



# Juristat

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## CRIMINAL HARASSMENT

*by Rebecca Kong*

### Highlights

- In 1993, criminal harassment (“stalking”) legislation was first enacted to respond to cases of women stalked by men, particularly by former partners. According to a sample of harassment incidents reported by police in 1994 and 1995, eight in ten victims were female, and nine in ten accused were male. This sample is not nationally representative.
- Female victims were most frequently stalked by a current or former partner: 39% by an ex-husband, 2% by a current husband and 17% by a current/former boyfriend. One in four female victims were stalked by a casual acquaintance, the majority of whom were male.
- Male victims were usually stalked by a casual acquaintance. Compared to female victims, few were stalked by an ex-spouse (9%) or an (ex-)girlfriend (4%).
- One-quarter of stalking incidents involved other crimes. The most common were uttering threats (24%), assaults (22%), and threatening or harassing phone calls (10%).
- In one-quarter of incidents, an accused was identified but not charged by police, primarily because the victim did not want to pursue the laying of charges. This scenario was most common for victims who were stalked by a business acquaintance and for men who were stalked by an ex-wife.
- 1994 data from a sample of provincial courts showed that a high proportion (39%) of criminal harassment charges were dropped. Just over one-third of criminal harassment charges resulted in a conviction.
- Of all charges ending in conviction, six in ten received probation as the most serious sentence and one-third resulted in imprisonment, usually for a term less than six months.



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## Introduction

On August 1, 1993, Canada's first criminal harassment legislation, section 264(1) of the Criminal Code, was proclaimed into force. Criminal harassment, commonly referred to as "stalking," is generally defined as repeatedly following or communicating with another person, repeatedly watching someone's house or workplace, or directly threatening another person or any member of their family, causing a person to fear for their safety or the safety of someone known to them. The relationship between the offender and the victim can take several forms, but cases of women being stalked by ex-husbands or ex-boyfriends, and celebrities by obsessed fans, have been highly publicized in Canada and the United States. The objective of criminal harassment legislation is to try to control this type of behaviour and respond to it before it results in serious harm.

While section 264(1) was enacted primarily to strengthen *Criminal Code* provisions that deal with family violence and violence against women in general, little statistical information on the nature and extent of criminal harassment has been available. The intent of this *Juristat* is to present police and court data on criminal harassment that are currently available from Statistics Canada's Revised Uniform Crime Reporting (UCR) Survey and Adult Criminal Court Survey (ACCS). As the legislation is relatively new, this report is a first attempt at producing a detailed analysis of criminal harassment data. The statistics in this report provide only a partial picture of criminal harassment in Canada and are not nationally representative. As such, the analysis will focus on the nature of incidents rather than the extent. Please refer to the Methodology section for more details on the data sources.

## Background to the legislation

In April 1993, Bill-126, *An Act to Amend the Criminal Code and the Young Offenders Act* was first read in the House of Commons. The Bill contained a number of legislative reforms intended to better address family violence and violence against women, including criminal harassment. The legislation was in response to a number of highly publicized cases in Canada where women had been killed by their estranged partners.<sup>1</sup> It also followed on the heels of legislative reforms in the United States where anti-stalking laws were first enacted in California in 1990. Over 40 other states have since passed or drafted similar legislation.<sup>2</sup>

The new legislation also sought to provide better protection to victims of criminal harassment. Before the legislation was enacted, stalkers could be charged with either uttering threats, intimidation, trespassing, indecent or harassing phone calls, or assault by threatening.<sup>3</sup> Also, persons fearing injury to themselves, injury to their families, or property damage could ask a justice of the peace to lay a "peace bond" against an accused. Through this process, the justice would order the accused to engage in a promise to "keep the peace and be of good behaviour." Finally, "no contact orders" could be imposed by civil courts dealing with matrimonial disputes, and criminal action could be taken against those contravening these orders.<sup>4</sup>

However, these ways of dealing with stalking behaviour were criticized for failing to protect victims, as an accused had to either threaten or physically harm someone before any action could be taken by the authorities. Moreover, non-violent yet harassing behaviour, such as repeatedly sending gifts and letters, and constantly following or watching another person, could rarely be dealt with by the legal measures available. Now, section 264 of the *Criminal Code* specifically addresses these types of harassing behaviours and allows more serious penalties to be imposed on the accused.

<sup>1</sup> House of Commons Debates (May 6, 1993), page 19015.

<sup>2</sup> Rosemary Cairns Way. "The Criminalization of Stalking: An Exercise in Media Manipulation and Political Opportunism." 39 McGill Law Journal, page 384.

<sup>3</sup> Canadian Criminal Code, R.S.C. 1985, Chap. C-46, as amended s.264(1); s.423(1); s.177; s.372; s.265(1)(b).

<sup>4</sup> Canadian Criminal Code, R.S.C. 1985, Chap. C-46, s.127(1).

## Criminal Harassment as defined by the Criminal Code

264. (1) No person shall, without lawful authority and knowing another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.
- (2) The conduct mentioned in subsection (1) consists of
- (a) repeatedly following from place to place the other person or anyone known to them;
  - (b) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
  - (c) besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or,
  - (d) engaging in threatening conduct directed at the other person or member of their family.

Section 264 creates a hybrid offence, meaning the Crown may prosecute the offence as a summary or indictable offence.<sup>5</sup> If prosecuted as a summary offence, the accused faces a maximum penalty of six months imprisonment or a fine not exceeding \$2,000. If the Crown chooses to proceed by way of indictment, the maximum penalty is a term of imprisonment not exceeding five years.

## Incidents of harassment reported to police

The Canadian Centre for Justice Statistics (CCJS), in co-operation with the policing community, collects police-reported statistics through the UCR Survey. In 1995, 130 police agencies were participating in the Revised UCR Survey, representing 43% of the national volume of reported crime. It should be noted that these 130 forces represent a non-random sample and, thus, are not nationally representative. Please refer to the Methodology section for more details on the survey.

As the criminal harassment legislation was enacted in 1993, this report will present an analysis of police-reported data from the calendar years 1994 and 1995 (combined), the most recent years for which criminal harassment data are available. Police reported a total of 7,462 incidents (whether criminal harassment was the most serious violation in an incident or not), 7,472 victims and 5,382 persons accused of criminal harassment during 1994 and 1995. The analysis by accused-victim relationship in this report is based on a sample of 5,023 of these incidents. Please refer to the Methodology section for more detail on these counts. As with other crimes, police statistics only reflect those incidents that are reported to police.

<sup>5</sup> The procedure involved in prosecuting an indictable offence is more formal than that involved in a summary offence and requires that a certain set of procedural rules and established proceedings be followed, such as providing the accused the option of having a trial by judge or jury. A summary proceeding disregards many procedural rules and follows simpler, more expeditious procedures set out in the Criminal Code.

## Relationship of accused to victim key in examining cases of stalking

Literature on criminal harassment, or stalking, suggests that this behaviour can occur within various types of accused-victim relationships, such as ex-marital and work relationships, and that motives of this crime may vary.<sup>6</sup> For example, the literature suggests there are instances where the perpetrator refuses to accept that their relationship with another person has ended, and therefore continuously pursues their victim causing them to fear for their safety. This latter situation may encompass marital and dating relationships, as well as friendship and acquaintance relationships. Research also suggests that there are instances where the stalker may be delusional and falsely believes that their victim is equally in love with them. Other situations exist where the stalker is fully aware that the victim does not return love, but believes the victim might if he/she would only get to know them. What differentiates behaviour we may perceive as "courting" from "stalking" is that the latter causes a person to fear for their safety or the safety of someone known to them.

Work-related criminal harassment may occur where a victim is harassed by a co-worker, perhaps because of jealousy or racist or sexist attitudes. Victims of work-related criminal harassment may also be harassed by unsatisfied clients, former employees or by persons protesting the type of work being carried out by the victim or his/her business (e.g. abortion clinic workers, logging companies). Criminal harassment may also occur between disputing neighbours. One of the defining characteristics of criminal harassment cases, therefore, is the relationship of the accused to the victim.

## Most female victims stalked by a former partner

Research to date has found that victims of criminal harassment are usually women who are stalked by men.<sup>7</sup> Data from the Revised UCR Survey show that 5,948 of the 7,472 victims (80%) during 1994-1995 were female and that 4,733 of the 5,382 (88%) persons accused of criminal harassment were male.<sup>8</sup> Analysis by accused-victim relationship shows that a large proportion of female victims were stalked by an ex-husband or (ex-)boyfriend (Table 1 and Figure 1).

Although a recent Justice Canada study on stalking did not distinguish relationships as former/current husbands and boyfriends, it did find that 57% of cases in their sample involved current or former "partners" (i.e. spouses and intimates) and that the majority of victims were female (88%). Therefore, it may be deduced that a large percentage of female victims in their sample were stalked by current or former partners.

<sup>6</sup> Mary Cooper. Criminal Harassment and Potential for Treatment: Literature review and annotated bibliography (1994), B.C. Institute on Family Violence, unpublished paper.

<sup>7</sup> Justice Canada. A Review of Section 264 of the Criminal Code (Criminal Harassment)-Draft Report (1996), page 25. The purpose of data collection for this study was to examine how the justice system has handled cases of criminal harassment since August 1993. The focus was largely on police and Crown case files from six large urban centres. The data are not nationally representative. Analysis of case files is based on a sample of 601 cases drawn from cases in Halifax, Montreal, three police divisions in Metropolitan Toronto, Winnipeg, Edmonton and Vancouver. Also, Attorney General, British Columbia. The Report of the Criminal Harassment Unit - Part II: The nature and extent of criminal harassment in British Columbia (1995), page 19.

<sup>8</sup> An accused is a person who has been identified as an offender in an incident and against whom a charge may be laid in connection with that incident.

## Relationships of accused to victim

**Husband:** The accused is male and the victim is female, and their relationship at the time of the incident was spouse through marriage or common-law.

**Ex-husband:** The accused is male, the victim is female and their relationship at the time of the incident was separated or divorced.

**Wife:** The accused is female, the victim is male and their relationship at the time of the incident was spouse through marriage or common-law.

**Ex-wife:** The accused is female, the victim is male and their relationship at the time of the incident was separated or divorced.

**(Ex-)boyfriend:** The accused is male, the victim is female and their relationship at the time of the incident was long-term and/or close friend or intimate. Includes ex-friendships.

**(Ex-)girlfriend:** The accused is female, the victim is male and their relationship at the time of the incident was long-term and/or close friend or intimate. Includes ex-friendships.

**Casual acquaintance:** Refers to a social relationship which is neither long-term nor close at the time of the incident. Includes persons known by sight only, neighbours, etc.

**Work relationship:** Refers to a relationship between the victim and accused in which the workplace or business involved is the primary source of contact. Includes co-workers, business partners, employee-customer, employee-employer relationships, and non-commercial relationships (e.g. student-teacher, physician-patient, etc.).

**Other family:** The victim and accused are related, but are not spouses. Other family members include, parents, children, other immediate family members (e.g. siblings) or extended family members (e.g. uncles, cousins, etc.).

**Stranger:** The accused is not known to the victim in any way.

**Other:** Includes any relationships not included in the above categories, such as same-sex partners (current and previous) and long-term and/or close friends of the same gender (current or previous).

Research on wife assault suggests that it is not uncommon for abusive husbands or partners to continue to pursue their partners after the relationship has ended. For example, the 1993 Violence Against Women Survey found that approximately 20% of women who experienced violence by a previous spouse reported that the violence occurred during or after separation, and in 35% of these cases, the violence became more severe at the time of separation.<sup>9</sup> Justice Canada's analysis of a sample of criminal harassment cases found that previous violence was reported in 50% of criminal harassment cases involving current or former partners.<sup>10</sup>

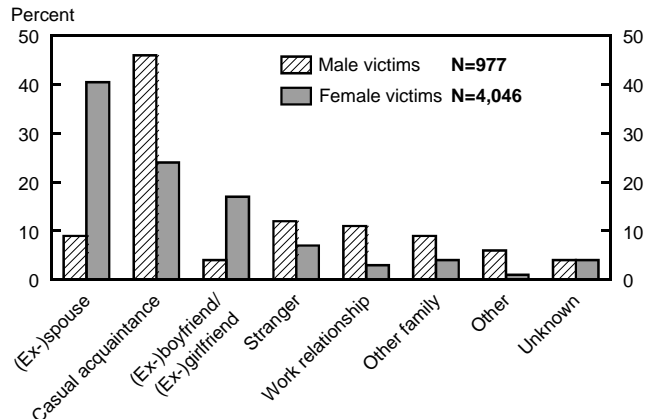
Homicide statistics also reveal that women are not always free from their husbands once the relationship has ended: in 1995, one-quarter of women killed by their spouse were separated or divorced at the time of the incident. Generally, women are at

<sup>9</sup> Karen Rodgers. "Wife Assault: Findings of a National Survey." Juristat Vol. 14, No. 9. Statistics Canada: Canadian Centre for Justice Statistics, page 12.

<sup>10</sup> Justice Canada. A Review of Section 264 of the Criminal Code (Criminal Harassment)-Draft Report (1996), page 30.

Figure 1

## Female victims harassed by ex-husbands, male victims by casual acquaintances



Source: Table 1.

greater risk of being killed by their spouse after separation than when living with him: between 1974 and 1992, the rate for women killed by their husband while separated was six times higher than the rate for women killed by their husband while co-residing.<sup>11</sup>

Table 1 reveals that female victims were also criminally harassed by casual acquaintances (24%), strangers (7%), other family members (4%) and persons known from work relationships (3%). For female victims, 7% were stalked by another female, most of whom were casual acquaintances.

## Male victims stalked mostly by casual acquaintances

For male victims, the relationship of the accused was quite different. Few were stalked by an ex-spouse (9%) or (ex-) girlfriend (4%), yet almost half (46%) were stalked by a casual acquaintance, usually male (Table 1 and Figure 1). Table 1 also shows that 11% of male victims were stalked by work relationships compared to only 3% of female victims.

## One-quarter of incidents involve other crimes

One in four criminal harassment incidents involved other offences. Some of the most frequent offences were uttering threats (24% of related offences), assault (levels 1, 2, 3) (22%), harassing phone calls (10%), mischief (8%), breach of probation (6%), bail violations (6%), and breaking and entering (6%) (Table 2).

Overall, less than 1% of related offences involved a homicide or attempted murder. It should be noted, however, that police may not even have been aware that stalking preceded a homicide if the victim had never reported it.

<sup>11</sup> Margo Wilson and Martin Daly. "Spousal Homicide." Juristat Vol. 14, No. 8. Statistics Canada: Canadian Centre for Justice Statistics, page 8.

Table 1

<b>Victims of criminal harassment by gender and accused-victim relationship, 1994 and 1995<sup>1</sup></b>						
Relationship of accused to victim	Total victims <sup>2</sup>		Female victims		Male Victims	
	Number	Percent <sup>3</sup>	Number	Percent <sup>3</sup>	Number	Percent <sup>3</sup>
<b>Total</b>	<b>5,023</b>	<b>100</b>	<b>4,046</b>	<b>100</b>	<b>977</b>	<b>100</b>
Husband	75	1.5	75	1.9	...	...
Ex-husband	1,564	31.1	1,564	38.7	...	...
Wife	3	0.1	...	...	3	0.3
Ex-wife	88	1.8	...	...	88	9.0
(Ex-)boyfriend	684	13.6	684	16.9	...	...
(Ex-)girlfriend	38	0.8	...	...	38	3.9
Other Family	234	4.7	150	3.7	84	8.6
Casual Acquaintance	1,402	27.9	952	23.5	450	46.1
Work Relationship	246	4.9	136	3.4	110	11.3
Stranger	408	8.1	296	7.3	112	11.5
Other	77	1.5	23	0.6	54	5.5
Unknown	204	4.1	166	4.1	38	3.9

... not applicable.

<sup>1</sup> Based on a non-random sample of 130 police agencies, accounting for 43% of the national volume of crime. These data are not nationally representative.

<sup>2</sup> Includes victims who were linked to only one accused person. Victim records which had either no or more than one associated accused record are excluded from this total.

<sup>3</sup> Percents may not add to 100% due to number rounding.

Source: Revised Uniform Crime Reporting Survey, CCJS.

Table 2

<b>Incidents of criminal harassment involving other related offences, 1994 and 1995<sup>1</sup></b>		
Other related offences	Incidents with other related offences	
	Number	Percent
<b>Total</b>	<b>1,864</b>	<b>100</b>
Uttering threats	446	23.9
Assault levels 1, 2, 3	410	22.0
Threatening/harassing phone calls	188	10.1
Mischief	140	7.5
Breach of probation	104	5.6
Bail violations	102	5.5
Breaking and entering	103	5.5
Sexual assault	50	2.7
Theft	38	2.0
Offences against public order	34	1.8
Other offensive weapons	28	1.5
Offences against the administration of law and justice	24	1.3
Kidnapping	20	1.1
Other offences	177	9.5

<sup>1</sup> Based on a non-random sample of 130 police agencies, accounting for 43% of the national volume of crime. These data are not nationally representative.

Source: Revised Uniform Crime Reporting Survey, CCJS.

## Few incidents result in injury

According to police-reported data, few victims (5%) actually experienced physical injury. Similarly, Justice Canada's analysis of a sample of case files found that 91% of victims suffered no physical injury.<sup>12</sup> Moreover, a British Columbia study found that while physical violence was most prevalent in cases involving intimate partners and family/friends, "none suffered grievous bodily harm ... [and] 19 victims in those two categories [roughly 20%] experienced relatively minor physical abuse, consisting of grabbing, pushing and slapping."<sup>13</sup>

Aside from harm inflicted directly by the accused, research suggests that simply the *threat* of harm associated with stalking can affect one's emotional and physical well-being. According to clinicians, persons who experience emotional trauma often exhibit behavioural, emotional and cognitive reactions similar to those who experience physical trauma.<sup>14</sup> Victims' reactions to criminal harassment may vary, ranging from no effect to severe reactions such as depression, substance abuse, and phobic anxiety.

## Victims most likely to be harassed at home

Criminal harassers usually follow, watch or make contact with their victims at the victim's home or place of work. Police-reported data show that two-thirds of all incidents occurred at someone's place of residence (Table 3), with the majority happening specifically at the victim's home (55% of all incidents). Although workplace locations cannot be isolated through police-reported data, Table 3 shows that those criminally harassed by someone known through work were more likely, compared to other victims, to be stalked at a corporate/commercial place or a public institution.

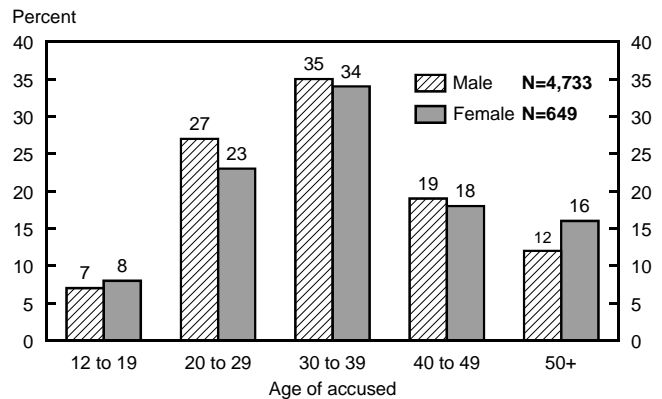
## Both victims and accused tend to be older than those involved in assaults

Criminal harassment incidents may be compared to minor assaults (level 1) in that they are both violent crimes of similar seriousness, they carry the same maximum penalties, and frequently involve persons known to the victim. Persons involved in harassment incidents tend to be older than those associated with assault. Police-reported data show that the median age was 34 years for those accused of criminal harassment and 30 for those accused of assault. While slightly more than two-thirds of those accused of stalking were aged 30 years or older, the same is true for half of persons accused of assault. Figure 2 shows that there is little difference in the age distribution between male and female accused.

Compared to other accused, younger persons are most highly represented in incidents involving (ex-)boyfriends and (ex-)girlfriends. While those aged 30 to 49 are most highly

Figure 2

### Age distributions differ little between male and female accused<sup>1</sup>



<sup>1</sup> Based on a non-random sample of 130 police agencies, accounting for 43% of the national volume of crime. These data are not nationally representative. Percentages may not add to 100% as categories "age unknown" and "under 12" were excluded because the amounts were too small to be expressed.

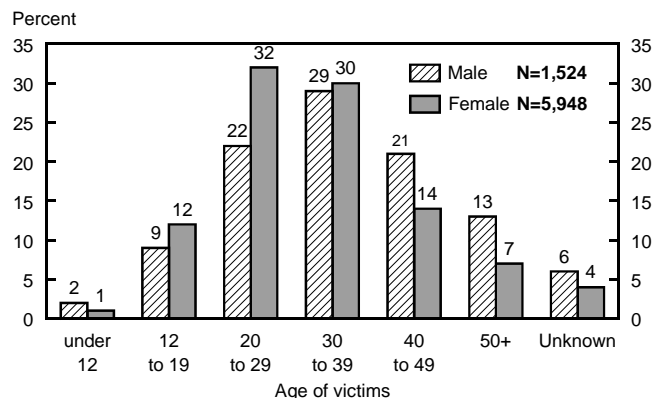
Source: Revised Uniform Crime Reporting Survey, CCJS, 1994 and 1995.

represented by spouses and ex-spouses, those aged 50 years and over are most frequently found among husbands and accused persons who know their victims through work (Table 4).

The median age for stalking victims was slightly higher than for assault victims: 31 years compared to 28. More specifically, slightly more than half of harassment victims were 30 years of age or older, compared to 43% of victims of assaults. The age distribution of victims in Figure 3 shows that, compared to males,

Figure 3

### Female victims tend to be younger than male victims<sup>1</sup>



<sup>1</sup> Based on a non-random sample of 130 police agencies, accounting for 43% of the national volume of crime. These data are not nationally representative. Percentages may not add to 100% due to number rounding.

Source: Revised Uniform Crime Reporting Survey, CCJS, 1994 and 1995.

<sup>12</sup> Justice Canada. A Review of Section 264 of the Criminal Code (Criminal Harassment)-Draft Report (1996), page 30.

<sup>13</sup> Attorney General, British Columbia. The Report of the Criminal Harassment Unit - Part II: The nature and extent of criminal harassment in British Columbia (1995), page 22-23.

<sup>14</sup> Kathleen G. McAnaney, Laura A. Curliss, and C. Elizabeth Abeyta-Price. "From Imprudence to Crime: Anti-stalking Laws." (1993) 68 The Notre Dame Law Review, page 851, and; Harvey Wallace and Joy Silverman. "Stalking and Post Traumatic Stress Syndrome" (1996) LXIX The Police Journal, page 25.

Table 3

**Incidents of criminal harassment by accused-victim relationship and location of the incident, 1994 and 1995<sup>1</sup>**

Relationship of accused to victim	Location									
	Number	Total <sup>2</sup>	Residence	Commercial corporate place	Street/ Public transit	Public institution	Parking lot	School	Open area	Unknown
<b>Total<sup>3</sup></b>	<b>5,023</b>	<b>100%</b>	<b>69%</b>	<b>11%</b>	<b>10%</b>	<b>3%</b>	<b>2%</b>	<b>3%</b>	<b>1%</b>	<b>2%</b>
Husband	75	100%	91%	3%	1%	1%	-	1%	-	3%
Ex-husband	1,564	100%	77%	7%	8%	1%	2%	1%	1%	2%
Wife	3	100%	--	-	-	-	-	-	-	-
Ex-wife	88	100%	78%	10%	3%	2%	1%	-	2%	2%
(Ex-)boyfriend	684	100%	75%	11%	7%	1%	1%	2%	--	2%
(Ex-)girlfriend	38	100%	87%	5%	3%	-	-	-	-	5%
Other Family	234	100%	82%	6%	8%	1%	2%	--	-	--
Casual Acquaintance	1,402	100%	64%	11%	13%	3%	2%	4%	1%	2%
Work Relationship	246	100%	36%	39%	5%	9%	1%	7%	--	3%
Stranger	408	100%	45%	16%	22%	7%	2%	3%	3%	3%
Other	77	100%	75%	10%	3%	1%	1%	3%	-	6%
Unknown	204	100%	65%	13%	9%	4%	1%	3%	1%	3%

- nil or zero.

-- amount too small to be expressed.

<sup>1</sup> Based on a non-random sample of 130 police agencies, accounting for 43% of the national volume of crime. These data are not nationally representative.

<sup>2</sup> Row percents may not add to 100% due to number rounding.

<sup>3</sup> Includes victims who were linked to only one accused person. Victim records which had either no or more than one associated accused record are excluded from this total.

Source: Revised Uniform Crime Reporting Survey, CCJS.

Table 4

**Persons accused of criminal harassment by accused-victim relationship and by age of the accused, 1994 and 1995<sup>1</sup>**

Relationship of accused to victim	Age of Accused						
	Number	Total <sup>2</sup>	12 to 19	20 to 29	30 to 39	40 to 49	50+
<b>Total<sup>3</sup></b>	<b>5,023</b>	<b>100%</b>	<b>5%</b>	<b>26%</b>	<b>36%</b>	<b>20%</b>	<b>13%</b>
Husband	75	100%	1%	20%	36%	21%	21%
Ex-husband	1,564	100%	1%	23%	42%	22%	11%
Wife	3	100%	-	-	--	--	--
Ex-wife	88	100%	3%	25%	34%	27%	10%
(Ex-)boyfriend	684	100%	9%	39%	31%	13%	8%
(Ex-)girlfriend	38	100%	5%	37%	39%	11%	5%
Other Family	234	100%	6%	22%	29%	24%	18%
Casual Acquaintance	1,402	100%	8%	25%	33%	18%	15%
Work Relationship	246	100%	5%	16%	33%	25%	20%
Stranger	408	100%	7%	27%	30%	22%	13%
Other	77	100%	3%	30%	44%	16%	6%
Unknown	204	100%	6%	22%	40%	15%	15%

- nil or zero.

-- amount too small to be expressed.

<sup>1</sup> Based on a non-random sample of 130 police agencies, accounting for 43% of the national volume of crime. These data are not nationally representative.

<sup>2</sup> Rows percents may not add to 100% as categories "age unknown" and "under 12" are not shown because they are too small to be expressed. They represent only 0.4% of total accused.

<sup>3</sup> Includes accused persons where he/she was the only accused linked to one or more victims. An accused linked to two or more victims will be counted more than once.

Source: Revised Uniform Crime Reporting Survey, CCJS.

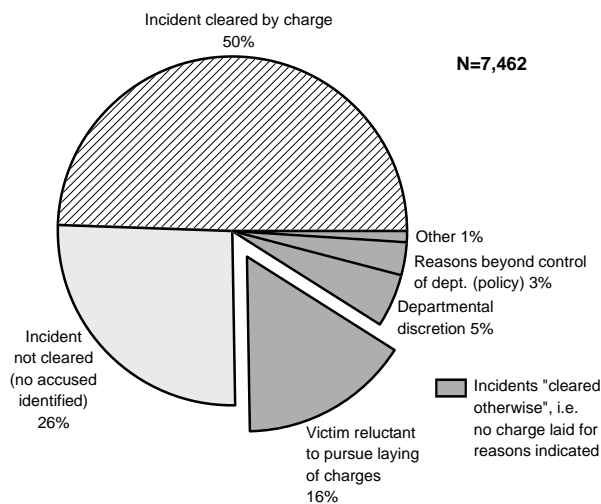
a greater proportion of female victims were less than 30 years old. Age patterns for victims differ little from those of accused (Table 5). Victims aged 12 to 19 years comprised 10% of all victims, yet accounted for 20% of those stalked by strangers.

### Victims decline to lay charges in one-in-six incidents

Half of the harassment incidents on the UCR Research File resulted in an accused being identified and a charge being laid (Figure 4). In a further quarter of incidents, an accused was identified, but a charge was not laid as a result of one of the following reasons: the complainant was reluctant to pursue the laying of charges (16%); departmental discretion (5%); reasons beyond the control of the police department (e.g. policy) (3%); and, 1% comprise various other reasons. In the remaining one-quarter of incidents, no accused was identified.

Figure 4

#### Victims often reluctant to pursue the laying of charges<sup>1</sup>



<sup>1</sup> Based on a non-random sample of 130 police agencies, accounting for 43% of the national volume of crime. These data are not nationally representative. Percentages may not add to 100% due to number rounding.

Source: Revised Uniform Crime Reporting Survey, CCJS, 1994 and 1995.

Similarly, Justice Canada's analysis of a sample of court cases found that in 20% of court cases where criminal harassment charges were dropped (includes withdrawn, dismissed, or stayed), this action had been taken at the victim's request or because she/he was reluctant to take part in the prosecution.<sup>15</sup>

Data from the Revised UCR Survey reveal that the most reluctant to pursue the laying of charges were victims involved in work relationships with their stalkers (32%), followed by men stalked by their ex-wives (27%) (Table 6). Women stalked by an ex-husband or (ex-)boyfriend were less likely to avoid the laying of charges (17% and 12%, respectively).

<sup>15</sup> Justice Canada. A Review of Section 264 of the Criminal Code (Criminal Harassment)-Draft Report (1996), page 38.

## Court Data

The following analysis of court cases and charges involving criminal harassment is based on 1994 calendar year data from the Adult Criminal Court Survey (ACCS). Seven jurisdictions reported to the ACCS that year: Newfoundland, Prince Edward Island, Nova Scotia, Quebec, Saskatchewan, the Yukon, and the Northwest Territories. As the court data represent 34% of the total provincial court caseload, the findings below are not nationally representative. Please refer to the Methodology section for more details on the ACCS.

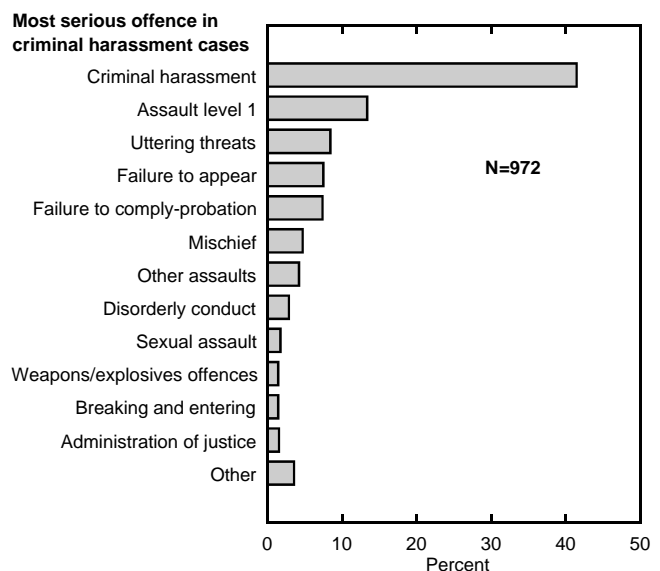
In 1994, these seven jurisdictions reported a total of 972 cases involving at least one offence under section 264 of the *Criminal Code*. Figure 5 shows a distribution of these cases by the most serious offence. A total of 1,110 charges of criminal harassment were dealt with in these cases, meaning one case could involve multiple charges of criminal harassment.

#### Number of cases and charges of criminal harassment, 1994

Cases and charges	Total	Number not transferred to a superior court	Number resulting in a finding of guilt	Number sentenced to prison
Cases involving at least one charge of criminal harassment	972	752	426	142
Total charges	1,110	857	311	102

Figure 5

#### Criminal harassment is usually the most serious offence in cases<sup>1</sup>



<sup>1</sup> Based on data from provincial courts of 7 jurisdictions: Newfoundland, Prince Edward Island, Nova Scotia, Quebec, Saskatchewan, Yukon Territory, Northwest Territories. These data are not nationally representative.

Source: Adult Criminal Court Survey, CCJS, 1994.



Table 5

**Victims of criminal harassment by accused-victim relationship and by age of victim, 1994 and 1995<sup>1</sup>**

Relationship of accused to victim	Number	Total <sup>2</sup>	Age of Victim						Age unknown
			Under 12	12 to 19	20 to 29	30 to 39	40 to 49	50+	
<b>Total<sup>3</sup></b>	<b>5,023</b>	<b>100%</b>	<b>1%</b>	<b>10%</b>	<b>29%</b>	<b>30%</b>	<b>16%</b>	<b>9%</b>	<b>6%</b>
Husband	75	100%	-	4%	16%	37%	24%	15%	4%
Ex-husband	1,564	100%	-	4%	32%	36%	16%	6%	4%
Wife	3	100%	-	-	--	-	-	--	-
Ex-wife	88	100%	-	1%	28%	25%	30%	14%	2%
(Ex-)boyfriend	684	100%	-	15%	38%	24%	12%	4%	7%
(Ex-)girlfriend	38	100%	-	-	24%	53%	13%	3%	8%
Other Family	234	100%	1%	10%	20%	21%	16%	28%	5%
Casual Acquaintance	1,402	100%	2%	12%	27%	26%	17%	10%	6%
Work Relationship	246	100%	-	5%	24%	33%	20%	13%	5%
Stranger	408	100%	2%	20%	25%	24%	15%	5%	8%
Other	77	100%	3%	4%	26%	38%	16%	6%	8%
Unknown	204	100%	--	12%	29%	32%	14%	7%	5%

- nil or zero.

-- amount too small to be expressed.

<sup>1</sup> Based on a non-random sample of 130 police agencies, accounting for 43% of the national volume of crime. These data are not nationally representative.

<sup>2</sup> Row percents may not add to 100% due to number rounding.

<sup>3</sup> Includes victims who were linked to only one accused person. Victim records which had either no or more than one associated accused record are excluded from this total.

Source: Revised Uniform Crime Reporting Survey, CCJS.

Table 6

**Incidents of criminal harassment by accused-victim relationship and by type of clearance of incident by police, 1994 and 1995<sup>1</sup>**

Relationship of accused to victim	Number	Total <sup>3</sup>	Type of clearance by police <sup>2</sup>				
			Cleared by charge	Cleared otherwise			
				Victim reluctant to pursue the laying of charges	Reasons beyond control of department	Departmental discretion	Other
<b>Total<sup>4</sup></b>	<b>5,023</b>	<b>100%</b>	<b>70%</b>	<b>19%</b>	<b>5%</b>	<b>5%</b>	<b>1%</b>
Husband	75	100%	83%	9%	4%	1%	3%
Ex-husband	1,564	100%	75%	17%	4%	4%	1%
Wife	3	100%	--	--	-	-	--
Ex-wife	88	100%	56%	27%	9%	8%	-
(Ex-)boyfriend	684	100%	82%	12%	1%	4%	--
(Ex-)girlfriend	38	100%	68%	24%	3%	5%	-
Other Family	234	100%	73%	15%	8%	3%	1%
Casual Acquaintance	1,402	100%	64%	23%	5%	7%	1%
Work Relationship	246	100%	57%	32%	4%	7%	1%
Stranger	408	100%	64%	20%	6%	8%	1%
Other	77	100%	65%	17%	14%	3%	1%
Unknown	204	100%	70%	24%	2%	3%	1%

-- amount too small to be expressed.

- nil or zero.

<sup>1</sup> Based on a non-random sample of 130 police agencies, accounting for 43% of the national volume of crime. These data are not nationally representative.

<sup>2</sup> As an accused was identified in all relationships, all incidents in this table were cleared.

<sup>3</sup> Row percents may not add to 100% due to number rounding.

<sup>4</sup> Includes victims who were linked to only one accused person. Victim records which had either no or more than one associated accused record are excluded from this total.

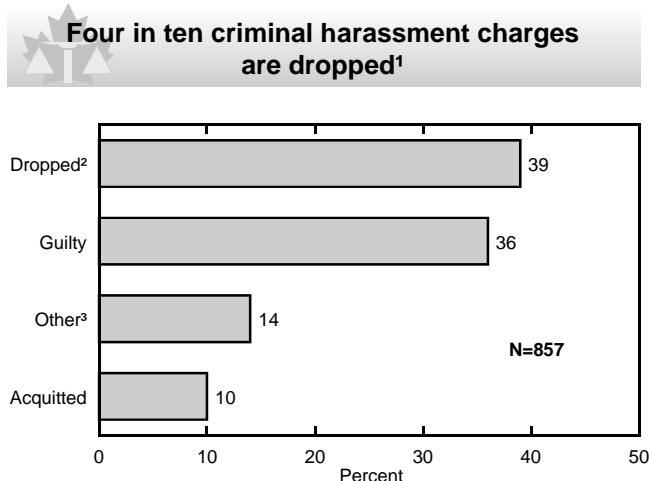
Source: Revised Uniform Crime Reporting Survey, CCJS.

## A high rate of charges are withdrawn

In 1994, 23% of harassment cases heard in provincial court were moved to a superior court, a decision which may indicate that these cases were of a more serious nature. For example, while 18% of cases with criminal harassment as the most serious offence were transferred to superior court, the same is true for 59% of stalking cases where sexual assault was the most serious offence and 31% where it was assault. The outcome of these transferred cases is unknown.

Of those charges that were dealt with at the provincial court level, 36% resulted in a finding of guilt (includes conditional and absolute discharges and guilty pleas) while 39% were dropped (includes withdrawn, dismissed and stayed) (Figure 6). The remaining harassment charges resulted in either an acquittal (10%) or another type of decision (14%), e.g. acquitted on account of insanity. In comparison, minor assault charges dealt with in provincial court that same year were more likely to have resulted in a conviction (57%) and were less likely to be dropped (27%).

Figure 6



<sup>1</sup> Based on data from provincial courts of 7 jurisdictions: Newfoundland, Prince Edward Island, Nova Scotia, Quebec, Saskatchewan, Yukon Territory, Northwest Territories. These data are not nationally representative. Percentages may not add to 100% due to number rounding.

<sup>2</sup> Includes dismissed, withdrawn and stayed.

<sup>3</sup> E.g. acquitted on account of insanity, waived in or out of a province or territory, a special plea accepted by the court.

Source: Adult Criminal Court Survey, CCJS, 1994.

Justice Canada's examination of a sample of criminal harassment cases found that 58% of charges were stayed (includes dismissed and withdrawn). The study found that one-quarter of charges were dropped in exchange for a peace-bond, and almost one in five were dropped unconditionally.<sup>16</sup> The report also commented that the victim's willingness to participate in the court process and their request to drop charges influenced the Crown's decision to do so.

<sup>16</sup> Justice Canada. A Review of Section 264 of the Criminal Code (Criminal Harassment)-Draft Report (1996), page 37-38.

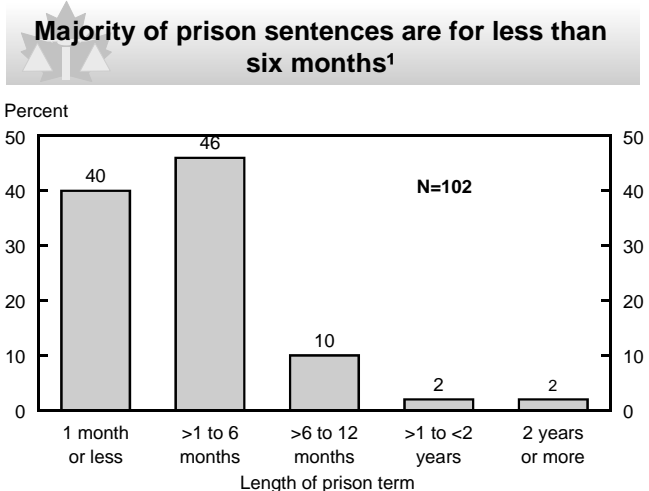
## Stalkers likely to receive probation

While Bill C-126 clearly states that criminal harassment is a serious crime, it appears that relatively few are prosecuted as an indictable offence, which may explain why even fewer result in imprisonment. Justice Canada's study found that 71% of cases in their sample were prosecuted by way of summary conviction.<sup>17</sup> The Crown may choose to proceed summarily to achieve efficient and expedient processing, particularly if the crime did not result in serious harm or if the offender does not pose a threat to society. The maximum penalty for a summary offence upon conviction is six months imprisonment or a fine not exceeding \$2,000.

Data from the ACCS show that, of the 311 charges of criminal harassment resulting in a finding of guilt, 60% resulted in probation as the most serious sentence. In comparison, 55% of total assault charges for that same year resulted in probation. An additional 33% of criminal harassment charges resulted in a prison term, and the remaining 7% resulted in either a fine or other type of sentence as the most serious. Cases having at least one criminal harassment charge and a more serious violent offence were more likely to receive a prison sentence (56%) than cases where the most serious offence was criminal harassment (19%).

Of the 102 charges that resulted in imprisonment, 14% ended in a sentence greater than six months (Figure 7). An additional 40% received a sentence of one month or less, and almost half (46%) resulted in a term of one to six months. It should be noted that the two cases that resulted in a sentence of two years or more both involved criminal harassment as the most serious offence.

Figure 7



<sup>1</sup> Based on data from provincial courts of 7 jurisdictions: Newfoundland, Prince Edward Island, Nova Scotia, Quebec, Saskatchewan, Yukon Territory, Northwest Territories. These data are not nationally representative. Percentages may not add to 100% due to number rounding.

Source: Adult Criminal Court Survey, CCJS, 1994.

<sup>17</sup> Justice Canada. A Review of Section 264 of the Criminal Code (Criminal Harassment)-Draft Report (1996), page 33.

Of the 261 charges that resulted in probation, half (52%) of the probation terms ordered were for periods ranging from one to two years. One-quarter of probation terms were for six months to one year and 13% were for more than two years. Probation terms of six months or less were infrequent (8%) (the length was unknown for 2%).

Only 18 charges resulted in a fine as the most serious sentence. Of the total 72 fines issued, 79% were for an amount less than \$300.

### Persons appearing in court tend to be male

Where the gender of the accused was identified, the vast majority of charges (95%) were laid against males. Although police-reported data and court data are not directly comparable, it should be pointed out that police statistics showed a smaller proportion of male accused (88%). This difference could be explained by the earlier finding that male victims, particularly those stalked by an ex-partner or business acquaintance, were more likely than female victims to decline from assisting police in the laying of charges.

## Summary

Legislators have responded to society's intolerance for stalking behaviour by naming it a criminal offence. However, as with any crime, legislation alone cannot prevent its occurrence. While stalking behaviour may not be new to our society, it is now being recognized by official agencies who are responsible for addressing it. Knowledge of the nature and extent of criminal harassment can help agencies better understand and respond to it. Based on data from a sample of police departments and provincial courts, this *Juristat* has been a first attempt by the CCJS at providing detailed information on the relatively new offence of criminal harassment. To date, statistics reported by a non-representative sample of police departments show that the majority of reported cases involve female victims, most of whom are stalked by previous partners. Yet, current statistics give only partial insight into the effect of stalking on its victims. Police and court data also show that a number of cases are being dropped due to the victim's reluctance to take part in the laying of charges and the prosecution. As the coverage of police and court statistics increases and as research on the issue builds, more information will be available to help improve our understanding of criminal harassment and the responses of the justice system.

## Methodology

### THE REVISED UNIFORM CRIME REPORTING SURVEY

#### Coverage

As indicated earlier, the CCJS, in co-operation with the policing community, collects detailed police-reported statistics through the Revised UCR Survey. By 1995, 130 police agencies were responding to the Revised UCR Survey, representing 43% of the national volume of reported crime. These 130 forces

represent a non-random sample and, thus, are not nationally representative. Over 90% of the criminal harassment incidents in this sample were from Quebec and Ontario.

The majority of total incidents in this *Juristat* are reported by the largest departments on the Revised UCR Survey: Toronto and Montreal accounted for the largest volume of criminal harassment incidents reported (30% and 25%, respectively). Other large municipal forces reporting to the survey include Peel Regional, York Regional, Regina, Saskatoon, Calgary, Edmonton and Vancouver. In 1994-1995, police departments responding to the Revised UCR Survey reported a total of 7,462 incidents, 7,472 victims and 5,382 persons accused of criminal harassment.

#### Counts of incidents, victims and accused of criminal harassment, 1994 and 1995 combined

	Incidents	Victims	Accused
Total records	7,462	7,472	5,382
Records with one or more associated victims and one associated accused	4,768	5,023	4,768
Total records based on accused-victim relationship (basis of relationship analysis)	5,023 <sup>1</sup>	5,023	5,023 <sup>1</sup>

<sup>1</sup> Of the 4,768 records, 4,555 were associated with a single victim and 213 records were associated with multiple victims (468 victims). Analysis by accused-victim relationship requires a count of each accused to each victim, which results in a total of 5,023 incident and accused records (4,555 plus 468). As explained below, incidents and accused associated with multiple victims will be counted more than once when analyzed by accused-victim relationship.

#### Analysis by the accused-victim relationship

The analysis in this report focuses on the accused-victim relationship. To establish the precise relationship of the accused to the victim, incidents with no victim and/or more than one accused were excluded from the analysis. These were excluded because, in the Revised UCR Survey, relationship of the accused to the victim is indicated on the victim record. When there are multiple accused in an incident, the police mark the relationship of the accused who perpetrated the most serious violation against the victim. If two or more accused each perpetrated a violation of equal seriousness against the same victim, then the police mark the relationship of the accused who is closest in relationship. However, where there are multiple accused, it is impossible to determine which accused represents the relationship. Therefore, these records were dropped from the analysis based on relationship.

Once these records were dropped, 4,768 incidents, 5,023 victims and 4,768 accused records remained. Where there are two or more victims in an incident, analyses of incidents and accused persons by relationship will result in a multiple counting. For example, if a woman and her child are stalked by the woman's ex-husband, analysis of the incident and the accused will occur under two relationship categories: "ex-husband" and "other family." In total, there were 213 incidents with multiple victims and one accused: 182 incidents involved two victims; 24 involved three victims; 6 involved four victims, and; 1 involved eight victims (total of 468 victims).

## The most serious violation in an incident

This *Juristat* analyses all violations of criminal harassment, be they the most serious in the incident or not. Under the Revised UCR survey, a maximum of four violations can be reported in one incident. Normally, published data from the Revised UCR survey reflect only the “most serious” violation of the four. The most serious violation is determined by the following criteria. Violent violations or violations against the person take precedence over non-violent violations. Where two or more violations meet this criteria, then the violation with the greatest maximum penalty prescribed by law takes precedence. If neither of these rules break “ties”, then it is the department’s discretion as to which is the most serious violation. With respect to the incidents of criminal harassment in this report, the overwhelming majority (96%) showed criminal harassment as the most serious violation.

## THE ADULT CRIMINAL COURT SURVEY

The Adult Criminal Court Survey is intended eventually to be a census of federal and provincial/territorial statute charges and municipal by-law infractions heard in adult criminal courts in Canada. The Case Characteristics component of the survey, which was the source used in this *Juristat*, collects detailed information on completed charges, appearances and cases for federal statute offences. Currently, the ACCS collects Case Characteristics data from provincial/territorial courts in seven jurisdictions: Newfoundland (2 courts); Prince Edward Island (5 courts); Nova Scotia (38 courts); Quebec (54 courts); Saskatchewan (16 courts); the Yukon (18 courts); and the Northwest Territories (66 courts). Therefore, the coverage is not national, but is currently 34% of the national provincial court caseload. The vast majority (79%) of criminal harassment charges in the 1994 sample originated from provincial courts in Quebec.

## 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 **(613) 951-9023** or **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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