 4% had a case processing time that exceeded the 18-month guideline.

¹¹ In *R. v. Morin*, the Supreme Court of Canada established an administrative guideline of 8 to 10 months for acceptable institutional delay for matters heard in provincial/territorial court, and an additional 6 to 8 months following a committal for trial.

Figure 5

Adult cases taking longer than ten months to reach completion
Cases by type of processing characteristic
Nine provinces and territories in Canada, 1999/00

Processing characteristic



Notes: The processing characteristics presented are not mutually exclusive and will not total 100%.

Data do not include New Brunswick, Manitoba, British Columbia and Nunavut.

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

Almost all cases (81%) with elapsed times exceeding ten months had six or more appearances. This indicates that the court was active in hearing the matter, but that due to the nature of the case (e.g. case complexity, seriousness of the case, or the actions of the accused or Crown) a significant number of hearings were needed to resolve the matter.

Finally, 4% of cases with an elapsed time of greater than ten months did not display any of the above characteristics shown to prolong case processing time. However, this does not necessarily indicate unreasonable case processing time, only that the limited number of variables available from the ACCS were unable to identify a specific delay characteristic.

CASE PROCESSING TRENDS IN ADULT COURTS

Number of cases falling while court workload increases

The actual number of charges and cases processed has often been used as a broad indicator of the demand being placed on court resources. In 1999/00, adult criminal courts in the nine participating jurisdictions processed 378,586 cases

involving 811,382 charges. This represents a 4% decline in cases processed over the previous year, and a drop of 13% since 1995/96. The decline in prosecuted cases reflects the declining number of offences reported to police.¹² Over the period 1995 to 1999, there was a 11% drop in the number of charges laid by police, in the same provinces and territories that report to the ACCS.

However, a better overall indicator of court activity is the number of court appearances because it relates precisely to the activity consuming the most court resources. In short, the court resources associated with a case or charge are directly related to the number of court appearances needed to dispose of the matter. In spite of a 4% decrease in cases, there has been a 14% increase in the average number of case appearances (i.e., from 4.2 appearances in 1995/96, to 4.8 appearances in 1999/00), and a 3% increase in the overall number of appearances since 1995/96.

Case elapsed times increasing

Because case elapsed times are directly related to the number of court appearances, the trend toward more case appearances has had an impact on the time required to process cases in adult criminal courts. Since 1995/96 there has been a 9% increase in the overall median elapsed time from first to last appearance in court, growing from 77 to 84 days.

Another way of looking at elapsed times is to examine the changes in the distribution of cases across the different elapsed time categories. For example, there has been a slow and steady increase in the proportion of cases in each of the longest elapsed time categories (i.e., 32 weeks to 52 weeks, and more than 52 weeks) since 1995/96. The proportion of cases taking more than 52 weeks increased from 8% to 10%, and the proportion of cases requiring 32 weeks to 52 weeks increased from 11% to 12% over the past 5 years (See **Table 5**).

Cases have become more complex since 1995/96

Although the number of cases being processed has declined since 1995/96, the average number of charges per case has increased 5%, rising from 2.04 in 1995/96 to 2.14 in 1999/00. Overall, the proportion of multiple-charge cases has increased from 45% to 48% of all cases, and the proportion of cases with three or more charges has increased from 18% to 21% of cases over the same period. Further, the median processing time for these more complex cases increased 1%, from 97 to 98 days since 1995/96.

Finally, cases involving multiple charges require a higher mean number of appearances to be resolved, than cases involving a single charge. Since 1995/96, the average number of case-appearances per multiple-charge case has been approximately 20% higher than the average for single-charge cases. In 1999/00, multiple-charge cases required an average of 5.2 appearances to be resolved, compared to 4.4 for single-charge cases.

¹² See the methodology section for more details on the comparisons between the ACCS and the Uniform Crime Reporting (UCR) Survey.

Table 5

 **Elapsed time for cases in adult criminal court**
Selected provinces and territories in Canada, 1995/96 to 1999/00

Year	Total cases	Elapsed time (days)											
		One day		up to 4 weeks		>4 to 16 weeks		>16 to 32 weeks		>32 to 52 weeks		>52 weeks	
		#	%	#	%	#	%	#	%	#	%	#	%
1995/96	435,569	88,918	20	63,014	14	108,317	25	93,173	21	47,880	11	34,267	8
1996/97	417,393	84,910	20	60,270	14	99,928	24	86,679	21	48,436	12	37,170	9
1997/98	411,576	79,634	19	60,102	15	95,339	23	85,169	21	49,986	12	41,346	10
1998/99	394,884	76,109	19	57,036	14	92,545	23	83,943	21	47,434	12	37,817	10
1999/00	378,586	69,658	18	55,845	15	90,031	24	81,252	21	45,816	12	35,984	10

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

Data include Superior Court cases for Alberta in 1998/99, and Alberta and Yukon in 1999/00.

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

CASE PROCESSING IN YOUTH COURTS

In 1999/00, 102,000 cases were processed in the youth courts of Canada.¹³ Five offences accounted for a large proportion (58%) of the total caseload. These were theft under \$5,000, failure to comply with a disposition under the *Young Offenders Act* (YOA), failure to appear in court, breaking and entering, and minor assault.

Almost one-half of all youth cases are processed in two months or less

In 1999/00, almost one-half of all youth cases (48%) were processed in two months or less (from the time of the youth's first court appearance to the date of decision or sentencing). Indeed, 16% of youth cases were completed at the first court appearance, one-third (33%) required between two months and six months, and 19% took longer than six months (5% took one year or longer).

In 1999/00, the median elapsed time for all youth cases was 63 days. However, the type of offence in a case has a significant impact on the amount of time needed for completion. Youth cases involving *Crimes against the person* had by far the longest median elapsed time (104 days), followed by *Crimes against property* cases (64 days), *Drug-related offence* cases (56 days), and *Other Criminal Code* cases (48 days) (See **Table 6**). Within the *Crimes against the person* category, cases with the longest median case elapsed times to reach completion included rape/indecent assault (315 days), sexual assault with a weapon (164 days) and sexual assault (160 days). Within the *Crimes against property* category, the highest median elapsed time recorded was

¹³ The start date case definition used by the YCS aggregates charges into cases differently than the end date case definition used by the ACCS. This difference in counting procedures produces different case counts and as a result, no direct comparisons should be made between ACCS and YCS case elapsed time data.

Table 6

 **Cases completed in youth court, 1995/96 to 1999/00**
Median elapsed time in days

	Fiscal year				
	1995/96	1996/97	1997/98	1998/99	1999/00
Total	69	58	61	63	63
Crimes against the person	110	99	105	105	104
Crimes against property	63	55	57	63	64
Other Criminal Code	52	44	41	43	48
Drug-related offences	69	63	62	56	56
Young Offenders Act	49	39	42	41	42
Other federal statutes	19	7	1	1	1

Notes: The majority of Cases under the *Young Offenders Act* are for failure to comply with a disposition.

Data do not include Nunavut.

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

105 days for arson followed by 78 days for breaking and entering. The median elapsed time was low for other federal statute offences (1 day), and for administrative offences such as unlawfully at large (4 days), escape custody (7 days) and breach of recognisance (16 days).

Multiple-charge cases in youth court

In 1999/00, 57% of youth court cases involved only one charge, 24% had two charges, 9% three charges, and 11% had more than three charges. The median elapsed time for single-charge cases in youth court was 63 days, compared to 69 days for multiple-charge cases.

Indictable offences take almost one month longer to reach completion

The main difference between summary and indictable offences in youth court is more severe sentencing implications for indictable offences. With few exceptions, youth courts process summary and indictable offences with a common set of procedures. For example, young offenders charged with indictable offences are not given the option of electing trial in a higher court, nor do they have the option of a preliminary inquiry, which often accompanies such an election in adult court.

In 1999/00, indictable cases had a median elapsed time of 90 days and comprised 28% of cases with a known procedure¹⁴ (i.e., cases that could be classified as being either summary conviction cases or indictable cases). Conversely, summary conviction cases had a median elapsed time of 63 days, and accounted for 72% of youth cases.

Acquittals have the longest elapsed times

Cases dismissed, cases transferred to adult court and cases resulting in a verdict of not guilty took the longest to process in youth courts. Sixty-five percent of cases dismissed, 58% of cases transferred to adult court and 52% of cases resulting in a verdict of not guilty required more than four months to proceed from the first court appearance to case completion in youth court. Overall, 31% of all cases took more than four months to process, while 27% of cases resulting in a guilty verdict spent longer than 4 months in youth court.

Trial cases require almost one month more time to complete than Non-Trial cases

The longest cases in youth court were those where the determination of guilt or innocence of the accused was based on the presentation of evidence and the testimony of witnesses.¹⁵ These trial cases constituted 31% of youth court cases in 1999/00, compared to 69% of cases which were convicted with a guilty plea, or otherwise terminated by the court without a trial.¹⁶ In 1999/00, the median processing time for cases decided through a trial process was 77 days. In contrast, non-trial cases required 54 days to complete. Within trial cases, convictions had a median processing time of 73 days, while acquittals required 109 days.

CASE PROCESSING TRENDS IN YOUTH COURT

In 1999/00, 102,000 cases were processed in the youth courts of Canada. This represents a 4% decrease from the previous year and a decrease of 8% from 1995/96. It also represents a 10% decrease in the number of cases per 10,000 youths, which has dropped from 465 cases to 417 cases since 1995/96. The number of *Crimes against property* cases decreased annually, dropping 22% between 1995/96 and 1999/00, while the number *Crimes against the person* cases dropped 1% over the same period.

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. Three provinces and one territory (New Brunswick, Manitoba and British Columbia and Nunavut) are not included in the survey at this time. The data do not include Northwest Territories for 1996/97 and include three fiscal quarters of data for the territory in 1999/00. Also, 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, data are not provided from Superior Courts.

The absence of data from all but two Superior Court jurisdictions may result in a slight underestimation of the number of court appearances and overall case elapsed times occurring across Canada. The reason for this is that some of the most serious cases will be processed in Superior Courts. While these limitations are important, they have existed for several years, therefore, it is possible to make comparisons from one year to another using the ACCS.

¹⁴ The analysis of type of procedure excludes cases where the type of procedure was unknown. In 1999/00, the type of procedure was not reported in 14% of the cases completed in youth courts in the twelve jurisdictions used in this analysis. Data for Quebec were excluded from this analysis.

¹⁵ Trial cases have a final decision of acquitted or guilty, where the conviction is not the result of a guilty plea. Non-trial cases do not require the court to hear witnesses or evidence, and therefore include convicted cases with a guilty plea, and decisions by the court that result in the case being stayed, withdrawn, dismissed or discharged. Non-trial cases also include other court decisions, such as transferred to adult court, stay of proceedings, and withdrawn.

¹⁶ Trial versus non-trial elapsed time analysis excludes data from Ontario.

ACCS Counting Procedures

The basic unit of count for the Adult Criminal Court Survey is a case. A case is one or more charges against an accused person or corporation, where the charges receive a final disposition on the same date. Charges are linked to a case on the basis of the accused identifier and the date of the last court appearance. The survey counts more than one case against an individual when the charges being heard are completed on different days. Refer to the publication *Adult Criminal Court Data Tables, 1999/00* for more information on data collection, editing and compilation for this survey.

Factors influencing the number of charges laid

Charging policies are determined individually by provinces and territories. In British Columbia, Quebec and New Brunswick for example, the police must obtain the approval of the Crown prosecutor before a charge is laid. However, British Columbia and New Brunswick do not provide data to the ACCS at this time. 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.

Youth Court Survey

The Youth Court Survey (YCS) is a census of *Criminal Code* and other federal statute offences heard in youth court for persons aged 12 to 17 (up to the 18th birthday) at the time of the offence. The YCS follows a similar pattern as the ACCS in defining cases. Though respondents and the Canadian Centre for Justice Statistics (CCJS) make every effort to ensure complete survey coverage, slight under-coverage may occur in some jurisdictions. Refer to the publication *Youth Court Data Tables, 1999/00* for more information on data collection, editing and compilation for this survey.

YCS Counting Procedures

The basic unit of count for the Youth Court Survey is a case, but the counting procedures used by the YCS are different than those employed by the ACCS. A case for the YCS is defined as one or more charges against an individual (i.e., aged 12 to 17) that have the same start date. Charges are

linked to a case on the basis of the accused identifier and the date of the first court appearance. The survey counts more than one case against an individual when the charges being heard are started on different days.

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 include only the very few 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. The number of cases with prison sentences (ACCS) and the number of admissions to correctional facilities (ACS) differ because the number of sentenced admissions reported by the Adult Correctional Services survey includes persons sentenced to prison in Superior Courts as well as admissions resulting from fine defaults. In 1999/00, only two jurisdictions, Alberta and the Yukon, reported Superior Court data to the Adult Criminal Court Survey, and sentences to prison for reason of fine defaults are not collected by the survey. Also, any accused sentenced to time-served prior to a sentence commencing would be counted differently in each survey. The ACCS does not have data on the duration of prison time already served, and the adult correctional data identifies 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. 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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